

September 10, 1985 ~~DOCKETED~~
USNRCUNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'85 SEP 11 P2:36

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

KERR-MCGEE CHEMICAL CORPORATION
(Kress Creek Decontamination)

Docket No. 40-2061 SC

Source Material License
No. STA 583

ASLBP No. 84-502-01 SC

NRC STAFF MOTION TO
HOLD PROCEEDING IN ABEYANCEI. INTRODUCTION

For the reasons discussed below, the NRC staff moves the Atomic Safety and Licensing Board to hold this proceeding in abeyance pending a determination by the United States Environmental Protection Agency (EPA) to take such actions as it deems appropriate under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA" or "Superfund"), 42 U.S.C. § 9601, et. seq., to provide for the removal of, and remedial action with respect to, "hazardous substances" in and along Kress Creek and the West Branch of the DuPage River (hereafter collectively referred to as "Kress Creek").

II. DISCUSSION

The radiological contamination of Kress Creek is a matter within the jurisdiction of both the NRC, under the Atomic Energy Act of 1954, as

amended, 42 U.S.C. § 2011, et seq., and EPA under CERCLA. ^{1/} At the time of issuance of the order to show cause in this proceeding (March 2, 1984) EPA was already addressing the problem of offsite hazardous substances related to the operation of the Kerr-McGee Rare Earths Facility. On March 27, 1984, EPA sent a letter to Kerr-McGee (Enclosure 1) stating that it had information indicating that Kerr-McGee may be a responsible party with respect to the release or threatened release of hazardous substances at (1) Kress Creek, (2) residential areas in West Chicago and in DuPage County, (3) Reed-Keppler Park and (4) the Sewage Treatment Plant. The letter stated that EPA was planning to conduct a Remedial Investigation ("RI") and a Feasibility Study ("FS") ^{2/} at these sites, with the exception of Kress Creek. EPA stated that in light of the Comprehensive Radiological Survey of Kress Creek, West Chicago Area, Illinois conducted by Oak Ridge Associated Universities for the NRC (February 1984) and the NRC's order to show cause issued to Kerr-McGee with respect to cleanup of Kress Creek, "U.S. EPA does **not** envision taking lead responsibility to address contamination at Kress Creek and

^{1/} The Staff has previously stated in this proceeding its position that "the EPA and NRC have independent and complementary jurisdiction with respect to Kress Creek." See letter from Lillian M. Cuoco, Staff counsel, to Neil Proto, attorney for the Nichiren Shoshu Temple, dated September 12, 1984, at 2, which was transmitted to the Board by Ms. Cuoco's letter dated September 14, 1984.

^{2/} EPA stated that the purpose of a remedial investigation is to determine the nature and extent of the uncontrolled hazardous waste problem at the site and to gather all necessary data to support the conduct of a feasibility study. The letter stated that the purpose of a feasibility study is to evaluate remedial action alternatives and to identify the cost-effective remedial action to be taken at the site. See Enclosure 1 at 2.

the West Branch of the DuPage River." Enclosure 1 at 2. A similar letter was sent to the City of West Chicago ^{3/} stating that

Documents in U.S. EPA's possession indicate that the City of West Chicago was a landowner of some of the property that is under investigation at the time of disposal^{4/} of the hazardous substances, pollutants and contaminants. ^{4/}

EPA's position in 1984 that it should not take lead responsibility to address contamination at Kress Creek reflected the position of the NRC staff that the problem of the contamination could be expeditiously resolved in the NRC proceeding and that an RI/FS for Kress Creek might not be necessary at that time. Letter dated August 20, 1984 from R. G. Page (NRC) to Mr. Constantelos (EPA) (Enclosure 3). Since that time, the prospects for an early resolution of this proceeding have dimmed, causing the Staff to reevaluate its original position as to which federal agency should take the lead on the Kress Creek matter. During June-August, 1985, the NRC contacted EPA to determine the status of its actions under CERCLA with respect to Kress Creek ^{5/} and to ascertain EPA's willingness

^{3/} Letter dated March 27, 1984 from Basil G. Constantelos (EPA) to the Honorable A. Eugene Rennels, Mayor, City of West Chicago, (Enclosure 2) p. 1.

