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USNRC

IN THE UNITED STATES
NUCLEAR REGULATORY COMMISSION

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IN RE:)
) Docket No.: 40-2061
LICENSE NUMBER STA-583)
KERR-MCGEE CHEMICAL CORPORATION)

PETITION TO INTERVENE
AND REQUEST FOR HEARING

COUNT I

Now comes the City of West Chicago by its attorneys,
HAROLD J. SPELMAN AND ASSOCIATES, and in petitioning the United
States Nuclear Regulatory Commission for a hearing relevant to the
oral application by Kerr-McGee, as licensee, for an amendment to
License Number STA-583, states as follows:

1. That The Rules of Practice for Domestic Licensing
Proceedings of the United States Nuclear Regulatory Commission,
Title 10, Chapter 1, Code of Federal Regulations - Energy,
(hereinafter cited as Licensing Rules) Section 2.105 provide:

(a) If a hearing is not required by the Act or
this chapter, and if the Commission has not
found that a hearing is in the public interest,
it will, prior to acting thereon, cause to be
published in the Federal Register a notice of
proposed action with respect to an application
for:

(1) A license for a facility;

- (2) A license for receipt of waste radioactive material from other persons for the purpose of commercial disposal by the waste disposal licensee;
- (3) An amendment of a license specified in paragraph (a) (1) or (2) of this section and which involves a significant hazards consideration; or
- (4) Any other license or amendment as to which the Commission determines that an opportunity for a public hearing should be afforded.

2. That pursuant to 2.105 (d)(2):

- (d) The notice of proposed action will provide that, within thirty (30) days from the date of publication of the notice in the Federal Register, or such lesser period authorized by law as the Commission may specify:
 - (1) The applicant may file a request for a hearing; and
 - (2) Any person whose interest may be affected by the proceedings may file a petition for leave to intervene.

3. That pursuant to §2.105(e), which provides as

follows:

- (e) If no request for a hearing or petition for leave to intervene is filed within the time prescribed in the notice, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will issue the license, inform the appropriate State and local officials, and cause to be published in the Federal Register a notice of issuance of the license.

If a request for a hearing and/or a petition for leave to intervene is filed within the time prescribed in the notice, the Commission or an atomic safety and licensing board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the

request and/or petition and the Secretary or the designated atomic safety and licensing board will issue a notice of hearing or an appropriate order.

The secretary or designated Atomic Safety and Licensing Board will issue a notice of hearing.

4. That the City of West Chicago, petitioner herein, is an interested party pursuant to the attached affidavits.

5. That the licensee has orally requested an amendment to its aforescribed license to authorize it to receive and store soil which may contain source and/or by-product material and, which originates from the Illinois State program to remove contaminated soil from discrete areas in West Chicago, Illinois.

WHEREFORE, the City of West Chicago, petitioner herein, requests:

1. That the City be granted leave to intervene in the oral application as aforescribed.

2. That the secretary or designated Atomic Safety and Licensing Board issue a notice of hearing and conduct a hearing on said application.

COUNT II

Now comes the City of West Chicago by its attorneys, HAROLD J. SPELMAN AND ASSOCIATES, and in petitioning the United States Nuclear Regulatory Commission for a hearing relevant to the oral application by Kerr-McGee, as licensee, for an amendment to

License Number STA-583, states as follows:

1. Realleges and reaffirms paragraphs 1-5 of Count I as and for paragraphs 1-5 of Count II.

6. That no written application has been filed by the licensee for said amendment.

7. That no notice has been given the petitioner or the public of said oral application.

WHEREFORE, the City of West Chicago, petitioner herein, requests:

1. Require the licensee to file a written application.

2. That the City be granted leave to intervene in the oral application as aforescribed.

3. That the secretary or designated Atomic Safety and Licensing Board issue a notice of hearing and conduct a hearing on said application.

