December 31, 2003

Ms. Anne M. Wolff, Council President
Township of Berkeley
Pinewald-Keswick Road
P. O. Box B
Bayville, NJ 08721

Dear Ms. Wolff:

I am responding on behalf of the Nuclear Regulatory Commission (NRC) to Berkeley Township Council's Resolution No. 03-398-R. The resolution addressed concerns by the Township Council about operation of the Oyster Creek Nuclear Generating Station (OCNGS), owned and operated by AmerGen Energy Company, LLC (AmerGen), in Lacey Township, New Jersey, and requested that the plant be decommissioned in April 2004.

OCNGS is licensed by the NRC to operate until April 9, 2009, when the current license expires. The NRC requires that AmerGen (the licensee) comply with all the conditions set forth in the license as well as all applicable NRC regulations. NRC ensures that the licensee fully complies with the conditions in the license and all applicable regulations through our Reactor Oversight Program, and documents findings in inspection reports and other assessment documents. In our most recent summary assessment of Oyster Creek in August 2003, we found that plant performance for the most recent quarter was within the Licensee Response Column of the NRC Action Matrix. This classification indicates that Oyster Creek has operated safely and merits no regulatory attention beyond our baseline inspection program. Information on our Reactor Oversight Program, including additional information on Oyster Creek performance, can be found on the NRC's website at www.nrc.gov/NRR/OVERSIGHT/ASSESS/index.html.

Your resolution referred to an issue identified during our triennial fire protection inspection conducted in late 2002. No safety-significant findings were identified during this inspection. One violation of requirements was identified; however, it was of minor safety significance. Therefore, no enforcement action was warranted in accordance with NRC's enforcement policy. AmerGen took appropriate compensatory actions for this deficiency immediately and planned long-term corrective actions. The inspectors also identified an unresolved item involving manual actions required for shutdown of the plant in the event of a fire in certain areas. An issue is considered unresolved when it cannot be determined whether it is acceptable or in compliance with NRC regulations. In this case, there are generic open issues in the industry with regard to the use of manual actions for safe shutdown in the event of a fire. This issue was left unresolved pending resolution of the generic issues or re-analysis by AmerGen. The triennial fire protection inspection report (IR 50-219/2002-011) can be found on the NRC website at the address referenced above. Additional information on the NRC enforcement policy and fire protection issues can also be found on the NRC website (www.nrc.gov).

In your resolution, you raised concerns about the age of OCNGS. NRC requires plant operators to continuously test and monitor the condition of safety equipment and to keep equipment in top condition. NRC also requires licensees to correct deficiencies that could impact plant safety, such as the Mark I containment design issues. While OCNGS has been in

operation since December 1969, over the years, the licensee has replaced many pieces of equipment and performed overhauls of other plant equipment. The licensee has also installed new, more modern systems to replace or supplement original systems that are obsolete or no longer considered adequate. Thus, while the plant is thirty-four (34) years old, it has dramatically changed over its operational lifetime. Unless the NRC concludes that the licensee is not operating with adequate safety margins or in accordance with the terms of the license, it is a business decision on the part of AmerGen whether it elects to decommission the facility prior to the end of its operating license.

When the operating license for OCNGS expires, it will be AmerGen's responsibility to decommission this nuclear plant in accordance with applicable NRC regulations and using the financial resources AmerGen has accumulated in accordance with 10 CFR 50.75 to fund decommissioning. Alternatively, AmerGen may opt to apply to renew the operating license before its expiration date for a period of up to twenty (20) years. At this time, AmerGen has not informed the NRC of its intention to decommission or seek renewal of the operating license for OCNGS.

You also raised a concern about the security and safety of the spent fuel pool at OCNGS. The NRC applies a fundamental defense-in-depth strategy for protection of public health and safety. The strategy encompasses design, construction, operation, training, event mitigation, and contingency planning, including emergency planning. The spent fuel pool design and operation employs the defense-in-depth strategy. Spent fuel pools are robust structures constructed of thick concrete-reinforced walls and stainless steel liners. Contingency measures are in place to address situations associated with a loss of water inventory or pool heat removal. While it is unlikely that a situation at a spent fuel pool would result in an offsite emergency, plant operators, including those at OCNGS, have plans to respond to such an emergency, and these plans are developed in consultation with State and local officials.

With regard to emergency preparedness, Federal regulations require that comprehensive emergency plans be prepared and periodically exercised to assure that actions can and will be taken to notify and protect the public in the vicinity of a nuclear facility in the event of a radiological emergency. Emergency planning for commercial nuclear power plants specifies two concentric emergency planning zones (EPZs), centered around the plants. The EPZs are the areas for which planning is needed to assure that prompt and effective actions can be taken to protect the public in the unlikely event of an accident. The first zone, called the plume exposure pathway EPZ, is an area of about 10 miles in radius. The major protective actions planned within this EPZ are evacuation and sheltering in order to protect members of the public from adverse health effects due to inhalation or direct exposure to airborne radioactive material (i.e., the plume) which may be released by the plant during an accident. The second zone, called the ingestion pathway EPZ, is an area of about 50 miles in radius from the plant to deal with potential lower-level, long-term risks primarily due to exposure from ingestion of contaminated food and water. Outside of 10 miles, direct exposure is expected to be sufficiently low that evacuation or sheltering should not be necessary. Exposure to a radioactive plume would not likely result in immediate or serious long-term health effects. Consideration of public sheltering and evacuation in the emergency plans is very conservative and recommended at very low dose levels, well below the levels where health effects would be expected to occur.

Any radioactive release and consequent exposure would be affected by wind direction, wind speed, humidity, distance from the source, and other factors. In general, based on the wind direction, most people in the EPZ will be unaffected by a release of radioactive material. For those affected, plans are in place to minimize their exposure. Emergency plans typically only call for protective measures for a portion of the EPZ. The State and local agencies in concert with the licensee would continually reassess the need to expand the protective measures as conditions dictate. Additionally, all plants are required to perform an evacuation time estimate (ETE) for the area surrounding the plant. The ETE is used in the development of the emergency plan and during the emergency phase of a response by the licensee, local, State, and Federal emergency management agencies. The ETE is factored into the protective measures that the State implements. Additionally, these ETEs identify potential traffic impediments and allow for development of traffic management plans and the efficient use of traffic control personnel during an evacuation.

As a result of the terrorist attacks of September 11, 2001, the NRC has increased its focus on emergency preparedness at nuclear power plants. The NRC staff has conducted an evaluation of the impact on emergency preparedness programs as well as implemented requirements that will enhance the response efforts to any perceived threat. Studies to date indicate that the planning basis for emergencies remains valid in terms of timing and magnitude for the range of potential radiological consequences of a terrorist attack upon a reactor or spent fuel pool. Additional information on emergency preparedness, potential health effects, and actions taken since September 11thcan also be found on the NRC website (www.nrc.gov).

Regarding the issues raised in your resolution about alternative energy sources, the NRC does not have jurisdiction over this matter. The conversion to other sources of electrical energy would be an economic and policy decision made by other entities such as the Department of Energy, the Public Service Commissions, private investors, etc. If you have any further questions regarding this matter, please call the NRC Project Manager for OCNGS, Mr. Peter Tam, at 301-415-1451.

Sincerely,

/RA by D. Skay/

Cornelius F. Holden, Jr, Director
Project Directorate I
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

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Cornelius F. Holden, Jr, Director
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