^{4/} Subsequent to the transmittal of these letters, the City of West Chicago and Kerr-McGee entered into a Consent Decree terminating an action brought against Kerr-McGee by the City in the United States District Court. The consent decree provides for completion of removal of thorium contamination from residential areas within the City and for the removal of thorium contamination from Reed-Keppler Park and the City's Sewage Treatment Plant. The consent decree was sent to the Board and parties by the Staff on July 10, 1985.

^{5/} Although EPA did not proceed with an RI/FS for Kress Creek, it did propose that site, along with Reed-Keppler Park, the West Chicago

to assume a more active role on this matter. This matter remains under discussion between NRC and EPA.

During the week of September 1, 1985, the NRC's Office of Nuclear Material Safety and Safeguards requested Staff counsel to file a motion with the Licensing Board requesting that this proceeding be held in abeyance pending EPA's decision whether to pursue further action under CERCLA with respect to Kress Creek.

The Staff believes that its request to hold this proceeding in abeyance is appropriate for two reasons. First, the further actions that EPA may undertake pursuant to CERCLA may result in a more expeditious resolution of the contamination problem at Kress Creek than has occurred to date pursuant to the NRC order and could obviate the need for the Staff to pursue the order to show cause. Second, deferring further action in the proceeding will conserve the parties' resources if a remedy is pursued under CERCLA.

If the Board grants this motion, the Staff will report to the Board and parties the determination reached by EPA as to the inclusion of Kress Creek on the NPL, as well as any other significant action taken by EPA under CERCLA with respect to Kress Creek. If the Staff believes that any

(FOOTNOTE CONTINUED FROM PREVIOUS PAGE)

Sewage Treatment Plant, and residential areas in West Chicago and DuPage County, Illinois, for inclusion on the hazardous substances National Priorities List ("NPL") under CERCLA. 49 Fed. Reg. 40320 (October 15, 1984). The Staff understands that the determination on whether to include these sites on the NPL is expected to be published in the "Fifth Update" to the NPL, which is currently projected to be issued in February 1986.

of those actions provide the basis for a change in the status of this proceeding, it will so advise the Board and parties.

III. CONCLUSION

The NRC staff respectfully moves the Licensing Board to hold this proceeding in abeyance pending a decision by EPA whether to pursue further action under CERCLA with respect to Kress Creek.

Respectfully submitted,

Stephen H. Lewis

Stephen H. Lewis
Deputy Assistant Chief
Hearing Counsel

Dated at Bethesda, Maryland
this 10th day of September, 1985.

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION V
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604



MAR 27 1984

REPLY TO ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. J.L. Rainey, President
Kerr-McGee Chemical Corporation
P.O. Box 25861
Kerr-McGee Center
Oklahoma City, Oklahoma 73125

Re: Kerr-McGee Radiation Sites (Non-licensed Areas),
West Chicago, Dupage County, Illinois

Dear Mr. Rainey:

The United States Environmental Protection Agency (U.S.EPA) has documented the release and threatened release of hazardous substances, pollutants and contaminants at the above-referenced area. U.S.EPA anticipates spending public funds in the area to conduct a remedial investigation and feasibility study as further detailed below.

Under the Comprehensive, Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 et seq., and other laws, responsible parties may be liable for all monies expended by the Federal Government to take necessary response action at uncontrolled hazardous waste sites. Such costs may include, but are not limited to, expenditures for enforcement, investigation, planning, and removal and remedial actions at the site.

Responsible parties under CERCLA include the current and past owners and operators, and persons who generated the hazardous substances or were involved in transport, treatment, or disposal of such substances at the site. Based upon corporate records and other documents, U.S.EPA has information which indicates that you may be a responsible party.

Monies have been obligated to conduct a Remedial Investigation/Feasibility Study for residential areas including the residential area adjacent to the Kerr-McGee rare earths processing facility; Reed-Keppler Park; Kress Creek and the West Branch of the DuPage River; and the West Chicago Sewage Treatment Plant.

-2-

U.S.EPA is currently planning to conduct the following activities in the residential area adjacent to the Kerr-McGee facility; Reed-Keppler Park and the West Chicago Sewage Treatment Plant;

- (A) a Remedial Investigation to determine the nature and extent of the uncontrolled hazardous waste problem at the site and to gather all necessary data to support the conduct of a feasibility study;
- (B) a Feasibility Study, the purpose of which is to evaluate remedial action alternatives and to identify the cost-effective remedial action to be taken at the site.

