

From: Paul Goldberg
To: Anne Boland
Date: 1/14/04 1:34PM
Subject: Velasquez letter

Anne,
Red-lined revision to respond to the comments you gave me. Let me know if this is all right. If so, you can make the changes there. If you want us to do it, just tell me.

CC: Charles Cox

C/16

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

Dear Congresswoman Velázquez:

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, New York. As you point out in your letter, the facility stores and transports hazardous materials, as well as radioactive waste. 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.

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." You particularly cite enriched uranium and plutonium as radioactive materials that Radiac stores and transfers.

Under the 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, whose firm represents 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. In our initial response to Mr. Gerrard's petition, we have denied his request for immediate action on the basis that the limits on types and activity of radioactive materials Radiac is authorized to possess are below the levels of concern. We will continue to review the common defense and security considerations he has raised. NRC has issued orders for additional security measures to licensees, including Agreement State licensees, that possess radioactive materials of concern and will issue more orders in the future. Radiac is not presently subject to those orders, based on the relatively small quantities of radioactive materials it possesses. Radiac holds small quantities of enriched uranium and plutonium, well below the levels of concern for those materials.

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The NYDOL has responded to letters from Mr. Gerrard concerning health and safety issues similar to those he raises in his petition to NRC, by stating that "the likelihood of an accident at this facility is low and the potential for individuals to suffer significant off-site radiation doses is virtually nonexistent. The NYDOL concluded that "the Department lacks any basis upon which to take action against this facility's license" and denied Mr. Gerrard's request to close the 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 J. Diaz

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

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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 J. Diaz

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

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

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