COUNT III

Now comes the City of West Chicago by its attorneys, HAROLD J. SPELMAN AND ASSOCIATES, and in petitioning the United States Nuclear Regulatory Commission for a hearing relevant to the oral application by Kerr-McGee, as licensee, for an amendment to License Number STA-583, states as follows:

1. Realleges and reaffirms paragraphs 1-5 of Count I as and for paragraphs 1-5 of Count III.

6. That 42 U.S.C. §4239 requires that a hearing be afforded to an interested party who may be affected by the proceeding to amend a license.

7. That no Environmental Impact Statement has been issued by the Nuclear Regulatory Commission with respect to the proposed license amendment as aforescribed contrary to N.E.P.A., 42 U.S.C. 4332.

8. That the above-mentioned actions by both Kerr-McGee and the Nuclear Regulatory Commission constitute unreasonable risks to the residents of the City of West Chicago and are contrary to the residents' best interest of health and safety, and may substantially affect the human environment, per the attached affidavit.

WHEREFORE, the City of West Chicago, petitioner herein, requests:

1. Require the licensee to file a written application.

2. That the City be granted leave to intervene in the oral application as aforescribed.

3. That the secretary or designated Atomic Safety and Licensing Board issue a notice of hearing and conduct a hearing on said application.

COUNT IV

Now comes the City of West Chicago by its attorneys, HAROLD J. SPELMAN AND ASSOCIATES, and in petitioning the United States Nuclear Regulatory Commission for a hearing relevant to the oral application by Kerr-McGee, as licensee, for an amendment to License Number STA-583, states as follows:

1. Realleges and reaffirms paragraphs 1-5 of Count I as and for paragraphs 1-5 of Count IV.

6. That the off-site material which is the subject of the proposed amendment is not licensed by the Nuclear Regulatory Commission.

7. That the Nuclear Regulatory Commission has no authority to amend the license of Kerr-McGee or to undertake action of said material per attached letter dated January 14, 1981.

WHEREFORE, the City of West Chicago, petitioner herein, requests:

1. Require the licensee to file a written application.

2. That the City be granted leave to intervene in the oral application as aforescribed.

3. That the secretary or designated Atomic Safety and Licensing Board issue a notice of hearing and conduct a hearing on said application.

COUNT V

Now comes the City of West Chicago by its attorneys, HAROLD J. SPELMAN AND ASSOCIATES, and in petitioning the United States Nuclear Regulatory Commission for a hearing relevant to the oral application by Kerr-McGee, as licensee, for an amendment to License Number STA-583, states as follows:

1. Realleges and reaffirms paragraphs 1-5 of Count I as and for paragraphs 1-5 of Count V.

6. That Section 40.32 of the Rules for Domestic Licensing of Source Material provides:

An application for a specific license will be approved if:

- a) The application is for a purpose authorized by the Act; and
- b) The applicant is qualified by reason of training and experience to use the source material for the purpose requested in such manner as to protect health and minimize danger to life or property; and
- c) The applicant's proposed equipment, facilities and procedures are adequate to protect health and minimize danger to life or property; and
- d) The issuance of the license will not be inimical to the common defense and security or to the health and safety of the public.

6. That the applicant, Kerr-McGee, has not displayed has the United States Nuclear Regulatory Commission found that the issuance of the proposed oral license amendment will not be inimical to the common defense and security or to the health and safety of the public.

7. That the applicant, Kerr-McGee, has not displayed, nor has the United States Nuclear Regulatory Commission found that the applicant is qualified by reason of training and experience to use the source material for the purpose requested in such manner as to protect health and minimize danger to life or property.

8. That Section 40.44 of the Rules for Domestic Licensing of Source Material provides:

"Applicants for amendment of a license shall be filed in accordance with §40.31 and shall specify the respects in which the licensee desires his license to be amended and the grounds for such amendment.

WHEREFORE, the City of West Chicago, petitioner herein, requests:

1. Require the licensee to file a written application.
2. That the City be granted leave to intervene in the oral application as aforescribed.
3. That the secretary or designated Atomic Safety and Licensing Board issue a notice of hearing and conduct a hearing on said application.