U.S.EPA is preparing a work plan for the Remedial Investigation/ Feasibility Study and expects to initiate the field work in the spring of 1984. In lieu of a federally-funded Remedial Investigation/ Feasibility Study, responsible parties may voluntarily undertake implementation of the Remedial Investigation/Feasibility Study work plan. If Kerr-McGee determines that it may voluntarily undertake the work, you should contact Mr. Kerry Street, On-Scene Coordinator, in writing, of your interest, within fifteen (15) days of receipt of this letter. If we do not hear from you within fifteen days, U.S. EPA will conclude that you decline to undertake the work and the Agency will proceed as planned.

Upon completion of the Remedial Investigation/ Feasibility Study, you will be notified regarding any remedial actions U.S.EPA deems necessary at the three areas.

As a result of the U.S. Nuclear Regulatory Commission's most recent study and Order to Show Cause to Kerr-McGee Chemical Corporation, dated March 2, 1984, U.S. EPA does not envision taking lead responsibility to address contamination at Kress Creek and the West Branch of the DuPage River.

To assist U.S.EPA in its effort to identify all known areas of radiation contamination as a result of the former rare earths processing operations conducted at 258 Ann Street in West Chicago, U.S.EPA is issuing you the following Information Request.

Request for Information Pursuant to Section 104 of CERCLA

U.S.EPA is seeking to obtain information from you relating to the transportation, storage and disposal of hazardous substances, pollutants or contaminants generated at the rare earths processing operations formerly conducted at 258 Ann Street in West Chicago, Illinois. Under Section 104 of CERCLA, 42 U.S.C. 9604, whenever the Administrator of the U.S. EPA and his delegate have reason to believe that a release of hazardous substances, pollutants or contaminants has occurred, or there is a threat of such release,

or appropriate to identify the existence and extent of contamination, and the source and nature of the hazardous substances, pollutants or contaminants which may threaten the public or welfare or the environment. Pursuant to this statutory provision, you are hereby requested to submit the information requested below:

1. Identify, by street address or legal description, the locations of all known radioactive waste deposits presently existing in the City of West Chicago or DuPage County, Illinois. Where locations of radioactive waste deposits have been documented in publications made available to the U.S. EPA reference to that document by title, author and date of publication will suffice.
2. For each area identified in response to Request Number 1, provide the following information:
 - a. date(s) radioactive waste was deposited
 - b. quantity of radioactive waste deposited
 - c. result of survey(s) of the area.
3. Identify by street address or legal description each location where radioactive waste was excavated or otherwise disturbed by or on behalf of Kerr-McGee.
4. For each area identified in response to Request Number 3., provide the following information:
 - a. date(s) radioactive waste was excavated or otherwise disturbed;
 - b. quantity of material excavated or otherwise disturbed;
 - c. dates and results of survey(s) conducted in the area;
 - e. location, by street address or legal description, of where excavated radioactive waste was disposed;
 - f. name and address of persons involved in handling, transporting and disposing of the radioactive waste.

5. Copies of any and all documents relating to radiological surveying or analysis either performed by or on behalf of Kerr-McGee or communicated to you by some other party concerning radioactive waste deposits within the City of West Chicago or DuPage County, Illinois. Documents previously made available to U.S.EPA need not be produced but should be referenced by title, author and date of publication.

6. Copies of all records, contracts, invoices, bills of lading, account books, correspondence or other documents evidencing both general and specific agreements or arrangements with Kerr-McGee or other persons regarding the handling, transportation, treatment and/or disposal of radioactive waste that was generated at the former rare earths processing facility located at 258 Ann Street in West Chicago. The request does not include information pertaining to agreements or arrangements made with respect to radioactive waste stored or disposed at the rare earths processing facility or radioactive waste that was transported to an NRC-licensed facility for disposal. Documents previously made available to U.S. EPA need not be produced but should be referenced by title, author and date of publication.

For the purpose of answering this Information Request, the following definitions shall apply:

1. "Person" shall include any natural person, municipality, corporation, partnership, association, company, assumed name or other legal entity.
2. "Document" means and includes all written, typewritten, drawn or printed materials whatsoever, and all information kept or recorded on magnetic or electronic media, however, the same are produced or reproduced and wherever the same are located; including, but not limited to, correspondence, letters, agreements, contracts, memoranda of agreement, telegrams, inter-office communications, assignments, licenses, memoranda, reports, record books, manifests, logs, scrapbooks, diaries, minutes, plans, drawings, photographs, photocopies, invoices, checks, bills, vouchers, analyses, surveys, publications and all other written material of which you, your employees, agents, or other company officials, their employees, and agents have knowledge or information.
3. "Radioactive waste" refers to waste that was generated at the rare earths processing facility located at 258 Ann Street, West Chicago, Illinois, but excludes radioactive waste that is stored or disposed of at the rare earths processing facility which is currently under license by the U.S. Nuclear Regulatory Commission.

4. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water.

[illegible]

A written response to this request must be submitted within thirty days of receipt of this letter.

If you have any questions regarding this matter please call
Babette J. Neuberger, Assistant Regional Counsel at (312) 353-2094
or Kerry Street, On-Scene Coordinator at 886-6942.

Sincerely,

Basil G. Constantelos
Basil G. Constantelos, Director
Waste Management Division

cc: Illinois Environmental Protection Agency
Illinois Department of Nuclear Safety ✓
U.S. Nuclear Regulatory Commission

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION V
230 SOUTH DEARBORN ST.
CHICAGO, ILLINOIS 60604

MAR 27 1984

REPLY TO ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Honorable A. Eugene Rennels
Mayor, City of West Chicago
475 Main Street
West Chicago, Illinois 60185

Re: Kerr-McGee Radiation Sites, (Non-Licensed Areas)
West Chicago, Dupage County, Illinois

Dear Mayor Rennels:

The United States Environmental Protection Agency (U.S.EPA) has documented the release and threatened release of hazardous substances, pollutants and contaminants in the above-referenced area. U.S.EPA anticipates spending public funds in the area to conduct a remedial investigation and feasibility study as further detailed below. The above-referenced sites include land that is owned and/or operated by the City of West Chicago.

Under the Comprehensive, Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 et seq., and other laws, responsible parties may be liable for all monies expended by the Federal Government to take necessary response action at uncontrolled hazardous waste sites. Such costs may include, but are not limited to, expenditures for enforcement, investigation, planning, and removal and remedial actions at the site.

Responsible parties under CERCLA include any "person" who owned or operated a site at the time hazardous substances were disposed of at the site, including municipalities, states and political subdivisions of states. Documents in U.S.EPA's possession indicate that the City of West Chicago was a landowner of some of the property that is under investigation at the time of disposal of the hazardous substances, pollutants and contaminants.

Monies have been obligated to conduct a Remedial Investigation/Feasibility Study for residential areas which include the residential area adjacent to the Kerr-McGee rare earths processing facility, Reed-Keppler Park, Kress Creek and the West Branch of the DuPage River, and the West Chicago Sewage Treatment Plant.

MAR 30 1984

U.S.EPA is currently planning to conduct the following activities in the residential area adjacent to the Kerr-McGee facility; Reed-Keppler Park and the West Chicago Sewage Treatment Plant:

- (A) a Remedial Investigation to determine the nature and extent of the uncontrolled hazardous waste problem at the site and to gather all necessary data to support the conduct of a feasibility study;
- (B) a Feasibility Study, the purpose of which is to evaluate remedial action alternatives and to identify the cost-effective remedial action to be taken at the site.

U.S.EPA is preparing a work plan for the Remedial Investigation/Feasibility Study and expects to initiate the field work in the spring of 1984.

In lieu of a federally-funded Remedial Investigation/Feasibility Study, responsible parties may voluntarily undertake implementation of the Remedial Investigation/Feasibility Study work plan. If the City determines that it may voluntarily undertake the work, you should contact Mr. Kerry Street, On-Scene Coordinator, in writing, of your interest within fifteen (15) days of receipt of this letter. If we do not hear from you within 15 days, U.S.EPA will conclude that you decline to undertake the work and the Agency will proceed as planned.

Upon completion of the Remedial Investigation/Feasibility Study, you will be notified regarding any remedial actions U.S.EPA deems necessary at the three areas.

Activities conducted by U.S. EPA and monies expended by U.S. EPA at the West Chicago Sewage Treatment Plant pursuant to the existing Treatment Works Grant Agreement with the City of West Chicago are outside the scope of this notice letter.

As a result of the U.S. Nuclear Regulatory Commission's most recent study and Order to Show Cause to Kerr-McGee Chemical Corporation, dated March 2, 1984, U.S. EPA does not envision taking lead responsibility to address contamination at Kress Creek and the West Branch of the DuPage River.

