

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

ATOMIC SAFETY AND LICENSING BOARD

'86 APR -2 P2:06

Before Administrative Judges:

John H Frye, III, Chairman

Dr. James H. Carpenter

Dr. Peter A. Morris

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In the Matter of

KERR-McGEE CHEMICAL CORPORATION

(West Chicago Rare Earths Facility)

Docket No. 40-2061-ML

ASLBP No. 83-495-01-ML

April 1, 1986

MEMORANDUM AND ORDER

On March 18, Kerr-McGee filed a document entitled "Motion to Compel Answers to Interrogatories Relating to the State's Contention 2." In reality, this motion seeks the imposition of a further sanction against the People in addition to that imposed by LBP-86-4, 23 NRC \_\_\_\_ (February 10, 1986). The People have responded by once again requesting an extension of time to comply with our discovery orders contained in LBP-85-38, 22 NRC 604 (1985). We deny both requests.

The history of this dispute is set out in LBP-86-4. In that Memorandum and Order, we granted Kerr-McGee's request that sanctions be entered against the People for failure to comply with LBP-85-38. Kerr-McGee had requested that we dismiss the People as a party or, at a minimum, dismiss Contention AG-1. Kerr-McGee represented that most of the unanswered interrogatories related to Contention AG-1. (See Kerr-McGee's renewed motion for sanctions of December 12, 1985, at p.8.)

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In LBP-86-4, we refused to dismiss the People as a party, but granted Kerr-McGee's request to dismiss Contention AG-1. Had Kerr-McGee wished its relief to be more finely tuned than a simple dismissal of Contention AG-1, it should have requested that those portions of Contention AG-2, which it now maintains are redundant of AG-1, be dismissed along with AG-1 in its December motion. We will not now revisit the issue of appropriate relief.

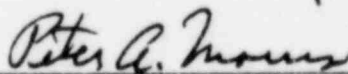
Nor will we grant an extension of time to the People. We have repeatedly reminded the People of their obligations and the fact that the existence of related litigation furnished no good reason for a deferral of those obligations. LBP-85-38, supra; unpublished Memorandum and Order of November 12, 1985; LBP-86-4, supra. We also pointed out that their failure to comply could have adverse implications for the admission of new contentions based on the Staff's supplement to the environmental impact statement. LBP-86-4, supra. It is in the People's best interest to fulfill their discovery obligations as promptly as possible. We require a status report from the People to be filed not later than June 1, 1986, indicating the status of that compliance. Kerr-McGee and Staff, if it so desires, may comment on that report by June 15 and 20, respectively.

#### ORDER

In consideration of the foregoing, it is this 1st day of April 1986, ORDERED:

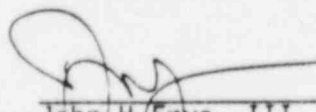
1. Kerr-McGee's motion to dismiss those portions of Contention AG-2 which it alleges are redundant of Contention AG-1 is denied;
2. The People's motion for an extension of time is denied;  
and
3. Not later than June 1, 1986, the People are to indicate the status of their compliance with LBP-85-38. Kerr-McGee and Staff, if it so desires, may comment on that report by June 15 and 20, respectively.

THE ATOMIC SAFETY AND  
LICENSING BOARD



Dr. Peter A. Morris  
ADMINISTRATIVE JUDGE

\*Dr. James H. Carpenter  
ADMINISTRATIVE JUDGE



John H. Frye, III, Chairman  
ADMINISTRATIVE JUDGE

Bethesda, Maryland  
April 1, 1986

\*Judge Carpenter was unavailable to sign the Memorandum and Order.