COUNT 12

Now comes the City of West Chicago by its attorneys, HAROLD J. SPELMAN AND ASSOCIATES, and in petitioning the United States Nuclear Regulatory Commission for a hearing relevant to the

oral application by Kerr-McGee, as licensee, for an amendment to License Number STA-583, states as follows:

1. Realleges and reaffirms paragraphs 1-3 of Count I as and for paragraphs 1-3 of Count VI.
4. That the site which is the subject of License Number STA-583 is owned by Kerr-McGee Chemical Corporation and is presently zoned E-R Estate District in the City of West Chicago, Illinois.
5. That the permitted uses of an E-R Estate District are listed on the attached Exhibit.
6. That the special uses of E-R Estate District are listed on said Exhibit.
7. That the Kerr-McGee site located in West Chicago is not zoned to permit land fill of any type of material whether hazardous or non-hazardous.
8. That the regulations of the Nuclear Regulatory Commission require the applicant to demonstrate that local land burial is preferable to other disposal alternatives.
9. That no such demonstration has been made by the applicant.

WHEREFORE, the City of West Chicago, petitioner herein, requests:

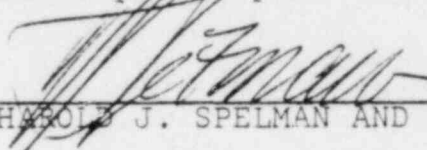
1. That the City be granted leave to intervene in the oral application as aforescribed.

2. That the secretary or designated Atomic Safety and Licensing Board issue a notice of hearing and conduct a hearing on said application.

Respectfully submitted,

CITY OF WEST CHICAGO, a
municipal corporation

BY:


HAROLD J. SPELMAN AND ASSOCIATES

HAROLD J. SPELMAN AND ASSOCIATES
200 High Street, P. O. Box 190
West Chicago, Illinois 60185
(312) 231-1580

5. That no permit applications have been received by the City of West Chicago for the purposes of demolition, construction, water use, or excavation relevant to the West Chicago site presently owned by Kerr-McGee Chemical Corporation, under the application for license amendment.

6. That the City of West Chicago has the duty and authority to issue permits with respect to demolition, construction, water use, and excavation pursuant to its duly granted powers under the Illinois Revised Statutes.

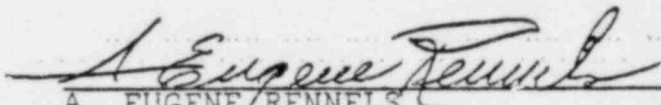
7. That the City of West Chicago is docketed as an interested party in Docket number 40-2061 License Number STA-583.

8. That as Chief Executive of the City of West Chicago, he has neither been served with an application for a third license amendment to License Number STA-583 nor served with an environmental report as required by Section 2.101 (b) of the Rules of Practice for Domestic Licensing Proceedings.

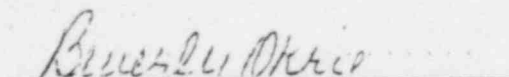
9. That the City of West Chicago has repeatedly insisted that an Environmental Impact Statement be rendered

by the United States Nuclear Regulatory Commission relevant to the activities at the West Chicago Site owned and operated by Kerr-McGee Chemical Corporation and licensed by the Nuclear Regulatory Commission.

10. FURTHER AFFIANT SAYETH NOT.


A. EUGENE RENNELS
Mayor of the City of
West Chicago

Subscribed and Sworn
to before me this 27th
day of October, 1981.


Notary Public

STATE OF ILLINOIS)) SS.
COUNTY OF DU PAGE)

IN THE UNITED STATES
NUCLEAR REGULATORY COMMISSION

AFFIDAVIT

Now comes ELI PORT, Certified, American Board of Health Physics, and consultant to the City of West Chicago, Illinois and in support of The City of West Chicago's Petition for hearing states as follows:

1. That he is a health physicist, certified by the American Board of Health Physics, and has expert knowledge of the effect of unnecessary exposure to radiation upon man and his environment.
2. That he is a consultant to the City of West Chicago.
3. That no Environmental Impact Statement has been submitted to him from the Nuclear Regulatory Commission nor Kerr-McGee Chemical Corporation in his capacity as the City's consultant.
4. The Nuclear Regulatory Commission has failed to enforce compliance of the Decommissioning Stabilization Plan for Kerr-McGee's West Chicago facility submitted August 15, 1979.