Request for Information Pursuant to Section 104 of CERCLA

To assist U.S.EPA in its effort to identify all known areas of radiation contamination as a result of the former rare earths processing operations conducted at 258 Ann Street in West Chicago, U.S.EPA is issuing you the following Information Request.

U.S.EPA is seeking to obtain information from you relating to the transportation, storage and disposal of hazardous substances, pollutants or contaminants generated at the rare earths processing operations formerly conducted at 258 Ann Street in West Chicago, Illinois. Under Section 104 of CERCLA, 42 U.S.C. 9604, whenever the Administrator of the U.S. EPA and his delegate have reason to believe that a release of hazardous substances, pollutants or contaminants has occurred, or there is a threat of such release, they are authorized to gather information as they deem necessary or appropriate to identify the existence and extent of contamination, and the source and nature of the hazardous substances, pollutants or contaminants which may threaten the public health or welfare or the environment. Pursuant to this statutory provision, you are hereby requested to submit the information requested below:

1. Identify, by street address or legal description, the locations of all known radioactive waste deposits presently existing within the City of West Chicago and the surrounding area. Where locations of radioactive waste deposits have been documented in publications made available to the U.S. EPA reference to that document by title, author and date of publication will suffice.
2. For each area identified in response to Request Number 1, provide the following information:
 - a. date(s) radioactive waste was deposited
 - b. quantity of radioactive waste deposited
 - c. date the contamination was first detected
 - d. results of survey(s) of the area
 - e. name and street address of the current landowner
3. Identify by street address or legal description each location where radioactive waste was excavated or otherwise disturbed by City of West Chicago personnel or on the City's behalf.
4. For each area identified in response to Request Number 3., provide the following information:
 - a. date(s) radioactive waste was excavated or otherwise disturbed;
 - b. quantity of material excavated or otherwise disturbed;

- c. dates and results of survey(s) conducted in the area;
- d. location, by street address or legal description, of where excavated radioactive waste was disposed;
- e. name and address of persons involved in handling, transporting and disposing of the radioactive waste.

5. Copies of any and all documents relating to radiological surveying or analysis either performed by or on behalf of the City of West Chicago or communicated to you by some other party concerning radioactive waste deposits within the City of West Chicago and the surrounding area. Documents previously made available to U.S.EPA need not be produced but should be referenced by title, author and date of publication.

6. Copies of all records, contracts, invoices, bills of lading, account books, correspondence or other documents evidencing both general and specific agreements or arrangements with the City of West Chicago or other persons regarding the handling, transportation, treatment and/or disposal of radioactive waste that was generated at the former rare earths processing facility located at 258 Ann Street in West Chicago. Documents previously made available to U.S.EPA need not be produced but should be referenced by title, author and date of publication.

For the purpose of answering this Information Request, the following definitions shall apply:

- 1. "Person" shall include any natural person, municipality, corporation, partnership, association, company, assumed name or other legal entity.
- 2. "Document" means and includes all written, typewritten, drawn or printed materials whatsoever, and all information kept or recorded on magnetic or electronic media, however, the same are produced or reproduced and wherever the same are located; including, but not limited to, correspondence, letters, agreements, contracts, memoranda of agreement, telegrams, inter-office communications, assignments, licenses, memoranda, reports, record books, manifests, logs, scrapbooks, diaries, minutes, plans, drawings, photographs, photocopies, invoices, checks, bills, vouchers, analyses, surveys, publications and all other written material of which you, your employees, agents, or other city officials, their employees, and agents have knowledge or information.

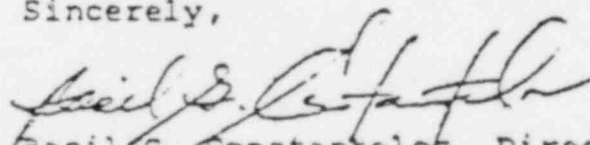
3. "Radioactive waste" refers to waste that was generated at the rare earths processing facility located at 258 Ann Street, West Chicago, Illinois, but excludes radioactive waste that is stored or disposed of at the rare earths processing facility which is currently under license by the U.S. Nuclear Regulatory Commission.
4. "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

The written statement submitted pursuant to this request must be notarized and returned under an authorized signature certifying that all statements contained therein are true and accurate to the best of the signatory's knowledge and belief. Should the signatory find at any time after submittal of the requested information that any portion of this submittal certified as true is false, the signatory should so notify U.S.EPA. If any information certified as true is found to be untrue, the signatory can be prosecuted under Section 1001 of Title 18 of the United States Code.

