

December 3, 2004

Dr. Kevin D. Crowley, Director  
Board on Radioactive Waste Management  
National Research Council  
The National Academies  
500 Fifth Street, NW, 6<sup>th</sup> Floor  
Washington, D.C. 20001

Dear Dr. Crowley:

I am responding to your letter to Bernard W. Stapleton of November 12, 2004 (inadvertently dated October 12). With that letter, you provided a copy of the proposed unclassified report concerning the National Academies' study on the safety and security of commercial spent nuclear fuel storage. You also asked the U.S. Nuclear Regulatory Commission (NRC) to review that report and indicate whether it contains any information that is not suitable for public release.

The Congressional Appropriations language instructed the National Academies to prepare an unclassified summary of its study. The proposed edited report does not satisfy that requirement since it is not an unclassified summary and its contents are inappropriate for public release. Therefore, the NRC is not authorizing the National Academies to release the report, as provided. We expected, based on the Appropriations language, the National Academies to provide for NRC review an unclassified summary that is free of sensitive information. Sensitive information in the proposed edited report can generally be grouped into two categories. The first category includes Safeguards Information (SGI), which must be withheld under the requirements of Title 10, Part 73, of the *Code of Federal Regulations* (10 CFR Part 73). The second category includes information that the NRC considers Official Use Only (OUO). Consistent with the Administration's expectations regarding the importance of protecting the Nation's critical infrastructure from harm, such information should not be released to the public.

In particular, the proposed edited report that you sent to the NRC on November 12, 2004, is permeated with sensitive information that would be useful to potential adversaries and could reasonably be expected to have an adverse effect on the common defense and security. The NRC cannot authorize release of the proposed edited version of the classified report, which would allow such information to enter the public domain.

Also, we continue to have serious reservations regarding the approach, findings, and recommendations of the classified report. It appears that the report suffers from constraints on time and information which the NRC and National Academies should pursue separately.

Kevin D. Crowley

- 2 -

In summary, we ask the National Academies to provide for NRC review an unclassified summary report that is free of sensitive information. Please do not hesitate to contact me if you have any questions regarding this request.

Sincerely,

/RA/Luis A Reyes signed original

Luis A. Reyes  
Executive Director  
for Operations

December 3, 2004

Dr. Kevin D. Crowley, Director  
Board on Radioactive Waste Management  
National Research Council  
The National Academies  
500 Fifth Street, NW, 6<sup>th</sup> Floor  
Washington, D.C. 20001

Dear Dr. Crowley:

I am responding to your letter to Bernard W. Stapleton of November 12, 2004 (inadvertently dated October 12). With that letter, you provided a copy of the proposed unclassified report concerning the National Academies' study on the safety and security of commercial spent nuclear fuel storage. You also asked the U.S. Nuclear Regulatory Commission (NRC) to review that report and indicate whether it contains any information that is not suitable for public release.

The Congressional Appropriations language instructed the National Academies to prepare an unclassified summary of its study. The proposed edited report does not satisfy that requirement since it is not an unclassified summary and its contents are inappropriate for public release. Therefore, the NRC is not authorizing the National Academies to release the report, as provided. We expected, based on the Appropriations language, the National Academies to provide for NRC review an unclassified summary that is free of sensitive information. Sensitive information in the proposed edited report can generally be grouped into two categories. The first category includes Safeguards Information (SGI), which must be withheld under the requirements of Title 10, Part 73, of the *Code of Federal Regulations* (10 CFR Part 73). The second category includes information that the NRC considers Official Use Only (OUO). Consistent with the Administration's expectations regarding the importance of protecting the Nation's critical infrastructure from harm, such information should not be released to the public.

In particular, the proposed edited report that you sent to the NRC on November 12, 2004, is permeated with sensitive information that would be useful to potential adversaries and could reasonably be expected to have an adverse effect on the common defense and security. The NRC cannot authorize release of the proposed edited version of the classified report, which would allow such information to enter the public domain.

Also, we continue to have serious reservations regarding the approach, findings, and recommendations of the classified report. It appears that the report suffers from constraints on time and information which the NRC and National Academies should pursue separately.

Kevin D. Crowley

- 2 -

In summary, we ask the National Academies to provide for NRC review an unclassified summary report that is free of sensitive information. Please do not hesitate to contact me if you have any questions regarding this request.

Sincerely,

/RA/Luis A. Reyes signed original

Luis A. Reyes  
Executive Director  
for Operations

Distribution:            SMSAB R/F            DSARE R/F            SECY  
   OGC                            CFO

E:\Filenet\ML043370181.wpd

OAR in ADAMS? (Y or N) Y    ADAMS ACCESSION NO.: ML043370181    TEMPLATE NO. EDO-002  
Publicly Available? (Y or N) Y    DATE OF RELEASE TO PUBLIC 10 days after issuance    SENSITIVE?    N

To receive a copy of this document, indicate in the box: "C" = Copy without enclosures "E" = Copy with enclosures "N" = No copy

\*See previous concurrences

OFFICE	SMSAB		Tech Editor	N	D:DSARE		OGC		NSIR	
NAME	DHelton:mb*		PGarrity <b>via e-mail</b>		FEltawila SBahadur for*		TRothschild		RZimmerman	
DATE	12/02/04		11/19/04		12/02/04		/ /04		/ /04	
OFFICE	D:RES		DEDMRS		DEDH		EDO		OCM	
NAME	CPaperiello		MVirgilio		WKane		LAReyes		NDiaz	
DATE	12/03/04		/ /04		/ /04		12/03/04		/ /	