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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'90 NOV 14 P1:38

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

Thomas S. Moore, Chairman
Christine N. Kohl
Howard A. Wilber

November 14, 1990

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

SERVED NOV 14 1990

_____)	
In the Matter of)	
)	
KERR-McGEE CHEMICAL CORPORATION)	Docket No. 40-2061-ML
)	
(West Chicago Rare Earths Facility))	
_____)	

ORDER

In the NRC's weekly Information Report dated November 7, 1990, SECY-90-378, Enclosure H, there appears an item stating that

[a]t the request of the Office of Nuclear Material Safety and Safeguards (NMSS), the Office of Information Resources Management (IRM) transferred the official docket file for the Kerr-McGee Chemical Corporations West Chicago Rare Earths Facility (Docket No. 40-2061) to the State of Illinois. The records transfer resulted from an amendment to the agreement with the State of Illinois under which the State assumed regulatory authority over uranium and thorium mills and mill tailings. The docket file, consisting of 11 boxes, was inventoried and shipped to Illinois on October 30, 1990. A letter will be sent to the State of Illinois' Department of Nuclear Safety that will identify the records transferred and request Illinois' acknowledgement of receipt of the records. [Emphasis added.]

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Pursuant to the Commission's regulations 10 C.F.R. §§ 1.25 (e), (g), the Office of the Secretary of the Commission is charged with "[m]aintain[ing] the Commission's official records" and "maintain[ing] the official adjudicatory . . . dockets of the Commission." Further, 10 C.F.R. § 2.702 declares that

[t]he Secretary will maintain a docket for each proceeding subject to this part, commencing with the issuance of the initial notice of hearing, notice of consideration of issuance of facility operating license or other proposed action specified in § 2.105, or order to show cause. The Secretary will maintain all files and records, including the transcripts of testimony and exhibits and all papers, correspondence, decisions and orders filed or issued.

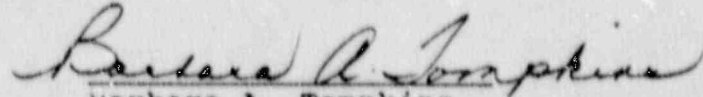
In light of these clear regulatory provisions and the fact that we have pending before us in Docket No. 40-2061-ML the appeals of the State of Illinois and the City of West Chicago and two related motions,¹ the NRC staff shall file, along with its response to the intervenors' motion to terminate the proceeding currently due November 19, a full explanation of the above-quoted passage from the weekly Information Report. In the event that the "official docket file" has been transferred to the State of Illinois as the report states, the staff shall inform us of the names of those who directed and authorized such transfer. In

¹ See also CLI-90-9, 32 NRC ____, ____ (October 17, 1990) (slip opinion at 1, 4), reconsideration denied, CLI-90-11, 32 NRC ____, ____ (November 8, 1990) (slip opinion at 2).

addition, the staff shall take all necessary steps to secure the immediate return to the agency of such docket file.

It is so ORDERED.

FOR THE APPEAL BOARD



Barbara A. Tompkins
Secretary to the
Appeal Board

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 AB ORDER DATED 11/14/90 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
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Administrative Judge
Howard A. Wilber, Chairman
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Docket No. (s)40-2061-ML
AB ORDER DATED 11/14/90

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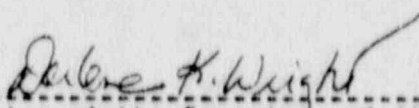
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Dated at Rockville, Md. this
14 day of November 1990



Office of the Secretary of the Commission