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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20505

AUG 10, 1986

Ref: SA/JOL

ALL AGREEMENT STATES
COMMISSION ORDER ON WEST CHICAGO

Enclosed is a copy of the Commission decision and Order concerning the jurisdiction over certain radioactive materials at or near the Kerr-McGee Chemical Corporation's West Chicago Rare Earths Facility at West Chicago, IL.

Although the jurisdictional issue itself is limited in applicability, the Commission's deliberations included consideration of the implications of the Section 274b Agreement with Illinois upon the licensee's interests. Therefore, I believe that you will find a particular aspect of this discussion of interest:

"It is no argument to the contrary that the staff's preferred plan for the stabilization of the West Chicago wastes might be scotched by Illinois. No doubt there are many instances in which the staff's preferences are upset by a §274 Agreement, but Agreement States are not mere ministers of the Commission's will. Indeed, no State may become an Agreement State unless it can demonstrate the capacity for judgment which, though in compliance with minimum Federal standards, displays independence." (p.24)

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Enclosure:
As stated

*See 1/11/86
PDR*

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A-12

37

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of 202 Felmley Drive. Normal, received burns over 40 percent of his body, including first-degree burns to his chest and second-degree burns to his thighs. He also received a low dose of radiation.

According to company spokeswoman Barbara Lillyman, he was released July 25 from Memorial Medical Center in Springfield. Hess is undergoing therapy, and Ms. Lillyman could not predict when he would return to work. Two other maintenance

workers received minor burns and contamination in the accident. They were treated and decontaminated at the plant before being taken to Dr. John Warner Hospital in Clinton, where they were treated and released.

According to Marabi, the company will use the incident as an example in employee training. He said IP also will work to improve a weakness in its coordination with area hospitals.

Thorium tailings would not come to new site: Lash

By Greg Gravemier
Managing Editor

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While the radioactive thorium mill tailings now stored by Kerr-McGee Chemical Co. in West Chicago could be moved to another site in the state, Terry Lash, director of the Illinois Department of Nuclear Safety, said it is not possible for the material to be stored at the proposed LLRW facility.

Lash said the thorium mill tailings do not meet the definition of low-level waste and cannot be stored at the facility. He said legislation supported by the IDNS and signed by Gov. Thompson also gives the host community the right to shut down the facility if anyone ever tries to store the mill tailings at the facility.

Lash said that part of the law was written to help alleviate concerns that commitments from him and his staff were not enough. He said the same law also gives the host community the right to shut down the facility if anyone tries to store high-level waste or chemical hazardous waste at the facility. He said however unlikely it was anyone would try to store such material at the LLRW facility, the law was written for added protection.

Lash did say there would a small amount of mixed waste

stored at the LLRW facility. He said mixed waste was part of the responsibility given to the states by the federal government and "we can't avoid that." He said the mixed wastes would be solidified.

Lash said there are some major differences between the LLRW and the radioactive thorium mill tailings at West Chicago.

He said under federal law, the states are responsible for their own LLRW. But he said the licensee, in this case Kerr-McGee, was responsible for the mill tailings and the IDNS was serving the role of regulator.

On Aug. 5, Gov. Thompson signed legislation allowing Illinois to apply for regulatory authority over the 13 million cubic feet of radioactive thorium mill tailings stored at West Chicago.

The state will apply to the U.S. Nuclear Regulatory Commission to become the regulatory authority over the thorium mill tailings in West Chicago under Agreement State Status.

Thompson said the Illinois Department of Nuclear Safety rules protecting public health and safety are more stringent than those of the NRC. In particular, IDNS's regulations will not allow the disposal of radioactive mill tailings at urbanized locations such as West Chicago.

Lash said once the IDNS has authority over the thorium mill tailings, it would deny a license to Kerr-McGee for on-site disposal, resulting in the removal of the thorium mill tailings from West Chicago.

Lash said one option the IDNS would discuss with Kerr-McGee officials is to move the mill tailings to a site in New Mexico where a wholly-owned subsidiary of Kerr-McGee already operates a disposal site for thorium mill tailings. He said there is a rail line from West Chicago to the New Mexico facility. There are 18 such facilities in the western part of the U.S.

Lash said in-state disposal was a possibility, but it would be up to Kerr-McGee to find a suitable site which would have to be approved by the IDNS. He said IDNS will not approve the LLRW facility for disposal of thorium mill tailings.

The radioactive waste in West Chicago was produced over several decades by a variety of companies during the extraction of thorium and other metals from ore. Kerr-McGee purchased the factory in 1967. In 1973, the factory ceased operation.

West Chicago Community High School, a nursing home and several nursery schools are located in the highly residential area within a four-block radius of the site.

A/12