

Federal Court Mulls Safety of New Jersey's Oyster Creek Nuclear Plant

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By [Bob Hennelly](#)



An aerial view shows the quake-damaged Fukushima nuclear power plant in the Japanese town of Futaba, Fukushima prefecture on March 12, 2011. (STR/AFP /Getty Images/Getty)

Opponents of the nation's oldest commercial nuclear reactor located in New Jersey want a federal appeals court to rescind the plant's re-licensing in light of the crisis at the Fukushima facility in Japan.

The petitioners — including the Sierra Club — allege that in 2009 the Nuclear Regulatory Commission failed to do a thorough and independent review of the Oyster Creek nuclear plant, located in New Jersey 75 miles south of New York City.

In its response, the NRC stood by its 2009 license renewal and said it is already moving aggressively to incorporate lessons learned from the ongoing Fukushima crisis. The severity of the Japanese crisis was labeled a level 7, a radiological disaster on the scale of a Chernobyl.

The NRC asserted that even post-Fukushima, it has full confidence "in the robust and redundant safety design and construction of currently operating U.S. nuclear reactors."

The federal regulator said that in the aftermath of the 1979 Three Mile Island meltdown and the terrorist attacks on September 11, the NRC upgraded operations at the nation's entire fleet of atomic power plants.

All parties' court papers are in as of this week. A decision could come any day from the the U.S. Appeals Third Circuit, which sits in Philadelphia.

[Richard Webster](#), who represents the Sierra Club, is one of several petitioners in the case and said Oyster Creek has the same controversial design as Fukushima.

"The GE boiling water reactors Mach 1 have inadequate containment and, in particular, at Oyster Creek that containment has [become] more inadequate over time through serious corrosion," said [Webster](#) in a phone interview.

Marshall Murphy, of Oyster Creek operator Exelon, said that issue was already raised before the plant won it's 20-year extension in 2009.

"And that particular assertion was studied very carefully and analyzed by both Exelon Nuclear and the Nuclear Regulatory Commission," Murphy said.

The brief from the Sierra Club included a 1972 internal memo from the federal nuclear regulator when it was named the Atomic Energy Commission. In the memo, the AEC staffer raised concerns that the GE Mach 1 design, like Oyster Creek's, had some major drawbacks and should be phased out in two years. In response, a staffer who went on to become an NRC Commissioner opined that such a move "could well be the end of nuclear power" and that such a phase out would not be worth the "turmoil" it would generate.

Webster said his clients also wanted the NRC to take another look at the status of the highly radioactive spent fuel rods that have accumulated over the decades of the plant's operation that goes back to 1969. Webster said the Oyster Creek site was storing the rods at higher density than they were being kept at Fukushima.

"Unfortunately, on reactor sites in the United States the approach is to pack the fuel as densely as possible before going to other storage options," Webster said. "We have been saying for years that is inadequate."

In the opponent's legal papers, they note that since 1980, underground pipes have leaked radioactive tritium into the ground water 23 times.

Both the NRC and the plant's operator Exelon said that issue has been dealt with and is not a public health concern.

Marshall Murphy, with Exelon, said the plant's entire operation went through a comprehensive review by federal regulators before it was granted a 20-year extension in 2009.

"Exelon is responding to the events in Japan as we understand them in a way to make certain that the safety of our plants both at Oyster Creek and across our fleet is and continues to be the top priority," Murphy said.

In the last days of the Corzine Administration, the New Jersey Department of Environmental Protection told Exelon it had to build two cooling towers to protect marine life.

Exelon said that requirement would cost it \$800 million, making the plant uneconomical to run. After Governor Chris Christie came into office, a deal was struck. The state would drop the demand for the cooling towers, but Exelon would cease power generating operations in 2019, 10 years earlier than they were permitted by the NRC.

Last year, the Obama Administration abandoned the U.S. plan to store the nation's growing stock pile of highly radioactive spent fuel rods at the Yucca Mountain site in Nevada.