



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555
December 7, 1990

Docket No. 40-2061

Board Notification 90-15

MEMORANDUM FOR: Atomic Safety and Licensing Appeal Board
and All Parties

FROM: Charles J. Haughney, Chief
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

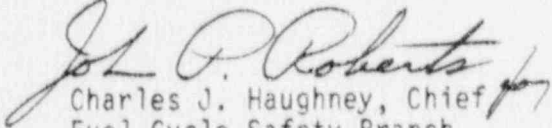
SUBJECT: NEW INFORMATION POTENTIALLY RELEVANT AND MATERIAL
TO BOARD PROCEEDING IN THE MATTER OF KERR-MCGEE
CHEMICAL CORPORATION, WEST CHICAGO RARE EARTHS FACILITY,
DOCKET 40-2061-NIL

In conformance with the Commission's policy on notification of Licensing Boards, Appeal Boards, or Commission of new, relevant, and material information, this memorandum calls attention to the documents listed below.

The documents being brought to the attention of the Board as information which may be relevant and material to issues pending before the Board are:

Telecopy to Bert Davis, Regional Administrator, U.S. Nuclear Regulatory Commission from Thomas W. Ortziger, Illinois Department of Nuclear Safety with its enclosures:

1. Letter to Mr. Carlton Kammerer, Director, State Programs, from Thomas W. Ortziger, Director, Department of Nuclear Safety, State of Illinois, dated December 5, 1990, with its enclosures:
2. Letter to John G. Stauter, Kerr-McGee Chemical Corporation, from Joseph G. Klinger, Head, Licensing Section, Department of Nuclear Safety, State of Illinois, dated December 5, 1990.
3. News from the Illinois Department of Nuclear Safety, dated December 5, 1990, entitled, "Kerr-McGee License to Expire in 90 Days:IDNS."


Charles J. Haughney, Chief
Fuel Cycle Safety Branch
Division of Industrial and
Medical Nuclear Safety
Office of Nuclear Material Safety
and Safeguards

Enclosures:
As stated

cc: Attached List

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PDR ADOCK 04002061
C PDR

NFLQ
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Board Notification 90-15 dated December 7, 1990

cc:

J. Taylor, EDO
H. Thompson, DEDS
R. Bernero, NMSS
G. Arlotto, NMSS
W. Parler, OGC
L. Chandler, OGC
R. Cunningham, IMNS
G. Sjoblom, IMNS
A. B. Davis, Reg III
SECY (3)
J. Lieberman, OE

cc:

Administrative Judge
Thomas S. Moore, Chairman
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Christine N. Kohl
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Howard A. Wilber, Chairman
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
John H. Frye, III, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board
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Washington, DC 20555

Administrative Judge
James H. Carpenter
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Docketing and Service Section (3)
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Adjudicatory File
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing Appeal
Panel (5)
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Atomic Safety and Licensing
Board Panel (1)*
U.S. Nuclear Regulatory Commission
Washington, DC 20555

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FROM: IDNS DIRECTORS OFF

TO: 917087905665

DEC 5, 1990 2:57PM P.01



*Copies To: Paperville
Lickus
Holt*

STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY
1035 CENTER PARK DRIVE
SPRINGFIELD, IL 62704
(217) 785-9900

THOMAS W. ORTCIGER
DIRECTOR

JAMES R. THOMPSON
GOVERNOR

December 5, 1990

To: Bert Davis
Regional Administrator
U.S. Nuclear Regulatory Commission

From: Thomas W. Ortziger
Illinois Department of Nuclear Safety
(217) 785-9868

No. of Pages in Telefax including transmittal 7

Enclosure

~~9012110059~~ 1p.



STATE OF ILLINOIS
 DEPARTMENT OF NUCLEAR SAFETY
 1035 OUTER PARK DRIVE
 SPRINGFIELD, IL 62704
 (217) 785-9900

THOMAS W. ORTOGER
 DIRECTOR

JAMES R. THOMPSON
 GOVERNOR

December 5, 1990

CERTIFIED MAIL

Mr. Carlton Kammerer, Director
 State Programs
 Office of Governmental and
 Public Affairs
 U.S. Nuclear Regulatory Commission
 Washington, D.C. 20555

Dear Mr. Kammerer:

On October 18, 1990, Chairman Carr sent a letter to Governor Thompson notifying him that the Nuclear Regulatory Commission had approved amendment of the Section 274 Agreement with Illinois to cover byproduct material as defined in Section 11e.(2) of the Atomic Energy Act, as amended. The purpose of this notification is to enable the Commission to carry out its responsibilities under Section 274o, as discussed in Chairman Carr's letter to Governor Thompson.

In compliance with Chairman Carr's request, I am hereby notifying you that the Department of Nuclear Safety intends to implement 32 Ill. Adm. Code 332.30(c) with regard to License Number STA-583, issued to Kerr-McGee Chemical Corporation. That regulation provides as follows:

Any person who, on the effective date of an Agreement between the State and NRC transferring regulatory authority to the State, possesses a license issued by the NRC, to operate a source material milling facility or byproduct material surface impoundment or disposal area or to receive, possess, dispose of, or transfer source or byproduct material associated with such facilities, shall be deemed to possess a like license issued under this Part. Such license shall expire 90 days after receipt from the Department of a notice of expiration of such license or on the date of expiration specified in the NRC license, whichever is earlier.

On December 5, 1990, the Department sent a letter to Dr. John C. Stauter, Kerr-McGee Chemical Corporation, to notify Kerr-McGee that pursuant to Section 332.30(c), Kerr-McGee's license would expire 90 days from receipt of the notice. A copy of this letter is enclosed.

