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State of New Jersey
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Division of Environmental Safety and Health
P.O. Box 424

Trenton, New Jersey 08625-0424

Phone: (609) 633-7964

Fax: (609) 777-1330

LISA P. JACKSON
Commissioner

JON S. CORZINE
Governor

March 26, 2008

Mr. Sergio Amato
7 Tuscana Court
Manchester, New Jersey 08759

Dear Mr. Amato:

Commissioner Jackson has asked me to respond on her behalf to your correspondence of February 28, 2008 regarding your concerns on the continued operation of the Oyster Creek Nuclear Generating Station.

As you may be aware, the U. S. Nuclear Regulatory Commission (NRC) has sole regulatory control over the Oyster Creek operating license and the pending 20 year license renewal application. Throughout the license renewal process, the Department of Environmental Protection (NJDEP), Bureau of Nuclear Engineering, continues to critically observe NRC inspections of Oyster Creek, especially any related to license renewal, and reviews license renewal submittals made by Oyster Creek to the NRC.

New Jersey, through the NJDEP, reviews, regulates and issues New Jersey Pollutant Discharge Elimination System (NJPDES) permits for industrial facilities, including Oyster Creek. The NRC is not involved in the approval process for NJPDES permits. Oyster Creek has applied for a renewal of their NJPDES permit (No. NJ0005550). This application and various related studies are under review by the NJDEP. There are currently significant issues being raised by the NJDEP related to issuance of this permit, including the possibility of requiring cooling towers at the Oyster Creek facility. The NJDEP recognizes the complex issues associated with cooling water for the Oyster Creek facility including the possible need for installation of a closed cycle cooling system.

With respect to spent fuel, the long term solution to your concerns for the disposal of spent fuel generated by Oyster Creek is the establishment, by the Federal government, of a permanent off-site storage facility. Unfortunately, the construction of such a facility at Yucca Mountain, Nevada, has been considerably delayed. Currently, spent fuel storage at Oyster Creek consists of the spent fuel pool and an on-site "dry cask storage" facility. It is NJDEP's understanding that the current capacity of the existing on-site dry cask storage facility will be increased to accommodate the expected increase in spent fuel resulting from the planned 20-year license extension for Oyster Creek. Until a long term off-site spent fuel storage facility is made

available, NJDEP prefers the dry cask storage option at Oyster Creek rather than long term storage in the spent fuel pool.

New Jersey is concerned about the vulnerability of the Oyster Creek spent fuel pool to a terrorist attack using a commercial aircraft. New Jersey has filed a contention to the NRC requesting that this issue be evaluated as part of Oyster Creek's license renewal application. The NRC has rejected this request and New Jersey has appealed this decision which is now filed with the United States Court of Appeals for the Third Circuit in Philadelphia. Regardless of the outcome of these legal actions, New Jersey intends to be vigilant and press for action to resolve this issue at Oyster Creek.

With regard to your concern about acts of terrorism directed toward Oyster Creek, it can only be said that high levels of security are being maintained at all nuclear sites. The Homeland Security Advisory System Threat Level is at an "Elevated" Yellow level with a commensurate degree of security. Since the September 11, 2001 tragedy, nuclear power generation facilities have been the subject of numerous evaluations related to the prevention of and emergency response to possible terrorist actions, including the use of aircraft as a destructive device. New Jersey, through the NJDEP, Bureau of Nuclear Engineering, has been studying developments in this area. The New Jersey State Police, Office of Emergency Management (OEM), provides terrorism response and planning functions while the Office of Homeland Security and Preparedness performs threat evaluation and analysis.

With respect to your concerns over nuclear emergency preparedness and planning, the State of New Jersey's Radiation Accident Response Act (N.J.S.A. 26:2D-37 et seq.) became effective October 27, 1981. This act provided for the establishment of procedures for implementing protective actions in the event of nuclear emergencies and for the preparation and implementation of a state radiation emergency response plan. The New Jersey Radiological Emergency Response Plan (RERP) for Nuclear Power Plants was developed as a joint effort by the New Jersey Department of Environmental Protection (DEP) and the New Jersey Division of State Police to coordinate and implement an immediate comprehensive state, county and municipal response to a radiological emergency at a nuclear power plant affecting the State of New Jersey. The RERP identifies the DEP as the lead state agency for accident assessment during a nuclear incident, protective action formulation and control of food, water and milk. The State Police Office of Emergency Management (OEM) is the lead agency for evacuation, sheltering and access control, for personnel monitoring and record keeping and for decontamination.