5. That said failure is in the following activities:

A) Permitting Building Demolition per §4.4.4 of the "Plan" prior to the issuance of an Environmental Impact Statement under 40 U.S.C. 4332.

B) Permitting Demolition without a Dust Abatement System using water fog in said demolition. This is evidenced by the lack of water consumption noted by the City of West Chicago records.

C) Permitting Building Demolition without a building permit to construct a lagoon to contain water utilized in the Dust Abatement System.

6. That said failure may expose the population of the City of West Chicago to unnecessary radiological hazards.

7. That the Commission has not incorporated into its consideration of the proposed Kerr-McGee Plan or License Amendment Application a proposed Nuclear Regulatory Commission position paper, dated July 22, 1981 concerning disposal or onsite storage of residual thorium or uranium from past operations. The situation in the City of West Chicago is discussed and characterized as Option V which states: "When concentrations exceed those specified in option 4, long term disposal will not normally be a viable option under the provisions of 10 CFR 20.302..."

8. That if the Application for License Amendment heretofore described is granted without an Environmental Impact Statement issued pursuant to 42 U.S.C. 4332, the building demolition and the transporting of "off-site" material to the site may have a substantial effect on the human environment, on the real property, and on the citizens of the City of West Chicago, and may be inimical to the common defense and security or to the health and safety of the public.

9. That if the activities are undertaken by Kerr-McGee Chemical Corporation, pursuant to the Application for License Amendment, and if said activities release radiological material which exceed the statutory limits set by the Nuclear Regulatory Commission regarding airborne radiation concentrations, they may be harmful to the citizens of West Chicago inasmuch as excessive radiation could produce genetic damage or cancer in the population.

10. That without an Environmental Impact Statement, he is unable to fully ascertain the effects on the City of West Chicago and its citizens of the granting of the Application for License Amendment.

11. FURTHER AFFIANT SAYETH NOT.

Elisabeth Port
ELI PORT, Certified Health
Physicist and Consultant to
the City of West Chicago

Subscribed and Sworn
to before me this 27th
day of October, 1981.

Beverly Okie
Notary Public



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

JAN 14 1981

U.S. Environmental Protection Agency
ATTN: Ms. Kathy L. Summerlee
Project Manager
Noise and Radiation Enforcement Division
Washington, D.C. 20460

Dear Ms. Summerlee:

In your December 12, 1980 letter you asked several questions relating to the E.I.S. we are preparing for the decommissioning of the Kerr-McGee site in West Chicago, Illinois. Our Mr. Nixon discussed the questions with your Mr. Jackson by telephone on January 6, 1981. The object of this letter is to confirm the following information given to Mr. Jackson:

1. Kress Creek Contamination

The existing condition of Kress Creek, the health and safety aspects of existing contamination and the need, if any, for cleaning up the creek will be addressed in the E.I.S. In addition, provisions to be taken during decommissioning to prevent further degradation of the creek will be discussed.

2. Thorium Residuals Off-Site in West Chicago

The E.I.S. will not address the thorium residuals which are present at various locations other than the Kerr-McGee site in West Chicago. There is no legal basis for requiring a present or past owner to clean up off-site contamination which occurred prior to November 8, 1978, the date when tailings became subject to NRC regulation. NRC, however, will conduct a radiological survey of the material in Reed-Kepner Park during 1981. In addition, NRC is taking steps to develop a Federal position regarding responsibilities for radioactive contamination in unrestricted areas from past plant operations.

