



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

JUN 12 1989

Docket No. 40-2061

Board Notification 89-4

MEMORANDUM FOR: Atomic Safety and Licensing Board
and All Parties

FROM: Leland C. Rouse, Chief
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

SUBJECT: NEW INFORMATION POTENTIALLY RELEVANT AND MATERIAL
TO BOARD PROCEEDING IN THE MATTER OF KERR-MCGEE
CHEMICAL CORPORATION, WEST CHICAGO RARE EARTHS
FACILITY, DOCKET 40-2061-ML

In conformance with the Commission's Policy on Notification of Licensing Boards, Appeal Boards, or Commission of new, relevant, and material information, this memorandum calls attention to the enclosed letter from Paul Netzel, Mayor, the City of West Chicago, dated May 26, 1989. The letter is being brought to the attention of the Board as information which may be relevant and material to issues pending before the Board. The Mayor, City of West Chicago, objects to the conclusions drawn in the supplement and the recommendation supporting the proposed action in the "Supplement to the Final Environmental Statement related to the decommissioning of the Rare Earth Facility, West Chicago, Illinois, Docket No. 40-2061, Kerr-McGee Chemical Corporation," (SFES) as prepared by the U.S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, dated April 1989. The SFES was forwarded to the Board and All Parties on April 20, 1989.

The staff's letter acknowledging receipt of the letter from the Mayor, City of West Chicago, is also attached for the information of the Board and All Parties.

8906130151

Leland C. Rouse, Chief
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Letter to NRC dated May 26, 1989,
from the Mayor, City of West Chicago
2. Letter to the Mayor, City of West Chicago
dated June 12, 1989, from NRC

cc: Attached list

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
KERR-MCGEE CHEMICAL CORPORATION)	Docket No. 40-2061-ML
(West Chicago Rare Earths Facility))	ASLBP No. 83-495-01-ML

CERTIFICATE OF SERVICE

John H. Frye, III, Chairman*
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. Jerry R. Kline*
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. James H. Carpenter*
Atomic Safety and Licensing
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Atomic Safety and Licensing
Board Panel (1)*
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

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

Joseph A. Young, Jr.
Kerr-McGee Chemical Corporation
125 Robert S. Kerr Avenue
Oklahoma City, Oklahoma 73125

J. Jerome Sisul
Carla D. Davis
Assistant Attorney General
Environmental Control Division
100 W. Randolph, 12th Floor
Chicago, Illinois 60601

Robert A. Clifford
and Associates
Two North LaSalle Street
Chicago, IL 60602

Peter Nickles, Esq.
Richard Meserve, Esq.
Covington and Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, DC 20044

Docketing and Service Section*
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Stephen J. England, Esq.
Chief Counsel
Illinois Department of
Nuclear Safety
Springfield, Illinois 62704

Adjudicatory File*
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Board Notification 89-4 dated JUN 12 1989
cc:

V. Stello, EDO
H. Thompson, D^FDS
R. Bernero, NMSS
W. Parler, OGC
L. Chandler, OGC
R. Cunningham, IMNS
G. Sjoblom, IMNS
A. B. Davis, Region III
SECY (3)

40-2061
PDR | PDR

PAUL NETZEL
Mayor



The City of West Chicago

ILLINOIS 60.35



May 26, 1989

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Division of Industrial and Medical
Nuclear Safety
Office of Nuclear Material Safety and Safeguards
United States Regulatory Commission
Washington, D.C. 20555

Gentlemen:

The City of West Chicago has received and reviewed the supplement to the Final Environmental Statement (FES) related to the decommissioning of the Rare Earth Facility, West Chicago, Illinois, Docket No. 40-2061, Kerr-McGee Chemical Corporation, as prepared by the U. S. Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards dated April 29, 1989.

The City objects to the conclusions drawn in the supplement and the recommendation supporting the proposed action.

The City has two major objections to the proposed action. First, the statement does not adequately assess the economic impact felt by the residents of the City of West Chicago. Second, the United States Nuclear Regulatory Commission has failed to follow its own criteria used for siting low level radioactive waste sites.

