

From: Paul Goldberg
To: Cardelia Maupin; Jack Goldberg
Date: 1/5/04 1:36PM
Subject: Velasquez letter

Cardelia,
Revision to include your comments. Let me know if this looks OK.

CC: Charles Cox; Charlotte Abrams; Marissa Bailey; Michael Layton; Scott Moore;
Thomas Essig

C/12

The Honorable Nydia M. Velásquez
United States House of Representatives
Washington, DC 20515

Dear Congresswoman Velásquez:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of December 10, 2003, concerning the Radiac Research Corporation facility in Brooklyn, NY. As you point out in your letter, the facility stores and transports hazardous materials, as well as radioactive waste. The NRC does not regulate hazardous materials. The State of New York regulates the hazardous materials and has entered into an Agreement with the NRC under Section 274b of the Atomic Energy Act (AEA) to regulate certain radioactive materials, including those possessed under the Radiac license. The New York State Department of Labor (NYDOL) regulates the safety of the radioactive materials Radiac possesses under its license with that agency.

Under the Atomic Energy Act (AEA), NRC has responsibility for common defense and security regarding nuclear materials, including those regulated by the States under Agreements with NRC. As part of this responsibility, NRC is reviewing a petition, with respect to common defense and security, from Michael B. Gerrard of Arnold and Porter, representing Neighbors Against Garbage. The petition states that the radioactive waste storage operation, which adjoins a hazardous waste transfer and storage operation at the Radiac Research Corporation, represents a significant risk. It requests that NRC close the Radiac facility, using its authority under the AEA, to protect the common defense and security. It raises concerns similar to those you express in your letter.

Your letter urges NRC to "initiate an investigation into operations at Radiac, and take necessary action to ensure the safety and security of the community surrounding the facility." You further ask that NRC "conduct an investigation into questionable safety and security measures at Radiac, assess the risk of an accident or terrorist attack at the facility, and determine the impact of a major event at the facility on the surrounding community and New York City, including radiological release." You also urge us to "take necessary action to revoke the license or close the Radiac facility, if the corporation fails to immediately rectify these common defense and security risks."

Our review of the petition from Mr. Gerrard involves an inquiry into common defense and security risks at the Radiac facility. We will consider your concerns with respect to common defense and security as part of our review of the petition. While our review will include a meeting with the petitioner and licensee, it will not include a hearing. This inquiry will be performed in cooperation with the State of New York, which has jurisdiction for radiological health and safety issues for this facility. We will advise you of the results of the review and of any action we take as a result. A copy of this letter will go to the NYDOL. Please feel free to contact me if you have any questions.

Sincerely,

Nils Diaz

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

The Honorable Nydia M. Velásquez
United States House of Representatives
Washington, DC 20515

Dear Congressman Velásquez:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of December 10, 2003, concerning the Radiac Research Corporation facility in Brooklyn, NY. As you point out in your letter, the facility stores and transports hazardous materials, as well as radioactive waste. The NRC does not regulate hazardous materials. The New York State Department of Labor regulates the safety of the nuclear materials Radiac possesses under its license with that agency. Under the Atomic Energy Act (AEA), NRC has responsibility for common defense and security regarding nuclear materials, including those regulated by the States under Agreements with NRC. As part of this responsibility, NRC is reviewing a petition, from Michael B. Gerrard of Arnold and Porter, representing Neighbors Against Garbage. The petition states that the radioactive waste storage operation, which adjoins a hazardous waste transfer and storage operation at the Radiac Research Corporation, represents a significant risk. It requests that NRC close the Radiac facility, using its authority, under the AEA, to protect the common defense and security.

Your letter urges NRC to... "initiate an investigation into operations at Radiac, and take necessary action to ensure the safety and security of the community surrounding the facility." You further ask that NRC "...conduct an investigation into questionable safety and security measures at Radiac, assess the risk of an accident or terrorist attack at the facility, and determine the impact of a major event at the facility on the surrounding community and New York City, including radiological release. I also urge you take necessary action to revoke the license or close the Radiac facility, if the corporation fails to immediately rectify these common defense and security risks."

Our review of the petition from Mr. Gerrard involves an inquiry into any common defense and security risk at the Radiac facility. This inquiry will be performed in cooperation with the State of New York, who has the health and safety licensing authority for this facility. We will advise you of the results of the review and of any action we take as a result. Please feel free to contact me if you have any questions.

Sincerely,

Nils Diaz

Distribution:EDO G20030767

LTR-03-0809

PShea

NMSS Dir. Dir. R/f

IMNS/ r/f

BFleming

MLeach

WTravers

DBroadus

EDO r/f

CPaperiello

This correspondence addresses policy issues previously resolved by the Commission, transmits factual information, or restates Commission policy.

ML

OFFICE	IMNS	NMSS	IMNS	IMNS	IMNS
NAME	PGoldberg	EKraus-FAX	CCox	TEssig	PHolahan
DATE	/ /03	12/31/03	/ /03	12/31/03	/ /04

OFFICE	NMSS	OSTP	OGC	NSIR
NAME	MVirgilio	CMaupin	JGoldberg	Mlayton (e-mail)
DATE	/ /04	/ /04	/ /04	12/31/03
OFFICE	DEDMRS	EDO	OCM	OCA
NAME	CPaperiello	WTravers	NDiaz	
DATE	/ /04	/ /04	/ /04	/ /04

OFFICIAL RECORD COPY