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

COMMISSIONER

November 1, 2010

The Honorable Joe Barton
Ranking Member
Energy and Commerce Committee
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Barton:

I write to supplement the October 27, 2010 response of NRC Chairman Gregory Jaczko to your letter of October 13, 2010, regarding the NRC's review of the U.S. Department of Energy's license application for a deep, geologic repository. In his reply to you, Chairman Jaczko states that the NRC staff "is following established Commission policy to begin to close out the [High Level Waste] HLW program." I disagree and write to provide my individual view as a member of the Nuclear Regulatory Commission who was serving during the Commission's review and approval of the NRC's Fiscal Year 2011 budget request to the Congress.

When the Commission voted to approve budget justification language related to NRC's proposed HLW activities for FY 2011, a majority of the Commission's members supported language stipulating that orderly closure of the program activities would occur "[u]pon the withdrawal or suspension of the licensing review." The budget justification submitted to the Congress, and pending there now, was modified to include this language. These precursors have not occurred and an adjudicatory appeal related to DOE's request to withdraw its application lies unresolved before the Commission, making the orderly closure of NRC's program, in my view, grossly premature.

As noted by Chairman Jaczko in his response to you, the Commission declined to revisit this budgetary matter in response to a proposal of Commissioner Ostendorff in October of this year. Consequently, deliberation of the agency's budget request in January of 2010 constitutes the sole time the full Commission affirmatively took up and decided the policy of what would comprise the NRC's HLW activities for FY 2011. As a member of the Commission, now and at that time, I differ in my interpretation of the "established Commission policy" in this case and appreciate the opportunity to communicate this view to you and other interested members of the Committee.

Respectfully,

Kristine L. Svinicki