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August 23, 1982

United States
Nuclear Regulatory Commission
Washington, D. C. 20555DOCKET NUMBER
PDR & UTIL. PDR... 40-2061

ATTN: Mr. Hoyle

RE: Matter of Kerr-McGee
Chemical Corporation
(West Chicago facility)
NRC Order CLI-82-21

Dear Mr. Hoyle:

The City of West Chicago ("City") is in receipt of NRC's Order of August 5, 1982 in the above referenced matter. The Order is in response to the City's petitions for leave to intervene and requests for hearing regarding the application of Kerr-McGee ("K-M") for license Amendment No. 5 for its West Chicago facility. The Order grants an "informal hearing" to the City.

The City will cooperate in the hearing process and welcomes the opportunity for input in the license amendment process. The City objects, however, to the type of hearing contemplated by NRC and to several points in NRC's Order of August 5 and wishes to preserve its objection and arguments for the record.

1) The Order cites NRC's February 1982 Order regarding an earlier license amendment for K-M (15 NRC 232) as precedent for its decision in this case to deny the requested "formal hearing" to the City. Because the earlier Order admittedly denied a formal hearing request for the first time in the history of the Atomic Energy Act and is currently before the Seventh Circuit United States Court of Appeals on the City's petition for review, the precedential value of the Order is diminished. Thus, the City objects to NRC's reliance on the earlier Order as authority for its denial of a full hearing in this case.

2) The Order indicates that there is no entitlement to a full hearing under the Atomic Energy Act or under NRC Regulations. This conclusion is based solely upon

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NRC's Order regarding K-M Amendment 3. The City has attacked these points in NRC's earlier Order and does not accept them now. Until the Seventh Circuit has ruled on the validity of NRC's contentions, the City objects to NRC's continued reliance on them.

3) The Order further states, with no discussion, that the "City's petitions, on their face, do not give us cause to exercise our discretion and grant such a hearing under the 'public interest' standard of 10 C.F.R. §§ 2.104(a) and 2.105(a)(6) or to find due process concerns require that a formal proceeding need be convened." (Order,3)

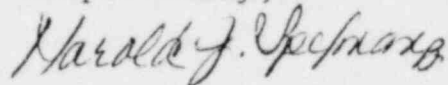
The City objects to NRC's findings of no public interest and, particularly, its lack of standards on which to make such a finding. The City has raised this issue in its petition to review NRC's earlier Order granting Amendment 3 to K-M and must likewise object at this time.

Also, the "due process concerns" dismissed by NRC are issues raised by the City in the administrative review proceeding pending in the Seventh Circuit. Thus, the City objects to NRC's present reliance on its questionable constitutional analysis.

The City reserves the right to object to what it believes are substantive errors in the NRC's interpretation of the statutory hearing requirement in licensing cases. The City suggests that no hearing on Amendment 5 occur until all parties have the benefit of the Seventh Circuit's ruling in pending administrative review proceedings involving many of the same issues as the present case.

In the spirit of cooperation, however, the City will make every attempt to comply with the hearing process under the present Order.

Respectfully,



Harold J. Spelman

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cc: Mr. John C. Berghoff, Jr.