

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD  
U.S. NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNR

In the Matter of

KERR-MCGEE CHEMICAL CORPORATION  
(West Chicago Rare Earths Facility)

)  
) Docket No. 86-20617-MLA11:10

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

MOTION FOR EXTENSION OF TIME

On December 10, 1985 the Board extended until January 15 the time for the People to file the Lash and Carlson affidavits, to supplement their answer to Kerr-McGee Second Interrogatory 35, and to document their claims of privilege.

The People have today filed the Lash and Carlson affidavits. However, due to a variety of factors--including intense activity generated by Kerr-McGee's recent collateral proceedings filed to prevent the pending State action from going to trial, preparations for that trial, and an illness of counsel--the People have not been able yet to substantiate the privilege claims and supplement Interrogatory 35. We request a further extension of time in which to fulfill these requirements of the Board's order.

In support of this request, the People point out that the State court action notwithstanding, this proceeding has come to virtually a standstill because the Staff's new draft EIS will not be ready for some months (the latest estimate by the Staff is late September 1986). Following the issuance of the new draft EIS, and in light of the information obtained by the People during their depositions of Kerr-McGee's expert witnesses over the last several months, the People expect that they may have to substantially revise and/or supplement their Contentions. Hence,

a new round of interrogatories by all parties is likely later this year. In sum, a further extension of our obligations under the Board's November 14 order can in no way whatever prejudice any party to this proceeding, including--most importantly--the public.

We also note that at Kerr-McGee's request the Board extended until March 10 the date for the hearing in the Kress Creek matter. Given this liberality to Kerr-McGee, it would not be inappropriate for the Board to extend a similar latitude to the People, especially in light of the fact that the supplementation of interrogatories now or in two months (or in six months) can have no impact on the timing of the ultimate outcome of this proceeding.

On December 19, 1985 the Board denied the People's Motion To Reconsider its September 26 order with respect to certain interrogatory answers. The Board gave no reason for the denial of the motion. If the motion was denied because the Board believed it untimely, the People submit that it was in fact timely, having been filed on December 5, 1985 in accordance with the Board's November 14 order. Given Kerr-McGee's "pattern of conduct" in attempting to harass a bitterly unwanted opponent with abusive discovery requests and motions; given that the Board's September 26 order contains specific errors concerning certain interrogatories at issue (e.g., Kerr-McGee's Interrogatory 44); and given that in that order the Board failed to address many of our arguments in opposition to Kerr-McGee's motion, we are disappointed that the Board did not see fit to respond in any detail at all to our Motion To Reconsider. If the Board continues to

believe that our motion does not deserve to be heard, we will endeavor to further answer the remaining interrogatories which are the subject of our "Motion To Reconsider. We request an extension of time to file such further answers.

For all the reasons stated above, the People request an extension until June 1, 1986 to supplement the answer to Interrogatory 35, to further answer interrogatories as to which our motion to reconsider was denied, and to supplement claims of privilege.\*

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

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\*Kerr-McGee has demanded that the People substantiate privilege claims on every single document as to which the People claim a privilege--approximately a dozen. We note that Kerr-McGee claimed privilege on about 550 documents. Before filing a motion to compel, the People asked Kerr-McGee to substantiate privilege claims on about 450 of those documents. Kerr-McGee responded in a manner which added absolutely nothing to the original claims of privilege. The only reason the People have not moved the Board to order Kerr-McGee to substantiate these privilege claims, many of them patently unjustified, has been lack of time. However, the People expect after completion of the State court trial to move the Board for relief.

PROOF OF SERVICE

I, ELAINE THOMAS, having been sworn and under oath do state that I have this 15th day of January, 1986 served copies of the foregoing People's Filing Of Lash And Carlson Affidavits and Motion For Extension Of Time upon the persons listed on the attached Service List by placing same in envelopes addressed to said 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.

*Elaine P. Thomas*

ELAINE THOMAS

SUBSCRIBED AND SWORN TO  
BEFORE ME THIS 15TH DAY  
OF JANUARY, 1986.

*Wm. C. [Signature]*  
NOTARY PUBLIC

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