

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

June 12, 2006 (4:46pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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In the Matter of:)
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AmerGen Energy Company, LLC) June 12, 2006
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(License Renewal for Oyster Creek)
Nuclear Generating Station)) Docket No. 50-219-LR
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NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION'S
 NOTICE OF PERTINENT NEW CASE LAW AFFECTING APPEAL
 AND REQUEST FOR ITS CONSIDERATION

The decision in San Luis Obispo Mothers for Peace v. Nuclear Regulatory Commission (Ninth Circuit, No. 03-74628, June 2, 2006) is attached for consideration in relation to NJDEP's appeal of the Atomic Safety and Licensing Board ("Board") Decision in this matter, ASLBP No. 06-844-01-LR. The Board rejected NJDEP's contention regarding consideration of the environmental effects of terroristic activity at Oyster Creek. San Luis Obispo, supra. holds that the National Environmental Policy Act ("NEPA") requires the Nuclear Regulatory Commission ("NRC") to consider such effects at individual facilities and, at least, to accept comments and information from the public on the issue. This is the only Circuit Court decision issued subsequent to the September 11th attack on the World Trade Center. This opinion concludes that "it is unreasonable for the NRC to categorically dismiss the possibility

of terrorist attack" and specifically rejects the reasoning and precedents cited by the Board to justify its rejection of NJDEP's contention on this subject.

NJDEP respectfully requests that the NRC consider this controlling precedent when issuing a decision on NJDEP's appeal on this issue. Further, NJDEP requests that the NRC fulfill its legal obligation, pursuant to this decision, to complete a NEPA analysis of the potential environmental effects of a terrorist attack at Oyster Creek. After the NRC completes its Environmental Impact Statement ("EIS"), NJDEP should be allowed to amend its contention and its basis in response to the EIS.

Thank you for your consideration.

Respectfully submitted,

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Certificate of Service Attached

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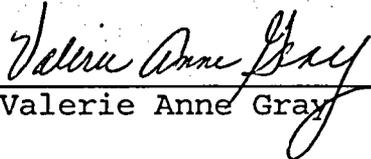
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