

December 17, 2003

Mr. Michael B. Gerrard
Arnold & Porter
399 Park Avenue
New York, NY 10022-4690

Dear Mr. Gerrard:

Your petition dated November 4, 2003, and addressed to the Executive Director for Operations, U. S. Nuclear Regulatory Commission (NRC), has been referred to me pursuant to 10 CFR 2.206 of the Commission's regulations. You requested that the NRC use its authority to protect the common defense and security under the Atomic Energy Act of 1954 to close the Radiac facility. As the basis for your request, you stated that the radioactive waste storage operation adjoining a hazardous waste transfer and storage operation at the Radiac Research Corporation in Brooklyn, New York represented a significant risk. I would like to express my sincere appreciation for your effort in bringing these matters to the attention of the NRC.

We have considered your assertion of the "need for urgent action" a request for immediate action under our procedures for 2.206 petitions in Management Directive 8.11. Your request for immediate action has been denied because the limits on types and activity of radioactive material that Radiac is authorized to possess are below the levels of concern.

As provided by Section 2.206, we will take action on your request within a reasonable time. I have assigned Charles Cox to be the petition manager for your petition. Mr. Cox can be reached at 301-415-6755. He has contacted you to arrange a meeting for you with our Petition Review Board and he will continue to keep you informed of the staff's review of your request. Your petition is being reviewed by the Division of Industrial and Medical Nuclear Safety within the Office of Nuclear Material Safety and Safeguards. I have enclosed for your information a copy of the notice that is being filed with the Office of the Federal Register for publication. I have also enclosed for your information a copy of Management Directive 8.11 "Review Process for 10 CFR 2.206 Petitions," and the associated brochure NUREG/BR-0200, "Public Petition Process," prepared by the NRC Office of Public Affairs.

Sincerely,

/RA/
Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Federal Register Notice
2. Management Directive 8.11(ML0113807270)
3. NUREG/BR-0200

cc: Mr. Joseph Spektor, Radiac Research
Corporation
Hon. Linda Angello, Commissioner
NY State Department of Labor

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Ref:G20030358 PUBLIC IMNS r/f JGoldberg, OGC
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DWhite, RIOPA

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OFFICE	MSIB	MSIB	IMNS	OGC	OSP	NSIR	NMSS
NAME	CCox	TEssig	PHolahan	JGoldberg(phone)	CMaupin(phone)	MLayton(phone)	MVirgilio
DATE	12/9/03	12/9/03	12/10/03	12/10/03	12/10/03	12/10/03	12/17/03

OFFICIAL RECORD COPY

U.S. NUCLEAR REGULATORY COMMISSION
RADIAC RESEARCH CORPORATION
BROOKLYN, NEW YORK
RECEIPT OF REQUEST FOR ACTION UNDER 10 CFR 2.206

Notice is hereby given that by petition dated November 3, 2003, Mr. Michael B. Gerrard, representing Neighbors Against Garbage, et al. (petitioners), have requested that the Nuclear Regulatory Commission (NRC) take action with regard to Radiac Research Corporation Brooklyn, New York, a licensee with the New York State Department of Labor.

The petitioners requested that the NRC use its authority to protect the common defense and security under the Atomic Energy Act of 1954 to close the Radiac facility. As the basis for the request, the petitioner stated that the radioactive waste storage operation adjoining a hazardous waste transfer and storage operation at the Radiac Research Corporation in Brooklyn, New York represented a significant risk.

The request is being addressed pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Material Safety and Safeguards. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. A copy of the petition is available for inspection in the Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737 or by email to pdr@nrc.gov.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

/RA/

Martin J. Virgilio, Director
Office of Nuclear Material Safety
and Safeguards

Dated at Rockville, Maryland
this 17th day of December, 2003.