

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

'85 MAY 31 P12:00

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)

KERR-McGEE CHEMICAL CORPORATION)

(Kress Creek Decontamination))
_____)

Docket No. 40-2061-SC
ASLBP No. 84-502-01-SC

PEOPLE'S SUPPLEMENTAL RESPONSE TO
KERR-McGEE'S FIRST DISCOVERY REQUEST

Interrogatory 4

2. Does the State contend that Kerr-McGee violated any requirement imposed by its NRC (or AEC) license with respect to mill tailings allegedly found in Kress Creek or the West Branch of the DuPage River? If so:

(a) State the license requirement that was allegedly violated, and the date such requirement was incorporated into Kerr-McGee's license.

(b) State when such violation or violations occurred, and describe the nature of such violation or violations with particularity.

(c) Identify all documents relating to such violation or violations.

Answer

(a) The People do not contend at this time that Kerr-McGee or its predecessors violated a specific requirement of its license except that Kerr-McGee and its predecessors violated

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their legal responsibility as licensees under the Atomic Energy Act to possess and use licensed material so as to protect the public health and safety.

(b) The People assume the violations began when thorium milling operations began at the site; the People do not know when or whether the releases, and as a result the violations, ceased. The violations consist of causing or allowing radioactive materials to be released from the site in such a manner as to cause a hazard to the public health and safety.

(c) The Staff's Show Cause Order; the ORAU study; the FES; documents provided by Kerr-McGee in the Rare Earths Facility proceeding, and Kerr-McGee's answers to Interrogatories in this proceeding.

Interrogatory 5

5. Does the State contend that Kerr-McGee violated any statutory or regulatory requirement imposed by the Atomic Energy Act, as amended, or any regulations promulgated thereunder, other than the radium-in-soil standard set forth in the Order to Show Cause in this proceeding, with respect to mill tailings allegedly found in Kress Creek or the West Branch of the DuPage River? If so:

(a) State the statutory or regulatory provisions that were allegedly violated, and the date when such provisions were enacted or promulgated.

(b) State when such violation or violations occurred, and describe the nature of such violation or violations with particularity.

(c) Identify all statutory provisions and regulations, other than those promulgated pursuant to the Uranium Mill Tailings Radiation Control Act (UMTRCA), if any, that provide the NRC with authority to order cleanup by Kerr-McGee of off-site tailings allegedly found in Kress Creek or the West Branch of the DuPage River, and state with specificity the level of cleanup required by such provisions.

(d) Identify all documents relating to any violation or violations identified in (a) and (b), and all documents relating to your response to (c).

Answer

(a) The People contend that Kerr-McGee and its predecessors violated the Atomic Energy Act and Part 40 of 10 CFR insofar as those provisions impose a duty, implemented through Sec. 161(b) of the Act and the Commission's show cause provisions, to use and possess licensed material so as to protect the public health and safety. The remainder of Interrogatory 5(a) is objectionable as calling for a legal conclusion.

(b) See answer to Interrogatory 4(b).

(d) See answer to Interrogatory 4(c).

Interrogatory 16

16. Does the State assert that "source material," as defined in the Atomic Energy Act and in regulations promulgated thereunder, is found in Kress Creek or the West Branch of the DuPage River? If so:

(a) State the basis for the assertion.

(b) Identify all documents relating to the presence of source material in Kress Creek or the West Branch of the DuPage River.

Answer

Yes.

(a) Thorium is present along Kress Creek and the West Branch of the DuPage River.

(b) The Staff's Show Cause Order; the 1978 Frigerio Report; the ORAU study.

Interrogatory 24

24. Has the State conducted, caused to be conducted, or participated in, or is the State aware of any studies of geographic areas other than Kress Creek or the West Branch of the DuPage River, whether formal or informal, of adverse or potentially adverse effects on health or the environment resulting from releases or alleged releases of contaminants similar to those at issue in this proceeding, to which the State intends to refer as being relevant with respect to the admitted contentions? If your response is other than an unqualified negative,

(a) Identify the person(s) who conducted or participated in such studies;

(b) Describe the methodologies used;

(c) State the date or time period during which such studies took place; and

(d) Identify all documents relating to or reflecting such studies.

Answer

The People have not conducted any such studies except as may be found in the documents we produce, and are aware of only such studies as may be found in Kerr-McGee's discovery documents.

PEOPLE OF THE STATE OF ILLINOIS

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RELATED CORRESPONDENCE

PROOF OF SERVICE

I, DONNA R. WARD, having been sworn and under oath do state that I have this 29th day of May, 1985, served a copy of the foregoing People's Supplemental Response to Kerr-McGee's First Discovery Request, upon the persons listed on the attached Service List, by placing same in envelopes addressed to persons, by first class mail, postage prepaid, and depositing same with the United States Postal Service located at 160 North LaSalle Street, Chicago, Illinois 60601.

DOCKETED
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'85 MAY 31 P12:00

OFFICE OF SECRETARY
OF DEFENSE
MAILING & SERVICE
BRANCH

Donna R. Ward

SUBSCRIBED AND SWORN TO
BEFORE ME THIS 29th DAY
OF MAY, 1985.

Marion Camacho
NOTARY PUBLIC

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