August 25, 2006

The Honorable Jim Saxton
United States House of Representatives
Washington, DC 20515-3003

Dear Congressman Saxton:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter to Chairman Nils J. Diaz, dated August 9, 2006. Your letter (1) referenced the potential vulnerabilities of boiling water reactors with above-ground spent fuel pools discussed in the 2005 National Academy of Sciences (NAS) report, "Safety and Security of Commercial Spent Fuel Storage," and (2) asked if those vulnerabilities were considered in the statements regarding the impact of severe accidents in the draft Supplemental Environmental Impact Statement for the Oyster Creek license renewal.

On November 14, 2005, the New Jersey Department of Environmental Protection (DEP) requested a hearing before the Atomic Safety and Licensing Board (ASLB) on the proposed license renewal application for Oyster Creek. One of the contentions proposed by the DEP concerned spent fuel pool vulnerabilities to aircraft attack and referenced the NAS report. On February 27, 2006, the ASLB denied the contention as being beyond the scope of, not material to, and inadmissible in a license renewal proceeding. DEP appealed the denial to the Commission, and the Commission is currently considering that appeal.

Under NRC's procedural rules for adjudications, the Commission has an appellate role in proceedings commenced before its Licensing Boards. Because of that role, I trust you will understand that all members of the Commission must remain impartial during the pendency of a case, whether it is before a Licensing Board or on appeal to the Commission, and it would be inappropriate for any of the Commissioners to discuss or comment on issues involved in this matter.

NRC appreciates your interest in the review of the license renewal application for Oyster Creek. A copy of your letter and this response will be placed on the Oyster Creek hearing docket and served on the parties to the proceeding.

Sincerely,

/RA/

Annette L. Vietti-Cook
Secretary of the Commission