NRC's rules do not contain a provision equivalent to Section 332.30(c). The Department does note, however, that the regulation is identical in

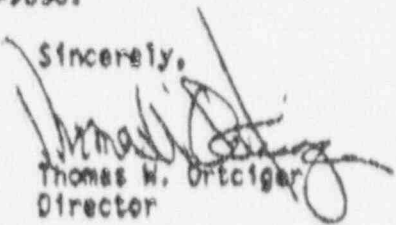
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Mr. Carlton Kammerer
Page 2
December 5, 1990

substance to 32 Ill. Adm. Code 330.360, which the Commission previously found to be compatible. We also note that Section 332.30(c) is substantively similar to Section C.36 of the Suggested State Regulations for Control of Radiation. Unless advised otherwise, we will assume that NRC will provide an opportunity for a public hearing on the Department's implementation of 32 Ill. Adm. Code 332.30(c) and that we should proceed to prepare and submit to the Commission a document describing the Department's rationale for the requirement and an analysis of the level of protection that will be afforded by the regulations.

Should you have any questions regarding this matter, please feel free to contact Joseph @. Klinger at 217/785-9830.

Sincerely,


Thomas W. Ortziger
Director

TWO/vbh



STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY
1035 OUTER PARK DRIVE
SPRINGFIELD, IL 62704
(217) 785-9900

THOMAS W. ORTCIGER
DIRECTOR

JAMES R. THOMPSON
GOVERNOR

December 5, 1990

CERTIFIED MAIL

Dr. John C. Stauter, Vice President
Environmental Services
Kerr-McGee Chemical Corp.
Kerr-McGee Center
Oklahoma City, OK 73126

Dear Dr. Stauter:

As you know, "Amendment Number One to the Agreement Between the United States Nuclear Regulatory Commission and the State of Illinois for Discontinuance of Certain Commission Regulatory Authority and Responsibility within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended" became effective on November 1, 1990. By the terms of Amendment Number One, Illinois assumed, and NRC relinquished, regulatory authority over byproduct material as defined in Section 110.(2) of the Atomic Energy Act, as amended, thereby effectuating a transfer of regulatory authority.

With regard to such transfers, Section 332.30(c) of the Department's regulations provides:

Any person who, on the effective date of an Agreement between the State and NRC transferring regulatory authority to the State, possesses a license issued by the NRC, to operate a source material milling facility or byproduct material surface impoundment or disposal area or to receive, possess, dispose of, or transfer source or byproduct material associated with such facilities, shall be deemed to possess a like license issued under this Part. Such license shall expire 90 days after receipt from the Department of a notice of expiration of such license or on the date of expiration specified in the NRC license, whichever is earlier. (32 Ill. Adm. Code 332.30)

In accordance with this provision, I am hereby notifying you that License Number STA-583 issued to Kerr-McGee Chemical Corporation shall expire 90 days after receipt of this letter.

As provided by the Department's regulations, the expiration date applies only to the receipt and processing of ores and the emplacement of byproduct material. Please take note that expiration of the license does not relieve

Dr. John C. Steuter

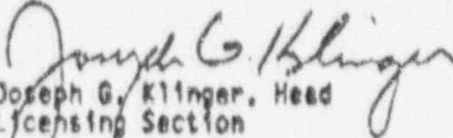
Page 2

December 5, 1990

the licensee of responsibility for implementing reclamation, decontamination, stabilization and closure, postclosure observation and maintenance, and transfer of the license to the ultimate governmental owner.

Kerr-McGee may apply for a new license by submitting an appropriate application to the Illinois Department of Nuclear Safety. Should you have any questions, please feel free to contact me.

Sincerely,


Joseph G. Klinger, Head
Licensing Section

News from the Illinois Department of Nuclear Safety

1035 Outer Park Drive

Springfield, Illinois 62704

(217) 785-9868

KERR-MCGEE LICENSE TO
EXPIRE IN 90 DAYS: IDNS

December 5, 1990

Contact: Patti Thompson
(217) 785-0229

SPRINGFIELD, IL....The Illinois Department of Nuclear Safety (IDNS) today announced it has notified Kerr-McGee that its license issued by the U.S. Nuclear Regulatory Commission (NRC) for the West Chicago Rare Earths Facility will expire in 90 days.

IDNS Director Thomas W. Ortziger said the department is implementing a regulation for mill tailing licenses that provides that such licenses shall expire 90 days after the licensee receives a notice of expiration or on the expiration date specified in the NRC license, whichever is earlier. Kerr-McGee may submit an application to IDNS for a new license.

"As the regulatory authority over the materials in West Chicago, we want to make sure that any actions at the site are in compliance with our regulations," Ortziger said. "We believe the best way to ensure this is to have Kerr-McGee apply for a new license."

On November 3, 1990, regulatory authority over thorium processing and mill tailing disposal was transferred from the NRC to IDNS. The Kerr-McGee license, which was transferred to IDNS at that time, was set to expire in the year 2000.

The IDNS regulations were reviewed and approved by NRC prior to the transfer of regulatory authority. IDNS provided notice of its action to NRC.

Ortziger said the expiration notice marked another step forward in

MORE

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FROM: DNR DIRECTORS OFF

TO: 917087905665

DEC 5, 1990

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efforts to ensure that the health and safety of West Chicago citizens is protected. "By issuing this notice, the Department is paving the way to evaluate against state standards any activities that Kerr-McGee may propose regarding the materials at West Chicago," he said.

Ortciger said the expiration notice does not relieve Kerr-McGee from its responsibility for properly handling the mill tailings. "Even if Kerr-McGee allows the license to expire, they still would be fully responsible for reclamation, decontamination and other activities that ensure public health and safety are not threatened," he said.

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