On December 7, 1979, the President directed the Director of the Federal Emergency Management Agency (FEMA) to "take the lead" in State and local emergency planning and preparedness activities with respect to nuclear power facilities. This included a review of the existing emergency plans both in States with operating reactors and those with plants scheduled for operation in the near future. The Code of Federal Regulations Title 44 Part 350, published in 1983, establishes the policy and procedures for review and approval by FEMA. The process involves preparation of findings and determinations of the adequacy of the plans and capabilities of State and local governments to effectively implement the plans.

In addition to demonstrating the effectiveness of the RERP through exercises and drills, New Jersey is required to forward an Annual Letter of Certification each year to the Department of Homeland Security (DHS) on or before January 31. FEMA Guidance Memorandum PR-1, Policy on NUREG-0654/FEMA –REP-1 and 44 CFR 350 Periodic Requirements, mandates the state to forward the annual letter to document plan requirements for the previous year. The letter summarizes all planning and preparation activities of the previous year (e.g. exercises, drills, training, and facility inspections). DHS/FEMA reviews this letter as part of their annual certification process of the RERP.

In order to maintain federal approval:

“Each State which has a commercial nuclear power site within its boundaries or is within the 10-mile plume exposure pathway Emergency Planning Zone of such site shall fully participate in an exercise jointly with the nuclear power plant licensee and appropriate local governments at least every two years.”

“States within the 50-mile emergency planning zone of a site shall exercise their plans and preparedness related to ingestion exposure pathway measures at least once every five years in conjunction with a plume exposure pathway exercise for that site.”

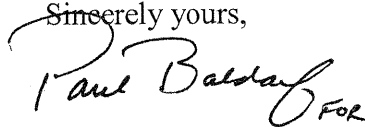
The New Jersey Radiological Emergency Response Plan requires a more demanding exercise schedule than the federal schedule of once every two years at each site. The New Jersey Radiation Accident Response Act (N.J.S.A. 26:2D-43f) which established the RERP requires: “...testing and evaluation of all plans developed pursuant to this act upon adoption, and annually thereafter, to assure that all personnel and emergency response duties and responsibilities effectively carry out their assigned tasks.” Thus, the RERP is evaluated either federally or by the state at each nuclear generating site each year.

Every year state emergency planners review and evaluate the comments and feedback from NRC and DHS based upon exercise evaluation and update the RERP as appropriate. In addition, the DEP holds annual Public Hearings in each of the Emergency Planning Zone counties to take comments and suggestions from the public on the adequacy and effectiveness of the Plan. State emergency planning staff makes revisions to the RERP as appropriate based on the comments submitted by the public. New or updated federal guidance documents are reviewed and evaluated as they are made available. Following the review, state, county and local emergency planners update the RERP to reflect the most current information and requirements. The National Response Plan, the Witt Report and NRC Regulatory Bulletins as well as numerous other reports have all been reviewed and incorporated into the NJ RERP as applicable. As a result of this practice, New Jersey is consistently updating the RERP to reflect the most current initiatives with respect to emergency response planning.

Regardless of Oyster Creek’s future, NJDEP shares your position that clean, environmentally-friendly technologies, such as wind and solar power, should be used to help meet the energy needs of the residents of New Jersey.

Thank you for writing and sharing your concerns about the current and future operation of Oyster Creek. Be assured that both the Governor and the Commissioner carefully consider all comments raised by members of the public and are determined that Oyster Creek should be allowed to operate only if all safety and environmental requirements are vigorously maintained.

Sincerely yours,

A handwritten signature in black ink that reads "Paul Baldry" with a stylized flourish at the end. The signature is written in a cursive, slightly slanted style.

Jill Lipoti, Ph.D.
Director