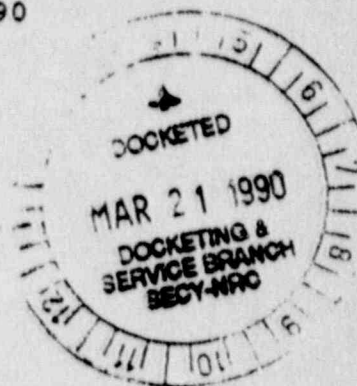




UNITED STATES
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING APPEAL PANEL
WASHINGTON, D.C. 20555

March 21, 1990

E. Donald Elliott, Esquire
General Counsel
Environmental Protection Agency
Room 537 West Tower
401 M Street, S.W.
Washington, D.C. 20460



Re: Kerr-McGee Chemical Corporation
(West Chicago Rare Earths Facility),
NRC Docket No. 40-2061-ML

* SERVED MAR 22 1991

Dear Mr. Elliott:

Enclosed is an order entered today by the Nuclear Regulatory Commission's Atomic Safety and Licensing Appeal Board in connection with the above-referenced proceeding. The order invites the Environmental Protection Agency to file a brief amicus curiae in connection with the pending administrative appeals.

By way of background, the Atomic Safety and Licensing Board (the trial level board that presided at the evidentiary hearing) authorized an amendment to the materials license held by the Kerr-McGee Chemical Corporation for its West Chicago Rare Earths Facility. The amendment permits the onsite, above-grade, permanent disposal of some 376,400 cubic meters of radioactive thorium mill tailings and other radioactively contaminated materials on twenty-seven acres of the West Chicago site, a location in the midst of a residential area of the City of West Chicago, Illinois. A copy of the Licensing Board's February 13, 1990, initial decision also is enclosed. The State of Illinois and the City of West Chicago, which participated to varying degrees in the hearing, have appealed the Licensing Board's initial decision to the Appeal Board. Because the EPA commented on the NRC's Draft Environmental Statement on Kerr-McGee's disposal proposal and pertinent NRC regulations (10 C.F.R. Part 40, Appendix A) involved in this proceeding incorporate EPA regulations (40 C.F.R. Part 192, Subparts D and E), the Appeal Board believes that the views of the EPA might prove of material assistance to it in resolving these appeals. Thus, the Appeal Board is hopeful that the EPA will accept the invitation.

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In this regard, the Board would like any EPA brief to be filed and served by express mail or comparable means (see 10 C.F.R. §§ 2.701, 2.712) by either April 19 or May 21, 1990, depending upon the position that EPA takes. The Board would appreciate it greatly if the EPA files its brief by the applicable date. Should the EPA find it impossible to meet the deadline, however, the Board will entertain a motion for an extension of time. See 10 C.F.R. § 2.711.

The NRC staff is represented in this proceeding by Ms. Ann P. Hodgdon, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (302) 492-1587.

Kerr McGee Chemical Corporation is represented by Messrs. Peter J. Nickles, Richard A. Meserve, and Herbert Estreicher, Covington & Burling, 1201 Pennsylvania Avenue, N.W., Post Office Box 7566, Washington, D.C. 20044, (202) 662-6000.

The State of Illinois is represented by Mr. Douglas J. Rathe, Assistant Attorney General, Environmental Control Division, 100 W. Randolph Street, 12th Floor, Chicago, Illinois 60601, (312) 814-2550.

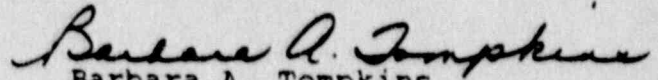
The City of West Chicago is represented by Messrs. Joseph V. Karaganis and James D. Brusslan, Karaganis & White, Ltd., 414 North Orleans Street, Suite 810, Chicago, Illinois 60610, (312) 836-1177, and Robert D. Greenwalt, City Attorney for West Chicago, 100 Main Street, West Chicago, Illinois 60185, (708) 231-6636.

In addition to service on the parties, any EPA amicus brief should be filed with the Appeal Board and the Secretary of the Commission. Correspondence sent by first class U.S. mail to any NRC organization should be addressed as follows: [recipient office or person], U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. For express mail or hand delivery to the Atomic Safety and Licensing Appeal Board, the address is 4350 East-West Highway, Room 529, Bethesda, MD 20814 (telephone: (301) 492-7663; Fax: (301) 492-5061). For express mail or hand delivery to the Secretary of the Commission and the Office of the General Counsel, the address is 11555 Rockville Pike, Rockville, MD 20852 (Fax: (301) 492-0260).

If, following your examination of the Licensing Board's decision, you wish to obtain copies of briefs or other documents that were filed with that Board, please contact the NRC staff's attorney, Ms. Hodgdon. When the EPA has determined whether or not it will accept the Appeal Board's invitation to file a brief amicus curiae, please advise the

Board and parties of that determination by letter. If you have any questions concerning the briefing process, please feel free to contact the Appeal Board's counsel, Ms. Andrea Cali at (301) 492-7666.

Sincerely,



Barbara A. Tompkins
Secretary to the
Appeal Board

Enclosures:
As stated

cc: *All parties
Mr. Valdas V. Adamkus
Regional Administrator, Region V
U.S. Environmental Protection Agency

* Served on all parties w/o enclosure.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

KERR-MCGEE CHEMICAL CORPORATION

(West Chicago Rare Earths Facility)

Docket No.(s) 40-2061-ML

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LTR AB TO ELLIOTT, EPA - 3/21 have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Administrative Judge
Thomas S. Moore, Chairman
Atomic Safety and Licensing Appeal
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U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Howard A. Wilber, Chairman
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Administrative Judge
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Administrative Judge
John H. Frye, III, Chairman
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Docket No. (s) 40-2061-ML
LTR AB TO ELLIOTT, EPA - 3/21

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Douglas J. Rathe, Esq.
Assistant Attorney General
Office of the Attorney General
100 West Randolph Street - 12th Floor
Chicago, IL 60601

Dated at Rockville, Md. this
22 day of March 1990

Patty Henderson

Office of the Secretary of the Commission