January 9, 2002

The Honorable Charles E. Schumer
United States Senate
Washington, D.C. 20510

Dear Senator Schumer:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to your letter of November 14, 2001, concerning the vulnerability to terrorist attacks of nuclear facilities located in close proximity to highly populated areas.

In your letter you suggested the NRC explore a number of measures, such as: 1) the reinstatement of the no fly zone over nuclear facilities - implemented in coordination with the Federal Aviation Administration (FAA) to ensure sensitivity to concerns of smaller airports - until adequate steps have been taken to fully address the threat of a potential aerial strike; 2) augmenting the authority of the Office of Nuclear Material Safety and Safeguards (NMSS) and the Office of Nuclear Reactor Regulation (NRR) to penalize and remedy security deficiencies found at nuclear facilities; 3) allowing NMSS, NRR, or Office of Homeland Security (OHS) to order the deployment of military equipment and personnel to nuclear facilities when threat levels reach a threshold to be determined by the Director of the OHS; and 4) ensuring that the level of security at nuclear facilities under the jurisdiction of the Department of Energy (DOE) and U.S. military is reevaluated and reinforced.

Nuclear power plants are among the most hardened and secure civilian facilities in the United States. Nuclear plants have an inherent capability to protect public health and safety through such features as robust containment buildings, redundant safety systems, highly trained operators, and safeguards which include armed security guards. These plants are designed to withstand extreme events such as hurricanes, tornadoes, and earthquakes. All NRC licensees with significant radioactive material have emergency response plans to mitigate impacts on the public in the event of a release.

The NRC has been in regular communication with other federal agencies, most specifically the Federal Aviation Administration and the Department of Defense, which have acted more than once to protect airspace above nuclear power plants. The Aviation and Transportation Security Act of 2001 will also provide additional protection against air attacks on all industrial facilities, both nuclear and non-nuclear. The NRC believes the Nation's efforts associated with protecting against terrorist attacks by air should be directed as a general matter toward enhancing security at airports and within airplanes, and not toward seeking to defend all potential targets of such terrorism.

With respect to your comment regarding vulnerabilities of nuclear plants, the NRC has conducted performance-based testing since 1991 against the existing design basis threat by means of force-on-force exercises in the Operational Safeguards Response Evaluation (OSRE) program. A typical OSRE has several components, including table top drills leading to four

force-on-force exercises in which the attacking force attempts to exploit any vulnerabilities the NRC security specialists identify in the plant's protective strategy. The attacking force is credited with detailed knowledge of the plant's lay-out, vulnerabilities and security force defense plans. The overall goal of the OSRE is to improve the efficacy of facility security by identification and correction of weaknesses.

In 37 of 81 OSREs conducted between August 1991 and August 2001, the NRC identified weaknesses[1]. In those plants in which a weakness was found, the attacking force was typically able in one of four exercises to reach a target set and simulate destruction of that equipment. In general these weaknesses occurred because of deficiencies in the licensee's contingency response plan, in training, or in executing the plan. No one issue dominates the weaknesses noted.

It is agency policy for NRC licensees to address identified weaknesses immediately through the implementation of compensatory measures, and where appropriate, permanent corrective actions. The NRC believes that the program has served an important function by contributing to the identification of areas for improvement in the licensees' security programs. The tests are difficult because they are designed to exploit potential vulnerabilities revealed in table top drills. They do not necessarily reflect the likelihood of success by a less informed attacking force.

Regarding the augmentation of the authority of NMSS and NRR to penalize and remedy security deficiencies found at nuclear facilities, NRC has the statutory tools necessary to ensure that security deficiencies discovered at licensee facilities are corrected in a timely fashion.

With respect to your comment regarding ordering the deployment of military equipment and personnel to nuclear facilities, on September 26, 2001, I sent a letter to the Governors of those states which have sensitive commercial nuclear facilities. The purpose of the letter was to explain the actions taken by the NRC and its licensees to augment security after September 11 and to note limitations on licensee capabilities to deal with beyond design basis threats. The letter noted that as the security situation unfolds, State resources might be needed to supplement licensees' capabilities. However, the Commission did not request such supplementation. The Commission believes that the individual Governors, working in consultation with their security advisors and Federal law enforcement authorities, can best determine where to deploy National Guard assets to protect critical infrastructure.

You also raise a question regarding DOE and U.S. military nuclear facilities. Since these are not civilian nuclear facilities, it is not appropriate for NRC to evaluate their security. However the NRC coordinates with DOE, U.S. military and various members of the intelligence community to share information concerning security matters. Certain contractors for DOE and DOD are NRC license holders and we evaluate those facilities and programs including security. Also, any recommendations and orders regarding the deployment of military equipment and personnel would more appropriately come from the OHS or the DOD.

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[1]For the 15 OSREs conducted between April 2000 and August 2001, weaknesses were identified in 9 of 59 exercises or 15 percent of the time. Eighty-five percent of the time the attacking force was defeated.

NRC is committed to the continual improvement in communication with our stakeholders. I am sure you can appreciate the challenges in communicating issues related to national security concerns. NRC recognizes the valuable role local officials play in providing first response services during emergencies, and will continue to engage local officials on issues relating to security of nuclear facilities.

The Commission appreciates your interest in NRC's actions to ensure appropriate security measurements at nuclear facilities following the September 11th attacks. If you have further questions, please feel free to contact me.

Sincerely,

/RA/

Richard A. Meserve