

April 15, 2004

Professor Frank N. von Hippel
Professor of Public and International Affairs
Program on Science and Global Security
Princeton University
221 Nassau Street, 2nd Floor
Princeton, New Jersey 08542-4601

Dear Professor von Hippel:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter to NRC Chairman Nils J. Diaz, dated February 17, 2004. We sincerely appreciate your interest in the NRC's activities regarding spent fuel storage in general and, in particular, your interest in "NRC Perspectives on Spent Fuel Storage," which the NRC staff presented to the National Research Council's Committee on Safety and Security of Commercial Nuclear Spent Fuel Storage on February 12, 2004.

To summarize the activities in question, the NRC is currently conducting detailed, realistic analyses of the plausible responses of spent nuclear fuel in various scenarios. These studies involve the use of a representative spent fuel pool, with actual fuel loading. Our follow-on activities will address additional pool designs, other scenario attributes, and confirmatory testing.

As you know, the National Academy of Sciences (NAS) is currently reviewing the NRC's spent fuel activities, under a Congressional mandate. The primary objective of the NAS review is to independently assess (1) the potential safety and security risks associated with the spent fuel that is presently stored in pools; (2) the advantages, if any, of dry cask storage (versus wet pool storage); and (3) the potential safety and security advantages, if any, of various cask designs. This review will culminate in both classified and unclassified reports.

In addition to the NAS review, the NRC's Advisory Committee on Reactor Safeguards is currently reviewing the agency's spent fuel activities, as is an independent group of experts who report directly to me. The NRC's Office of Nuclear Regulatory Research also plans to conduct an independent peer review of these activities. These peer reviews will help to ensure that the NRC's activities regarding spent fuel storage are of sufficient quality to support effective decisionmaking. I intend to issue an unclassified version of our study upon completion of the peer reviews.

As I understand the request you conveyed in your letter to Chairman Diaz, dated February 17, 2004, you are asking the NRC to release its recent studies, which established the basis for the staff's presentation on February 12, 2004, making those studies available to the public with classified and sensitive unclassified information redacted. Barring this, you are asking the NRC to permit you to review the classified documents concerning those studies.

Professor Frank N. von Hippel

As you may be aware, the NRC is currently devoting significant time and resources to address potential safety issues that have arisen since the terrorist attacks on September 11, 2001. These issues are vital to the health and safety of the public, the environment, and the common defense and security. Consequently, it would not be prudent for the agency to slow the progress of this high-priority work by diverting resources to publish a redacted report concerning the NRC's analyses of the risk associated with spent fuel storage. I, therefore, regret that I am unable to fulfill this request.

In your letter, you stated, "Given that the reports that it supercedes are not [classified], I assume that almost all of the new NRC report can easily be declassified." In general, this is not a valid assumption. The agency's recent spent fuel studies are fundamentally different from their predecessors, in that they specifically address the ramifications of a terrorist attack, while earlier studies dealt only with other aspects of the NRC's regulatory oversight of the transportation, storage, and disposal of nuclear materials and waste. Consequently, releasing the analytical methods and foreseeable results of theoretical events stemming from terrorist attacks could help would-be terrorists to a greater degree than the existing unclassified reports.

As an alternative to releasing a redacted version of the recent studies, you asked the NRC to permit you to review the classified reports. However, as you may be aware, the sharing of classified and sensitive unclassified information requires a *clear need-to-know*, in addition to the proper level of security clearance. In this case, the NAS reviewers have a need-to-know (under the Congressional mandate) and, therefore, will have access to classified and unclassified materials necessary to complete their spent fuel studies. In your case, there is not a clear need-to-know and, therefore, the NRC cannot allow you to view the classified and sensitive unclassified information concerning the studies in question.

Consequently, I regret that we will not be able to fulfill your requests. I hope that the points discussed above will help you to understand our decisions. In addition, as previously noted, the NRC will release an unclassified version of the study results upon completion of the related peer reviews.

We always welcome the thoughts and views of our stakeholders and sincerely appreciate your involvement. Thank you again for your interest.

Sincerely,

/RA/

Ashok C. Thadani, Director
Office of Nuclear Regulatory Research

Professor Frank N. von Hippel

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Ashok C. Thadani, Director
Office of Nuclear Regulatory Research

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