

STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY

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TERRY R. LASH
DIRECTOR

March 13, 1990

Robert M. Bernero
Director
Office of Nuclear Material Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Bernero:

On behalf of the Illinois Department of Nuclear Safety, I would like to register an objection to a major deficiency in License No. STA-583 issued to Kerr-McGee Chemical Corporation on February 23, 1990.

On March 11, 1990, Mr. Wayne Kerr of our Office of Radiation Safety asked what financial surety arrangements were in place for this licensee so as to meet the requirements of 10 CFR 40, Appendix A, Criterion 9. He further requested a copy of the surety arrangements and asked when they would be in place if they did not currently exist.

On March 13, 1990, Mr. Dennis Sollenberger of the Office of Government & Public Affairs informed Mr. Kerr that no such sureties were in place or planned. This position is presumably based on the fact that there is no operating plant at the facility. We find this position untenable on legal, technical and policy grounds.

As interpreted by NRC staff, Criterion 9 of 10 CFR 40, Appendix A requires that financial sureties are to be available for the decontamination and decommissioning of mill sites and for the reclamation of any tailings or waste disposal areas. Such sureties have been required by NRC for several sites in the western United States. The sureties have consisted of certificates of deposit, surety bonds, letters of credit, or parent company guarantees with a legally binding contract. In some cases they have amounted to as much as \$25,000,000. Surety arrangements have been required for several facilities (like Kerr-McGee) that are no longer operating facilities.

Since decontamination and decommissioning of the Kerr-McGee facility and reclamation of the tailings and disposal area are authorized by License No. STA-583, surety arrangements are clearly required. The NRC position in this

Mr. Robert M. Bernero

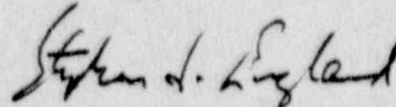
Page 2

March 13, 1990

case is clearly contradictory to that required of other NRC licensed facilities that are subject to the provisions of the Uranium Mill Tailings Radiation Control Act of 1978. This is a policy difference for which there is no justification.

I urge you to investigate this matter promptly and take immediate action to require Kerr-McGee to meet all of the requirements of 10 CFR 40, Appendix A before they are permitted to begin reclamation activities.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen J. England". The signature is fluid and cursive, with the first name "Stephen" and last name "England" clearly distinguishable.

Stephen J. England
Chief Legal Counsel

SJE:bas

cc: Harold Denton