

14597

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

BEFORE THE COMMISSION

94 JUL 18 P3:04

IN THE MATTER OF)	
)	
KERR-McGEE CHEMIC. CORPORATION)	Docket No. 40-2061-ML
)	
(West Chicago Rare Earths Facility))	
)	

MOTION FOR LEAVE TO FILE A REPLY

On December 9, 1994, Kerr-McGee filed a motion to terminate this proceeding and to vacate the underlying decisions of the Licensing and Appeal Boards. The State of Illinois ("State") and the City of West Chicago ("City") filed responses on January 5, 1994, and the NRC Staff filed a response on January 10, 1994. Kerr-McGee now seeks leave to file the attached reply to these responses.^{1/} See 10 C.F.R. 2.730(c).

The NRC Staff has suggested that the vacatur of the underlying decisions should be subject to certain conditions. Staff Response, 6. To the best of Kerr-McGee's knowledge, the Commission has never before conditioned the vacatur of a decision in the fashion urged by the Staff. Indeed, as shown by the Kerr-McGee reply, there are sound reasons why the

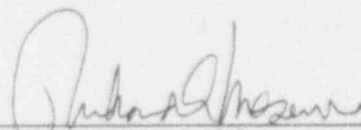
^{1/} The certificate of service attached to the Staff's response states that the reply was served by first-class mail on January 10, 1994. When counsel for Kerr-McGee had not received a copy by January 13, counsel telephoned the NRC Staff to request that a copy be sent by facsimile. This reply is submitted on the second working day following the receipt of the Staff's filing.

MSD3

Staff's proposal should be rejected. Because Kerr-McGee could not have anticipated the unprecedented conditions urged by the Staff in its motion, it should be allowed the opportunity to file a reply. Moreover, in order to assure the full illumination of the issues for the Commission, Kerr-McGee should also be allowed to reply to certain other matters that have been raised in the responses.

In light of the foregoing, Kerr-McGee respectfully requests that leave to file the attached reply be granted.

Respectfully submitted,



Peter J. Nickles
Richard A. Meserve
Herbert Estreicher
COVINGTON & BURLING
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington, D.C. 20044
(202) 662-6000

Counsel for
Kerr-McGee Chemical Corp.

Dated: January 18, 1994