



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

RELATED CORRESPONDENCE

May 24, 1985

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USNRC

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Anne Rapkin, Esq.
Assistant Attorney General
Environmental Control Division
100 W. Randolph, 13th Floor
Chicago, IL 60601

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of
KERR-MCGEE CHEMICAL CORPORATION
(Kress Creek Decontamination)
Docket No. 40-2061; ASLBP No. 84-502-01-SC

and

(West Chicago Rare Earths Facility)
Docket No. 40-2061 ML, ASLBP No. 83-495-01-ML

Dear Ms. Rapkin:

This is in response to our discussion of May 10 and your follow-up letter of May 13, 1985 in which you raise a concern as to whether correspondence from the Illinois Attorney General's Office or Kerr-McGee to counsel for the NRC Staff may be finding its way to the Atomic Safety and Licensing Board without also being sent to the other parties in these proceedings. I have looked into this matter and have not identified any instance in which this has occurred.

You also indicated that there are occasions when the Attorney General's Office intends correspondence to NRC Staff Counsel to be for that counsel's eyes only and that you wanted to be assured that there is a mechanism by which this can be accomplished. This can be accomplished by addressing correspondence to Staff Counsel by name and not sending a copy to the presiding Licensing Board or to the Docketing and Service Section of the Office of the Secretary. Staff Counsel has not made a practice of distributing such limited-addressee correspondence to the Licensing Board or the other parties. One recent exception to this practice was the enclosure of your April 19, 1985 letter to me with my response of May 10, 1985 regarding the supplementation of the alternative site analysis in the Rare Earths proceeding. That occurred, however, only after I had discussed the matter with you and you had indicated that distribution of your letter to the Licensing Board and the others on the Rare Earths service list would be appropriate.

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Our discussions raised a broader question, namely whether the parties to these proceedings are using the same standard for determining what correspondence is appropriately between particular parties alone, what correspondence should be sent to all parties, and what correspondence should be sent to the Licensing Board. An example of correspondence which should have gone to the Licensing Board and all parties was your April 19, 1985 letter to me (discussed above). On the other hand, there may well be correspondence which is appropriately between particular parties only, e.g., correspondence between the Joint Proponents of the Kress Creek Show Cause Order related to litigation strategy and trial preparation. Correspondence between particular parties with respect to asserted deficiencies in responses to discovery may be appropriate for limited distribution, but supplementation or modification of responses to discovery should be sent to the Board and all parties. I propose to institute a conference call in the near future among the Staff, Kerr-McGee, and the Attorney General's Office to discuss this matter.

A copy of this letter is being sent to the Licensing Board and the other parties to these proceedings.

Sincerely,

Stephen H. Lewis
Deputy Assistant Chief Hearing Counsel

cc: John H. Frye, III, Chairman	Richard A. Meserve, Esq.
Dr. Peter A. Morris	William J. Barzano, Jr., Esq.
Dr. James H. Carpenter	Steven Seiple, Esq.
Peter Nickles, Esq.	John C. Berghoff, Esq.
Mead Hedglon, Esq.	Thomas W. Fawell, Esq.
Docketing and Service Section	
Atomic Safety and Licensing Board Panel	
Atomic Safety and Licensing Appeal Board Panel	