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John H. Frye, III, Chairman
Dr. Peter A. Morris
Dr. James H. Carpenter
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

40-2061 ML

RE: In the Matter of Kerr-McGee Chemical Corporation
(West Chicago Rare Earths Facility and Kres Creek
Decontamination), 40-2061-ML

Dear Members of the Board:

In its Order of September 26, 1985 the Board instructed the People "to indicate specifically which files were searched with respect to each document request [and] when they were searched." (Board Order, p. 44) While it is impossible for me now to recall precisely when various files were searched, I can provide the following information:

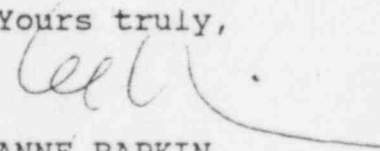
Kerr-McGee's first discovery request in the Rare Earths proceeding, which request dealt solely with nonradiological issues, was answered in Fall 1984. I asked counsel and the relevant divisional manager (Kenneth Bechely) at the regional IEPA office to provide me with the entire file on Kerr-McGee; from that file I withdrew a few privileged and/or irrelevant items and produced the rest. I also asked the chief divisional attorney at IEPA's Springfield headquarters to produce all documents from the Kerr-McGee file not duplicated by the regional file; those documents were then produced to Kerr-McGee. In addition, I asked Dr. Keros Cartwright, Principal Geologist in the General and Environmental Geology Group, and an assistant to James Gibb, Head of the Groundwater Section, to send me all documents relating to Kerr-McGee in the central files of ISGS and ISWS, respectively. These documents, with the exception of a few irrelevant and/or privileged items, were sent to Kerr-McGee. (Recently, in connection with depositions of state employees, Kerr-McGee was provided with documents from the personal files of Thomas Johnson of ISGS and

Robert Sasman of a region 1 ISWS office, and with updated documents from ISWS' central files.) Finally, in the Attorney General's office, relevant nonprivileged documents from my files and from those of James Van der Kloot, Howard Chinn, and Thomas Borecki (employees of the Environmental Control Division) were identified or produced. (I again note that despite two requests, counsel for Kerr-McGee have not produced or identified documents from their own files.

Kerr-McGee's second discovery request in the Rare Earths proceeding, which request dealt with radiological issues, was answered in Spring 1985, together with Kerr-McGee's discovery request in the Kress Creek proceeding. Both IDNS' chief counsel and I searched the files of every IDNS employee likely to contain Kerr-McGee-related documents. (These employees were Dr. Terry Lash, Dr. John Cooper, David Ed, David Flynn, Gary Wright, and Melanie Hamel.) All relevant non-privileged documents were produced. Upon receiving Kerr-McGee's motions to compel in these proceedings, IDNS' chief counsel twice again asked the employees to research their files for additional documents. Those which were found were sent to Kerr-McGee. (Recently counsel sent me a handful of Kerr-McGee-related documents found by an employee in a file cabinet devoted to another facility; as soon as I have had time to screen these documents for privilege, I will send them to Kerr-McGee.) Sometime after the first search of IDNS' files, I learned that two biologists at the Illinois Natural History Survey had published a study of Kress Creek, and I obtained and sent a copy to Kerr-McGee. Finally, I again produced relevant non-privileged documents from my own files and researched the files of James Van der Kloot, and asked William Frerichs, another Environmental Control Division employee, to search his files.

It should be clear from the above that the People have attempted to produce all relevant non-privileged documents reasonably known or expected to exist. (Moreover, in connection with the state court litigation, the People will update document production from the files of IEPA, ISGS, ISWS, IDNS, and the Attorney General's Office on December 13, 1985.) We can only hope (although at this point we have absolutely no reason to believe) that Kerr-McGee's document production has been as thorough as ours.

Yours truly,


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cc: Service List