

40-2061

NOV 30 1987

The Honorable Harris W. Fawell
United States House of Representatives
Washington, DC 20515

Dear Congressman Fawell:

I am pleased to respond to your October 29, 1987, letter to Chairman Zech regarding Kerr-McGee's proposal for permanent onsite radioactive waste disposal at the Rare Earths Facility in West Chicago, Illinois. The issue of decommissioning the Rare Earths Facility is the subject of an administrative proceeding before the Atomic Safety and Licensing Board (ASLB). The parties to the proceeding are the State of Illinois, the Kerr-McGee Chemical Corporation, and the Nuclear Regulatory Commission (NRC) staff.

In an Environmental Impact Statement issued May 1983, the NRC staff recommended temporary storage of the waste on the West Chicago site, with the decision on ultimate disposal of the material being deferred until several years of monitoring data had been accumulated. The staff also recommended delaying the decision on final disposal, allowing for the future adoption of other alternatives that might become available. The ASLB, however, ruled that the Impact Statement had to be supplemented or amended to consider the issue of permanent waste disposal. In response to the ASLB order, the staff prepared and issued in June 1987, a Draft Supplement to the Impact Statement for public comment. A copy of the Draft Supplement is enclosed for your information.

With the Draft Supplement, the NRC staff has evaluated the Kerr-McGee proposal for onsite disposal and four alternatives for offsite disposal. The Draft Supplement does conclude that disposal on the West Chicago site (the proposed action) is the preferred course of action. This conclusion was not based solely on cost, but on environmental and public health and safety considerations along with economic considerations. The environmental issues considered were topography, air quality, socioeconomic, land resources, archeology, mineral resources, water resources, ecology, and radiation exposure. A cost-benefit analysis was conducted on the proposed action and the four alternatives. The analysis did not show any of the four alternatives to be obviously superior to the proposed action.

We have received 12 sets of comments on the Draft Supplement. We will include your letter with these comments. An estimate, similar to yours, of economic losses was included in the City of West Chicago's comments dated September 29, 1987. We recognize that these are important factors to consider in any final decision. These and all other comments, including yours, will be considered and receive response within the Final Supplement.

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We also have received comments on the possibility of waiting for the Central Midwest Compact site to open prior to issuing the Final Supplement. This will be evaluated prior to issuance of the Final Supplement. Some additional information on this issue may be helpful to you at this time. The compact site was not considered as a viable option in the Draft Supplement because a specific site plan and environmental information have not been developed nor has a site location been chosen. Without information on a site it is not possible to provide the analysis which must be performed on each alternative. This situation has not changed since publication of the Draft Supplement because a site has still not been chosen. Another factor is that the majority of the wastes on the West Chicago site are considered to be byproduct material under Section 11.e(2) of the Atomic Energy Act of 1954, as amended (the "AEA"), and are not considered low-level waste for disposal purposes. The Central Midwest Compact, of which Illinois is a member, defines low-level radioactive waste as excluding among other things "by-product material as defined in Section 11.e(2) of the AEA." Different statutes, rules and regulations apply to disposal of low-level radioactive waste and to Section 11.e(2) byproduct material. Therefore, the compact site would not be obligated to accept the wastes even if such a site currently existed. Disposal of the wastes in a site near the compact site (co-location) would be a possibility; however, without a site location an analysis cannot be performed.

The State of Illinois has recently indicated its intention to seek an amendment of the current Agreement with the NRC, under Section 274b of the AEA, to include 11.e(2) byproduct material in the list of radioactive materials that the State will regulate. An application for such an amendment to the Agreement has not yet been received by the NRC. If the State Agreement were amended to include Section 11.e(2) byproduct material, the NRC would relinquish to the State of Illinois regulatory jurisdiction, subject to certain continuing authority of the NRC, for the disposal of the radioactive wastes on the Rare Earths Facility Site.

We hope that this information is helpful to you. If we can be of further assistance in the future, please let me know.

Sincerely,

Original Signed By

for James M. Taylor, Jr.
Executive Director for Operations

Enclosure:

Draft Supplement

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Docket 44-2061 PDR LPDR

*See previous concurrence

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