A written response to this request must be submitted within thirty days of receipt of this letter.

If you have any questions regarding this matter, please contact Rahette Neuberger, Assistant Regional Counsel, at (312) 353-2094 or Kerry Street, On-Scene Coordinator at (312) 886-6942.

Sincerely,


Basil G. Constantelos, Director
Waste Management Division

cc: Illinois Environmental Protection Agency
Illinois Department of Nuclear Safety ✓
U.S. Nuclear Regulatory Commission

AUG 20 1984

ENCLOSURE 3

Mr. Basil G. Constantelos, Director
Waste Management Division
United States Environmental Protection Agency
Region V
230 South Dearborn Street
Chicago, Illinois 60604

Dear Mr. Constantelos:

We have reviewed the Work Plan, Remedial Investigation/Feasibility Study, Kerr-McGee, West Chicago, Illinois sent with your letter dated July 24, 1984 and have the following comments:

1. In light of everything that is currently taking place in West Chicago (action being taken by Kerr-McGee and the City to: (1) decontaminate the small areas throughout the City and (2) evaluate possible remedial action steps at Reed Keppler Park and the Sanitary Waste Treatment Plant) conduct of the study may be premature.
2. The Nuclear Regulatory Commission (NRC) has gathered a wealth of information on the contamination in West Chicago. To minimize any duplication of effort, I suggest that you contact Dr. Carl J. Paperiello of NRC's Glen Ellyn office to assure that you have this information.
3. As noted in your letter, NRC has lead responsibility for Kress Creek and the West Branch of the DuPage River (Kress Creek). The decontamination of these areas are the subject of an adjudicatory hearing involving Kerr-McGee and NRC. The State of Illinois and the Michiren Shoshu Temple, a local property owner, have petitioned for leave to intervene in the hearing. We believe that concerns related to the cleanup of Kress Creek will be appropriately addressed and resolved in this hearing. Accordingly, EPA studies and reviews of Kress Creek may not be necessary at this time.
4. We feel it is misleading to refer to the areas of contamination around West Chicago as "Kerr-McGee radiation sites."
5. Enclosed is a copy of recent letters sent to the Mayor of West Chicago and to Kerr-McGee Corporation which address the question of possible movement of thorium waste from Reed Keppler Park and the Sanitary Waste Treatment Plant grounds. As noted in the letter, the material in these two areas may be subject to NRC jurisdiction and require NRC licensing to assure that public health and safety and environmental values are adequately protected.

Basil G. Constantelos

- 2 -

If there are any questions concerning these comments, please call me at (301) 427-4309 or William A. Nixon of my staff at (301) 427-4510

Sincerely,

Original Signed by

Ralph G. Page

R. G. Page, Chief

Uranium Fuel Licensing Branch

Division of Fuel Cycle and

Material Safety, NMSS

Enclosure: As stated

JUL 26 1984

Mr. George Rice, Vice President
Kerr-McGee Corporation
Kerr-McGee Center
Oklahoma City, OK 73125

Dear Mr. Rice:

We understand that the City of West Chicago and Kerr-McGee Chemical Corporation (KM) have agreed to remove the thorium contaminated material from locations outside of the KM site and to transport the contaminated material to the KM site for storage. We believe this is in the public interest and commend both parties for reaching agreement on this problem.

The KM license has been amended to permit onsite receipt of the contaminated material from the small scattered sites in the City. We believe this can be accomplished without significant hazard to health and safety if conducted in accordance with the City-KM agreement.

Movement of large quantities of material from Reed-Keppler Park and the Sanitary Treatment Plant may pose health, safety and environmental concerns. Depending on the thorium content of the material (see 10 CFR 40.13(a)), it may be source material subject to regulation. It may also be byproduct material if it resulted from processing of thorium ores primarily for thorium. In either case, the material would be subject to Nuclear Regulatory Commission (NRC) jurisdiction. Therefore, prior to any action by the parties to dig into and remove material from Reed-Keppler Park or the Sanitary Treatment Plant, the parties are requested to submit their plan to us for review and evaluation to assure that public health and safety and environmental values will be adequately protected, or demonstrate that the material is not subject to NRC jurisdiction.