The economic impact discussed in the FES includes impact on housing values in the area immediately adjacent to the proposed burial site. Housing values are shown to be increasing at a slower rate than the housing values over all of DuPage County. The FES states in Section 4.3.1.4 "it is not possible to determine whether it was the presence of the waste facility, or some other characteristic of West Chicago or the other Cities that caused the disparity in property values". The City agrees that property values have not kept up with adjacent communities, however, the Nuclear Regulatory Commission has drawn the wrong conclusions. Instead of saying it

Division of Industrial and Medical
Nuclear Safety
May 26, 1989
Page 2

cannot be proved the burial site is the one cause of reduced property values, the Nuclear Regulatory Commission should acknowledge the property values do vary and that the burial site is one of the causes. To try and prove a direct correlation and to quantify it will be impossible. To assume a radioactive burial site, complete with radioactive warning signs posted at fixed intervals on a fence which totally surrounds a site, would not detract from the property values of the City of West Chicago is naive and unacceptable.

Looking at a larger perspective, the City has not experienced growth in residential and commercial development areas similar to communities located in every direction around West Chicago. The communities located in the western portion of DuPage County and the eastern portion of Kane County have experienced increased residential construction, retail sales, and commercial growth which has broadened the local tax base. West Chicago has not shared that growth and continues to lack certain amenities these communities offer their residents. These amenities range from a store to buy appliances to a store to purchase a suit of clothes. The City does not argue the Kerr McGee dump site is the sole cause of the lack of growth and other amenities within West Chicago, however, the impact of the burial site cannot be brushed aside or ignored due to the inability to measure the impact scientifically complete with supporting calculations, tables, and graphs.

West Chicago residents have been the recipients for a long time of the comments of "glowing in the dark" by those living outside of the community. Anything less than the complete removal of the radioactive material from the community would be insufficient to change the perception of non-residents about West Chicago.

Nuclear Regulatory Commission criteria for determining the acceptability of Kerr McGee decommissioning plan as set forth in Appendix A to 10CFR Part 40 are not met by the proposed action.

The first criteria relating to remoteness from populated areas, immobilization and isolation of contaminants from ground water causing and minimizing erosion, disturbance and dispersion by natural forces over the long term has been compromised by the Nuclear Regulatory Commission. The agency is basically saying it can accept a burial site not meeting its own criteria for the above mentioned objectives in the design decisions. West Chicago residents should not be subjected to this compromise. The F.E.S states in Section 2.3 page 2-24 "An alternative will be acceptable if it achieves a level of stabilization and containment at a site and a level of protection for public health and safety and the

Division of Industrial and Medical
Nuclear Safety
May 26, 1989
Page 3

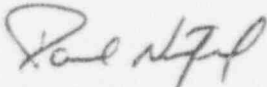
environment that, to the extent practical, is equivalent to or more stringent than the level that would be achieved by strict compliance with all the criteria." The City of West Chicago cannot accept the proposal that leaving a burial site in the middle of a densely populated area would provide the equivalent protection to the residents over the long term equal to moving it away from West Chicago. It is not rational to allow a different standard for siting a burial site in West Chicago than in any Nuclear Regulatory Commission members home town.

The third criteria specifies the disposal of tailings should be below grade, if at all possible. This requirement has a sound basis. The time the material will remain buried exceeds many lifetimes. Below grade storage would reduce the natural weathering effects of nature and decrease the chances of dissemination to the neighboring property, in this case a densely populated area. This criteria should not be compromised by the Nuclear Regulatory Commission.

The place to bury a low level radioactive waste should be determined by the criteria established by the Nuclear Regulatory Commission. No compromises should be entertained by the Nuclear Regulatory Commission. West Chicago should not be a "proving ground". We live here and call it home. We expect to be treated in a manner consistent with accepted criteria and in accordance with the wishes of the City of West Chicago, County of DuPage and State of Illinois. Anything less is wrong.

Very truly yours,

THE CITY OF WEST CHICAGO



Paul Netzel
Mayor

PN5241/jg

cc: City Council
Governor James Thompson
Congressman Dennis Hastert
Rep. Don Hensel
Senator Doris Karpel
John Cooper - IDNS



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

JUN 12 1989

Docket No. 40-2061

The Honorable Paul Netzel
Mayor of the City of West Chicago
West Chicago, Illinois 60185

Dear Mayor Netzel:

The purpose of this letter is to acknowledge receipt of your letter, dated May 26, 1989, which presents objections to the proposed action recommended in the "Supplement to the Final Environmental Statement related to the decommissioning of the Rare Earths Facility, West Chicago, Illinois, Docket No. 40-2061, Kerr-McGee Chemical Corporation," dated April 1989. Your letter is being forwarded to the Atomic Safety and Licensing Board conducting the hearing on this matter, and to All Parties to the hearing.

Sincerely,

A handwritten signature in cursive script that reads "Leland C. Rouse".

Leland C. Rouse, Chief
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards