



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 4, 2009

DOCKETED
USNRC

March 9, 2009 (2:00pm)

SECRETARY

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

SERVED MARCH 9, 2009

Mr. Alan W. Avery, Jr.
County Administrator
Office of the Ocean County Administrator
P.O. Box 2191
Administration Building
Toms River, New Jersey 08754-2191

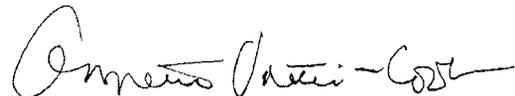
Dear Mr. Avery:

I am responding to your letter of January 2, 2009, addressed to Chairman Dale E. Klein. You requested on behalf of Freeholder John P. Kelly that the Commission give consideration to the request of Congressman Christopher H. Smith that the Commission release the data prepared by AmerGen (now Exelon) to evaluate the structural integrity of the Oyster Creek Nuclear Generating Station containment drywall liner.

Under NRC regulations, the Commission has an adjudicatory role in the Oyster Creek license renewal proceeding. An appeal is currently pending before the Commission with respect to the Oyster Creek license renewal application, specifically related to the analysis referenced in your letter. Due to the nature of the Commission's role, all members of the Commission must remain impartial while this case is pending. At this time, therefore, the Commission cannot discuss or comment on issues involved in this matter. In a letter dated January 6, 2009, in response to his letter dated December 4, 2008, Congressman Smith was also advised of the Commission's appellate role in adjudications.

A copy of your letter and this response will be served on the participants in the Oyster Creek proceeding.

Sincerely,


Annette L. Vietti-Cook

cc: Oyster Creek Service List



ALAN W. AVERY, JR.
County Administrator

OFFICE OF THE
OCEAN COUNTY ADMINISTRATOR
P.O. BOX 2191 ★ ADMINISTRATION BUILDING
TOMS RIVER, NEW JERSEY 08754-2191

Telephone
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(732) 929-2147

January 2, 2009

Chairman Dale E. Klein
US Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Re: Oyster Creek Nuclear Generating Station

Dear Chairman Klein:

I am writing to you at the request of Freeholder John P. Kelly, Liaison to the Department of Law and Public Safety. He has received a copy of recent correspondence from the Honorable Christopher H. Smith, Ocean County's Congressional representative. The letter specifically requests that the NRC release the actual data prepared by AmerGen to evaluate the structural integrity of the facilities drywall. Freeholder Kelly had previously written the NRC requesting the same consideration. A copy of his letter is enclosed for your convenience.

He has asked that I convey his support for positive consideration of the Congressman's request. As the relicensing process continues, it has been the Freeholder Board's position to insure that your agency responds to concerns raised by our constituents to insure confidence in the process and the continued safe operation of the facility.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Alan W. Avery, Jr.
County Administrator

AWA:mac

c: John P. Kelly, Freeholder, Director of Law and Public Safety
Honorable Christopher H. Smith, Congressman
Nancy T. McNamara, US Nuclear Regulatory Commission, Region 1
Gail Marsh Saxer, League of Women Voters of Ocean County
Janet Tauro
Cheryl Rundle-Borowski



SPECIAL ASSISTANCE/ACCOMMODATIONS available, please call (732) 929-2055.



**THE BOARD OF CHOSEN FREEHOLDERS
OFFICE OF THE FREEHOLDER DIRECTOR**

OCEAN COUNTY
TOMS RIVER, NEW JERSEY 08754-2191

John P. Kelly
Director of Law and Public Safety



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Fax (732) 506-5055
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October 15, 2008

United States Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555-0001

**Re: Oyster Creek Nuclear Generating Station
License No. DPR-16
Docket No. 50-0219, Drywell Analysis ASLB**

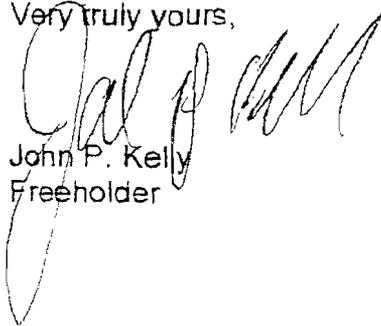
Dear Commissioners:

I am in receipt of a September 16, 2008 letter from Dr. Jill Lipoti at the New Jersey Department of Environmental Protection. Dr. Lipoti outlined several expectations related to the reevaluation of the drywall corrosion monitoring at the Oyster Creek Nuclear Generating Station in Lacey Township. The reevaluation results from concerns raised by Judge Baratta during the recent review by the Atomic Safety Licensing Board.

This letter was provided to me by Ms. Janet Tauro, a resident of Ocean County. Her group concurs with the State's request for the release of the original test data so that it can be evaluated by an independent third party.

I am forwarding this information to you for your information and review. It has been the Board's position to provide the NRC with all requests for information that it receives regarding the relicensing of the Oyster Creek Nuclear Generating Plant.

Very truly yours,


John P. Kelly
Freeholder

JPK/DJM:mac

c: Janet Tauro
Cheryl Rundle-Borowski
Gail Marsh Saxer, League of Women Voters of Ocean County
James L. Laird, Director, Public Affairs, Excelon Corporation

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
AMERGEN ENERGY COMPANY, LLC) Docket No. 50-219-LR
)
)
(Oyster Creek Nuclear Generating Station))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LETTER FROM THE SECRETARY TO MR. ALAN W. AVERY, JR. IN RESPONSE TO HIS JANUARY 2, 2009 LETTER has been served upon the following persons by electronic mail this date, followed by deposit of paper copies in the U.S. mail, first class, and NRC internal mail.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the Secretary of the Commission
Rulemakings & Adjudications Staff
Mail Stop O-16C1
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Atomic Safety and Licensing Board Panel
Mail Stop T-3 F23
Washington, DC 20555-0001

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop - O-15 D21
Washington, DC 20555-0001
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Brian G. Harris, Esq.
Brian Newell, Paralegal

Administrative Judge
E. Roy Hawkens, Chair

Administrative Judge
Paul B. Abramson

Administrative Judge
Anthony J. Baratta

Emily Krause, Law Clerk

Docket No. 50-219-LR
LETTER FROM THE SECRETARY TO MR. ALAN W. AVERY, JR. IN RESPONSE TO HIS
JANUARY 2, 2009 LETTER

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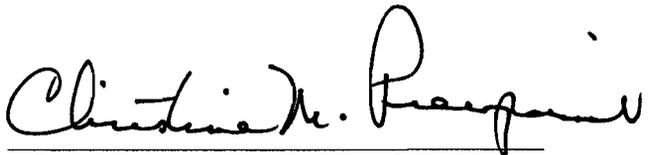
J. Bradley Fewell, Esq.
Exelon Corporation
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Ron Zak
New Jersey Department of
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Docket No. 50-219-LR
LETTER FROM THE SECRETARY TO MR. ALAN W. AVERY, JR. IN RESPONSE TO HIS
JANUARY 2, 2009 LETTER

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Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 9th day of March 2009