

United States Senate

WASHINGTON, D.C. 20510

December 2, 1981

Mr. Carlton Kammerer, Director
Office of Congressional Affairs
Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

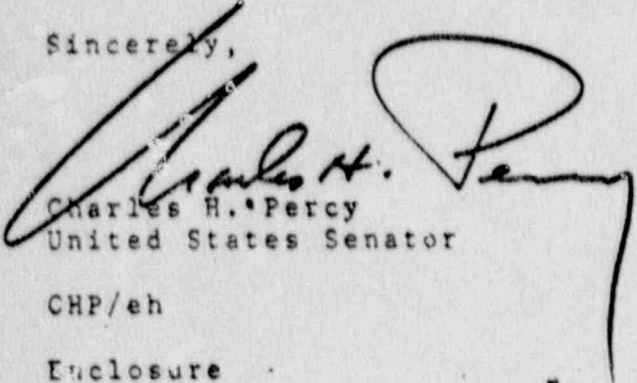
Dear Mr. Kammerer:

Enclosed you will find a copy of a letter I received from Ms. Rose McDonald of West Chicago, Illinois. I have indicated to my constituent that I have brought this matter to your attention and would appreciate your thoughts and comments.

Please reference our file number, 1336650004, and return the attached copy of my constituent's letter with your response.

Thank you for your assistance in this regard.

Sincerely,



Charles H. Percy
United States Senator

CHP/eh

Enclosure

REPLY TO: Office of United States
Senator Charles H. Percy
230 South Dearborn Street
Room 3892
Chicago, Illinois 60604
312/353-4952 (On Commercial)

OUR FILE: 1336650004

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November 5, 1981

P.O. Box 462

West Chicago, Illinois

The Honorable Charles Percy
United States Senate
Senate Office Building
Washington, D.C. 20510

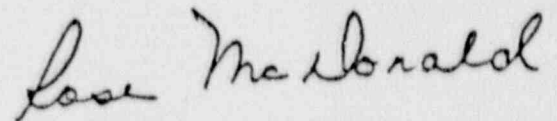
Dear Mr. Percy,

I'm enclosing a copy of a letter sent to the President. The letter concerns the situation which has been developing in my city for several years. Recent developments have made the situation even more untenable than at any time previous. The city attorney, Mr. Harold Spelman attended a meeting in Washington D.C. last week with the NRC and the assistant U.S. Attorney, Mr. Harvey Schullman. The city attorney asked for a full hearing of the city of West Chicago's problem with the Kerr-McGee Chemical Corporation and the NRC. Mr. Schullman reportedly told the city attorney that if the city pressed its demands with the NRC this city would be inundated with so much paper work and forced to make so many flights to Washington, D.C. that it would probably be forced into bankruptcy. Why is an official of the federal government threatening the attorney for a small city with bankruptcy if that city presses for an investigation and hearings about the decommissioning of the facility belonging to a private corporation? The present administration has been pressing for a clean-up of this facility site since at least 1977. There was no response from the owners until the city presented a complaint to the circuit court for action, in 1980. Since that time this city has been the focal point of some media attention but the questions of the people of the city are not being answered by the NRC or the owners.

I've been studying the situation in this city since mid-1977. The resident response has changed in four years from concern to apathy. Information presented is either scanty or of such a technical nature that the people don't understand it easily. Many people are of the opinion that if there was a serious problem the people would be told. There are serious problems but the people aren't aware of them. Some of the residents don't even care anymore, they feel they have no voice in the matter.

If the NRC isn't able to make a determination in over two years of study of the decommission plan, what are the residents to think? Is there a safe solution to the problem? Will burying the wastes in this city present a health hazard to the people who live across the street from the disposal site? The problem and the lack of serious NRC attention to it are creating unnecessary divisions in this city. Something has to be done, some real information has to be given, for this we need your help.

Respectfully,

A handwritten signature in cursive script that reads "Rose McDonald". The signature is written in dark ink and is positioned to the right of the typed name below it.

Rose McDonald

November 5, 1981

P.O. Box 462

West Chicago, Illinois

60185

The President of the United States
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President,

I've become very concerned about a situation which has developed in the city of West Chicago, Illinois. In early summer of 1976 a quantity of radioactive waste material was found to have been used as fill in the city owned Reed-Keppler Park. The area was fenced to keep the public away from the material. At the time the city administration was told that there were no other areas of radioactive wastes in the city. Two subsequent studies located eighty-five sites where the material had been used as fill. At some point in the plant's history the material was made available to the residents, according to the city attorney nothing was said about the fact that the fill was radioactive. The plant in question is currently owned by the Kerr-McGee Chemical Corporation; it is located on the south side of the city, in a residential area and the factory and office buildings are situated on the north end of a forty-three acre piece of land. The southern end of this piece of land is designated as waste disposal area. Five large waste pits are situated on this land as are two large piles of radioactive "tailings" and "sediments". According to information released by the U.S. EPA the weight of the waste piles are 3.2 million pounds of thorium wastes and 44,800 pounds of uranium wastes. These piles are not covered, they are open to the elements and local children have played in the waste disposal area for generations. A security fence was put up at one point but children are still

being allowed to play in the area. Of the five waste disposal pits, one is covered, by sludge. The EPA has indicated that groundwater has been contaminated by wastes on the plant site. This has happened in the past and the owners of the plant paid to have the residents whose wells had been contaminated connected to municipal water supplies. One of the incidents was explained, to the people affected, as nothing but a contamination of Epsom salt in the water.

