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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD
SECRETARY
DOCKETING & SERVICE
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In the Matter of)	Docket No. 40-2061-ML
KERR-MCGEE CHEMICAL CORPORATION)	ASLBP No. 83-495-01-ML
(West Chicago Rare Earths Facility))	

MOTION TO COMPEL ANSWERS TO INTERROGATORIES
RELATING TO THE STATE'S CONTENTION 2

It has now been six months since the Board ordered the State to answer approximately fifty interrogatories that were first propounded by Kerr-McGee in June 1985. The Board's order was stated orally at a prehearing conference on September 11, 1985, and confirmed in a Memorandum and Order dated September 26, 1985. Over the following months, the State engaged in a series of maneuvers designed to avoid compliance with the Board's order. When it became plain that the State had no intention whatsoever of complying with the order, the Board on February 10, 1986, imposed the sanction of dismissal of the State's Contention 1, to which most of the interrogatories at issue applied.

The dismissal of Contention 1 has rendered it unnecessary for the State to provide answers to those of Kerr-McGee's interrogatories that relate solely to issues raised in Contention

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1. However, a substantial number of the interrogatories that the State has thus far refused to answer relate to the State's Contention 2, which has not been dismissed. Since Kerr-McGee must prepare its defense to that Contention and all of its subparts, answers to those interrogatories are still needed.

Some of Kerr-McGee's interrogatories that the State has refused to answer relate to issues raised by the State in both Contentions 1 and 2. In particular, many of the interrogatories relate to the allegation in both Contention 1 and Contention 2 that there are better sites than West Chicago for disposal of the West Chicago wastes, and that Kerr-McGee's plan for on-site disposal should be rejected for that reason. Compare Contention 2(s), (u), and (w) with Contention 1(c), (g). Since this allegation has already been dismissed in Contention 1, it should properly be dismissed from Contention 2 as well. Thus, the sanction already imposed by the Board requires the dismissal of Contentions 2(s), 2(u) and 2(w). Contention 2(a)(i) should also be dismissed since it duplicates Contention 1(i).

At a minimum, if the State is to be permitted to continue to press Contentions 2(u) and 2(w), as well as the remaining subparts of Contention 2 as to which interrogatories have been propounded, then Kerr-McGee is entitled to full and complete interrogatory answers to assist it in preparing its defense to those contentions. The twenty-three unanswered

interrogatories that relate to Contention 2 are listed in Appendix A to this motion, along with a designation of the subparts of Contention 2 to which each interrogatory relates.

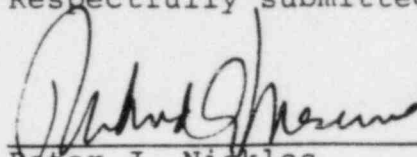
It should be emphasized that the State has already been ordered to answer these interrogatories. See Memorandum and Order (September 26, 1985). Moreover, the Board has rejected the State's attempt to avoid answering these interrogatories by stating new objections or by "answering" through nonspecific references to pleadings and discovery. See Memorandum and Order (February 10, 1986), at 4, 14.^{1/} The State has been ordered to answer the interrogatories, and as to the interrogatories relating to Contention 2, that obligation is still outstanding.

The State's answers to these interrogatories were due on January 15, 1986. The State's latest (and third) motion for an extension was denied by the Board in its February 10 Memorandum and Order. Accordingly, Kerr-McGee requests that the Board dismiss the redundant portions of Contention 2 and again reconfirm its order compelling answers to these interrogatories, requiring the answers to be filed within 10 days. If the State persists in its refusal to comply with this order, Kerr-McGee

^{1/} The Board specifically found such responses to be "unsatisfactory." Id. at 4.

submits that the State's remaining contentions in this proceeding should be dismissed.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Peter J. Nickles", is written over a horizontal line.

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March 18, 1986

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)

Kerr-McGee Chemical Corporation)

(West Chicago Rare Earths)
Facility))

Docket No. 40-2061-ML
ASLBP No. 83-495-01-ML

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion To Compel Answers To Interrogatories Relating To The State's Contention 2 have been served by either first-class mail or, as noted by an asterisk, by Federal Express on this 18th day of March, 1985, as follows:

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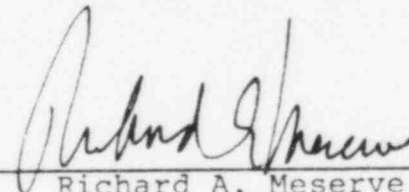
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