

June 28, 2006

Mr. Joseph H. Vicari, Member  
Ocean County Board of Chosen Freeholders  
P.O. Box 2191, Administration Bldg.  
Toms River, NJ 08754-2191

SUBJECT: RESTRICTED AIRSPACE OVER OYSTER CREEK GENERATING STATION

Dear Mr. Vicari:

I am responding on behalf of the U.S. Nuclear Regulatory Commission (NRC) to your letters of May 7 and May 17, 2006, concerning the airspace over Oyster Creek Generating Station.

Before I discuss the NRC's approach to dealing with airborne threats, I must point out that the NRC has no authority or jurisdiction regarding the issuance of flight restrictions. The authority to issue flight restrictions lies with the Federal Aviation Administration (FAA). The NRC provides information on NRC-licensed facilities to the FAA, Department of Defense (DoD), Department of Justice, Department of Homeland Security, and other Federal entities involved in the protection of the Nation's infrastructure, but the NRC does not have the authority to control the use of the Nation's airspace.

The NRC supports the position that the Nation's resources which are dedicated to protecting against terrorist airborne attacks should be primarily directed toward enhancing security at airports and within commercial airplanes in flight. This approach provides the best opportunity for early awareness of a potential threat, thus increasing the response time for Federal, State and local authorities, and personnel at sensitive sites.

The NRC has taken steps to augment the aforementioned strategy. In response to the events of September 11, 2001, the NRC has been in regular communication with the FAA and DoD. The protection of airspace over some NRC-licensed sites has been discussed. On September 23, 2001, representatives from the FAA, DoD, and NRC met to discuss aviation security and determined that a Notice To Airmen (NOTAM), issued by the FAA, was the appropriate vehicle to protect the airspace above sensitive sites, including nuclear power plants. This NOTAM has been updated on several occasions, and its current version, 4/0811, issued on October 8, 2004, strongly advises pilots "to avoid the airspace above, or in proximity to such sites as power plants (nuclear, hydroelectric, or coal), dams, refineries, industrial complexes, military facilities and other similar facilities. Pilots should not circle as to loiter in the vicinity over these types of facilities." This notice is still in effect.

The NRC also issued a Safeguards Advisory containing an imminent airborne attack protocol for nuclear power reactor licensees. The mitigating measures outlined in this Advisory cover the spectrum of potential airborne threats and put nuclear power reactor sites in the safest possible configuration prior to an attack.

J. Vicari

- 2 -

I appreciate your interest in the NRC's efforts to ensure the most effective measures for countering potential airborne threats to nuclear power reactor sites are being employed. Collectively, enhanced security at airports and within commercial airplanes in flight, NOTAM 4/0811, and the NRC's imminent airborne attack protocol result in the greatest reduction of risk to the people of the United States and should provide those who reside near nuclear power reactors the "comfort level" to which you allude. Although the NRC has no plans to request an airspace restriction zone over Oyster Creek Generating Station at this time, the NRC will coordinate an appropriate response with other Federal agencies should additional restrictions be necessary as a result of changing or more specific threats. If you have further questions, please feel free to contact me.

Sincerely,

***/RA by R. W. Borchardt Acting For/***

Roy P. Zimmerman, Director  
Office of Nuclear Security and Incident Response



Kelly Riner (Office LA ) reviewed document on 6/19/06 for formatting purpose