

IN RESPONSE, PLEASE
REFER TO: M980717B

July 20, 1998

MEMORANDUM FOR: John F. Cordes, Acting Director
Office of Commission Appellate Adjudication

FROM: Annette L. Vietti-Cook, Acting Secretary /s/

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION SESSION, 11:45
A.M., FRIDAY, JULY 17, 1998, ACRS CONFERENCE ROOM
(T-2B3), TWO WHITE FLINT NORTH, ROCKVILLE, MARYLAND
(OPEN TO PUBLIC ATTENDANCE)

I. SECY-98-140 - QUIVIRA MINING COMPANY -- COMMISSION REVIEW OF
LBP-97-20

The Commission approved a Memorandum and Order affirming the Licensing Board's decision in LBP-97-20, in which the Board denied Envirocare of Utah, Inc's request for a hearing and leave to intervene to challenge a materials license amendment granted to the Quivira Mining Company on the grounds that Envirocare lacked standing to intervene in this license amendment proceeding.

The Commission approved the Memorandum and Order with the attached edits.

(Subsequently, on July 17, 1998, the Secretary signed the Order.)

Attachment:
As stated

cc: Chairman Jackson
Commissioner Diaz
Commissioner McGaffigan
OGC
CIO
CFO
OCAA
OCA
OIG
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)
PDR - Advance
DCS - P1-17

EDITORIAL CHANGES TO THE MEMORANDUM AND ORDER IN SECY 98-140

1. On page 17, first full paragraph, revise sentence three (lines 6-8) by adding the words “concentrates on the licensing and regulation of nuclear materials for the purpose of protecting public health and safety and the common defense and security.” after “The AEA” at the beginning of sentence three and deleting the words “simply contains health and safety-related standards, which have no relation to market effects or competition, and which” in the existing text. Begin new sentence four by inserting the words “These provisions” and incorporate the remaining portion of sentence three, so that new sentence four reads “These provisions by themselves do not necessarily turn all competitor licensees into suitable challengers of agency action.” Delete existing sentence four and the beginning of sentence 5 through “exception of” and add “The only express statutory direction regarding competition concerns” before “antitrust reviews” and retain the remaining portion of sentence 5.
2. On page 19, delete the word “falls” after “specifically” in the last line of the page.
3. On page 21, paragraph 2, substitute “Those claims are not before us now.” for existing sentence 3. Revise beginning of sentence 4 by substituting “the” for “this” before the word “purpose” and adding “of considering safety and environmental claims outside of adjudication” after the word “purpose.”