The current owners of the plant acquired the facility in 1967, operated at the plant until 1973 and left the city in December of that year. The buildings were allowed to deteriorate to the point where they presented a substantial endangerment to the area residents. There was a collapse of one of the buildings during the winter of 1978/79 and a minor fire shortly afterward. The present mayor of the city had been requesting action on the maintenance of the buildings from 1977. His requests were ignored. In 1980 the City filed a complaint with the circuit court of DuPage County requesting that the court compel the owners of the facility to either bring the twenty-one buildings into compliance with local building ordinances or to demolish them. The owners responded with the claim that federal laws were involved in the matter because the facility was licensed by the NRC, and demanded that the complaint be turned over to the Federal District Court. Judge Frank McGarr of the federal court dismissed the city's complaint. The dismissal was based primarily on the Kerr-McGee claim that a precedent had been set in the disposition of the Northern States Power case. Several very important facts of difference seem to have been overlooked by Judge McGarr. One; in Northern States, the Minnesota Pollution Control Agency had attempted to impose more stringent regulations regarding nuclear wastes from a nuclear power

plant, the Kerr-McGee facility in this city is not, and never was, a nuclear power plant, functioning or otherwise. Also, the city was not attempting to regulate wastes, the city was attempting to make the owners of the plant bring the building into compliance with building/safety ordinances. That there were radioactive wastes on the plant site was an entirely separate issue. Another point of difference is that the Northern States power plant was located outside the city limits of Monticello, Minnesota well away from residential areas. In the Kerr-McGee situation the facility is located in a fairly densely populated area, inside the city limits, bordered on three of four sides by houses. This facility is now reported to be contaminated by radioactivity, including the buildings themselves. The local public high school is approximately two and one-half blocks north-east.

The complaint ruling of Judge McGarr was appealed by the city and is under consideration. Some important matters or causes for complaint were not addressed by Judge McGarr. The taking of the city-owned park by the NRC; the city received no compensation for the loss of the use of this land. The eighty-five off-sites and the request for a decision of responsibility and the Kress Creek and water treatment plant contamination. The NRC has said that because the eighty-five off-site areas were not licensed by the NRC they had no jurisdiction over them; however, the NRC also said that they wouldn't give the city jurisdiction over the off-sites either. It is the claim by the NRC that the off-sites may be licensed as hazardous waste disposal sites, that has been a stumbling block in the city's attempts to have the material excavated and disposed of. In what may only be viewed as a veiled threat the NRC has informed the Mayor of the city that if he attempts to excavate these sites they will be licensed by the NRC.

If the off-sites are licensed by the NRC the legal owners of the land on which they were found will lose the right to determine what may or may not be done with the property. Another point which is not common knowledge is that if any of the owners tried to sell this land the NRC would have to be contacted for permission or approval to transfer the disposal license to the new or prospective owners. It's obvious that with a restriction of this nature on the property very few buyers could be found willing to bother.

There are so many facets to the problem in this city it would be nearly impossible to cover all of them in a single letter. The NRC has had the decommission plan submitted by Kerr-McGee since 1979. The NRC has, as yet, not given this plan an approval. The NRC has, however, amended the Kerr-McGee license to allow on-site burial of the off-site wastes. The city administration was not informed of this until the amendment was granted. The NRC also gave the owners of the plant to dismantle several of the buildings on-site. With regard to this matter, some of the buildings were in such a state of deterioration that they had to be taken down in the interests of public safety. The mayor wasn't opposed to this demolition. He was opposed, however, to a less than careful demolition of the buildings simply because the dust from the demolition would be radioactive. Also, the mayor didn't want the piles of rubble left lying on the factory site, as they are now. This brings up the problem of the Kerr-McGee plan of disposal.

It is Kerr-McGee's intention to bury all wastes and rubble from the demolition of the twenty-one factory and office buildings on-site. The city administration is opposed to an on-site burial of the wastes.

Serious comments and objections have been raised about this decommission plan by several state and federal agencies. From the Illinois State Geological Survey comments that the ground is not suitable for containment of the radioactive and chemical wastes and the rubble from the demolition of twenty-one buildings; to the EPA comments on the lack of information from the owners of the plant as to the nature of the chemicals in the five waste pits on-site and the assumptions of the chemists employed by Kerr-McGee which were said to be based on faulty logic and incorrect data.

The residents of this city need your help to prevent the disposal of these radioactive wastes in the city. We need your help in at least allowing the city to get it's complaint into a court. There are so many facets to this problem that it is nearly beyond belief. For that purpose I've compiled a report on the basic issues involved. I would appreciate permission to send the first part of this series of reports to you.

Respectfully,

Rose McDonald

Rose McDonald .

81-2533

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No. 81-3884

Logging Date 12/24/81

NRC SECRETARIAT

TO: Commissioner _____ Date _____
 Exec. Dir./Gen. _____ Gen. Counsel _____
 Cong. Liaison _____ Solicitor _____
 Public Affairs _____ Secretary _____
 _____ Inspector & Auditor _____
 _____ Policy Evaluation _____

Incoming: Sen Charles Percy, Const Ref
From: Rose McDonald

To: OCA Date: 12/2/81

Subject: EE problems at the Kerr-McGee Chemical Corp---would like to know NRC position on the de-commissioning plan

- Prepare reply for signature of:
 - Chairman _____
 - Commissioner _____
 - EDO, GC, CL, SOL, PA, SECY, I&A, PE
 - Signature block omitted
 - _____
- Return original of incoming with response

For direct reply* Suspense: Jan 13

For appropriate action

For information

Rec'd Off. EDO
Date: 12/28/81
Time: 2:00 p

Remarks: OCA to Ack

For the Commission: billie

*Send three (3) copies of reply to Secy Correspondence and Records Branch