We previously considered the construction work now being undertaken at the Sanitary Treatment Plant and determined, based on review of construction drawings and information supplied by Eli A. Port, City Consultant, that the tailings disposal area would not be disturbed. Accordingly, we concluded that no further NRC review or involvement in that construction project was needed to assure protection of workers at the site or the environment.

JUL 26 1984

Mr. George Rice

- 2 -

If you decide to move the thorium from Reed-Keppler Park and the Sanitary Treatment Plant, the following information will be needed:

1. The volume of contaminated material to be exhumed and moved from each site.
2. The average and maximum concentration of radioactivity in the material at each site.
3. The location of the proposed storage site and a description of the site and its operation.
4. A proposed schedule for the removal and storage of contaminated material.
5. A description of the health-physics protection and monitoring plan to be used during the digging and transfer operations.
6. A description of the procedures to be used to limit dust generation during all operations and to prevent spills during transport.
7. A discussion of residual radioactive levels that will remain at the sites, and the methods proposed for sampling and analysis of residual levels.

If it would be of assistance to the parties, we will consider providing the services of our contractor, Oak Ridge Associated Universities (ORAU), to assist in radiological monitoring or sampling and analytical work in connection with the movement of material from the Park or Sanitary Treatment Plant.

We suggest that the information requested in this letter be provided promptly so it can be evaluated in time to prevent any delay in your plans for movement of material in Reed-Keppler Park or the Sanitary Treatment Plant.

Depending upon the proposed actions and your responses to the questions, it may or may not be necessary to issue a license for the project in order to insure occupational and public health and safety and mitigation of adverse environmental impacts.

If we can be of further help to you in this endeavor, please feel free to contact me or W. A. Nixon of my staff.

Sincerely,

Original Signed By
Richard E. Cunningham
Richard E. Cunningham, Director
Division of Fuel Cycle and
Material Safety, NMSS

JUL 26 1984

The Honorable A. E. Rennels
Mayor of West Chicago
475 Main Street
West Chicago, IL 60185

Dear Mayor Rennels:

We understand that the City of West Chicago and Kerr-McGee Chemical Corporation (KM) have agreed to remove the thorium contaminated material from locations outside of the KM site and to transport the contaminated material to the KM site for storage. We believe this is in the public interest and commend both parties for reaching agreement on this problem.

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JUL 26 1984

The Honorable A. E. Rennels

- 2 -

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3. The location of the proposed storage site and a description of the site and its operation.
4. A proposed schedule for the removal and storage of contaminated material.
5. A description of the health-physics protection and monitoring plan to be used during the digging and transfer operations.
6. A description of the procedures to be used to limit dust generation during all operations and to prevent spills during transport.
7. A discussion of residual radioactive levels that will remain at the sites, and the methods proposed for sampling and analysis of residual levels.

If it would be of assistance to the parties, we will consider providing the services of our contractor, Oak Ridge Associated Universities (ORAU), to assist in radiological monitoring or sampling and analytical work in connection with the movement of material from the Park or Sanitary Treatment Plant.

We suggest that the information requested in this letter be provided promptly so it can be evaluated in time to prevent any delay in your plans for movement of material in Reed-Keppler Park or the Sanitary Treatment Plant.

Depending upon the proposed actions and your responses to the questions, it may or may not be necessary to issue a license for the project in order to insure occupational and public health and safety and mitigation of adverse environmental impacts.

If we can be of further help to you in this endeavor, please feel free to contact me or W. A. Nixon of my staff.

Sincerely,

Original Signed By
Richard E. Cunningham
Richard E. Cunningham, Director
Division of Fuel Cycle and
Material Safety, NMSS

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

KERR-MCGEE CHEMICAL CORPORATION
(Kress Creek Decontamination)

)
) Docket No. 40-2061

)
) Source Material License
) No. STA 583

)
) ASLBP No. 84-502-01 SC

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF MOTION TO HOLD PROCEEDING IN ABEYANCE" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, or as indicated by a double asterisk by hand-delivery, this 10th day of September, 1985:

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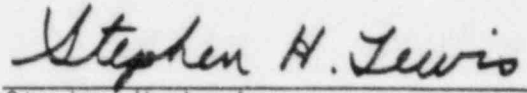
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Atomic Safety and Licensing Appeal
Panel (5)
U.S. Nuclear Regulatory Commission
Washington, DC 20555*

Atomic Safety and Licensing
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Stephen H. Lewis
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