3. Groundwater

The E.I.S. will discuss the impact of past operations on groundwater at the site. In addition the E.I.S. will address steps to be taken during decommissioning operations and specific features of the decommissioning plan which will protect groundwater supplies during and after plant decommissioning. There is no evidence of leaking of radioactive materials into the bedrock aquifer.

DUPE OF

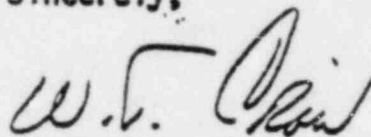
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The draft E.I. S. is scheduled to be published in April, 1981. Comments on the draft will be obtained, of course, from interested Federal, State and local agencies and members of the public. A decision regarding the decommissioning of the site will be made when the final E. I. S. is published.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. T. Crow". The signature is fluid and cursive, with a large, sweeping "W" and a distinct "T" and "C".

W. T. Crow, Section Leader
Uranium Process Licensing Section
Uranium Fuel Licensing Branch
Division of Fuel Cycle and
Material Safety

- (B) Cemeteries.
- (C) Cultural facilities.
- (D) Health facilities.
- (E) Public buildings and facilities.

6.1-4. *Lot size requirements.* With the exception of planned residential developments, a separate ground area herein called the zoning lot, shall be designated, provided and continuously maintained for each structure containing a permitted or special use, as follows:

(A) Permitted Uses	Minimum Lot Area (square feet)	Minimum Lot Width (feet)
Single-family dwelling	40,000	150
Recreational and social buildings	60,000	150
Religious institutions	80,000	150
Schools	30,000	125

All other permitted uses shall be located on a lot having an area of not less than one hundred thousand (100,000) square feet with a minimum width of two hundred (200) feet at the established building line.

(B) Special Uses	Minimum Lot Area	Minimum Lot Width (feet)
Planned developments	40 acres	750 feet
Cemeteries	10 acres	200 feet
Cultural facilities	80,000 sq. ft.	150 feet
Health facilities	80,000 sq. ft.	150 feet

Public services and utilities as specified by the plan commission.

6.1-5. *Yard requirements.*

(A) Minimum front yards:

- (1) Single-family dwelling: Forty (40) feet.
- (2) All other permitted or special uses: Fifty (50) feet.

(B) Minimum corner side yard:

- (1) Single-family dwelling: Thirty-five (35) feet.
- (2) Schools: Fifty (50) feet.
- (3) All other permitted and special uses: Thirty-five (35) feet.

(B) *Building or structure designed or intended for a permitted use.* The nonconforming use of part of a building or structure all or substantially all of which building or structure is designed or intended for a use permitted in the district in which it is located, shall not be expanded or extend into any other portion of such building or structure nor changed to any other nonconforming use.

(C) *Land.* The nonconforming use of land, not involving a building or structure, or in connection with any building or structure incidental or accessory to the principal use of the land, shall not be expanded, or extended beyond the area it occupies.

5.9. Change of nonconforming use.

Building or structure designed or intended for a nonconforming use. The nonconforming use of a building or structure, substantially all of which is designed or intended for a use not permitted in the district in which it is located, may be changed to a use allowed in said district.

ARTICLE VI. RESIDENCE DISTRICTS

6.1. E-R estate district.

6.1-1. Permitted uses.

- (A) Single-family detached dwelling.
- (B) Church, chapels, temples, synagogues.
- (C) Convent, monastery and religious retreats.
- (D) Country club.
- (E) Golf courses, but not golf driving ranges, pitch and putt, miniature golf courses or par-3 golf courses.
- (F) Parks, playgrounds and forest preserves.
- (G) Public library.
- (H) Public open land, refuge or preserve.
- (I) Noncommercial recreational buildings and community centers.
- (J) Public or private schools, elementary, high, junior college, college or university. Private schools shall have a curriculum substantially identical to that ordinarily given in a public elementary or high school, and have no rooms regularly used for housing or sleeping purposes.

6.1-2. *Accessory uses.* As permitted in accordance with Article III, section 3.16.

6.1-3. Special uses.

- (A) Planned developments.