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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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OFFICE OF SECRETARY
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IN THE MATTER OF)
)
KERR-McGEE CHEMICAL CORPORATION)
)
(West Chicago Rare Earths Facility))
)
55 Fed. Reg. 41619 (October 12, 1990))
_____)

Docket No. 40-2061-ML

KERR-McGEE RESPONSE TO COMMISSION ORDER

On December 7, 1990, the Commission issued an order requesting that Kerr-McGee Chemical Corporation ("Kerr-McGee"), the City of West Chicago ("City"), and any other interested persons express their views on various matters relating to the Commission's resolution of a hearing request by the City. Kerr-McGee hereby responds.

The Commission has inquired whether the Commission's action on the hearing request might serve to prejudge certain jurisdictional questions now pending before the Appeal Board. As a result of a motion filed by the City and the State of Illinois ("State") on October 22, 1990, the Appeal Board currently is considering the effect of the transfer of certain of the NRC's jurisdiction to the State pursuant to a Section 274 agreement. See 55 Fed. Reg. 46,591 (1990). The issue has been fully briefed before the Appeal Board and oral argument

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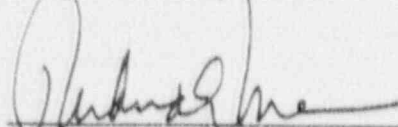
on the matter is scheduled for January 16, 1991. Because the City's hearing request also raises the issue of the effect of the agreement, it is Kerr-McGee's view that any immediate Commission action on the jurisdictional issues raised by the City's hearing request may serve to interfere with the Appeal Board's decision on the prior motion pending before it.

The Commission also inquires whether the parties have any objection to the Commission's withholding action on the request until the Appeal Board has ruled and the Commission has reviewed that decision. Kerr-McGee has no objection to any such deferral of action by the Commission. In fact, Kerr-McGee urges the Commission delay its consideration of the jurisdictional issues so that it can gain the benefit of the Appeal Board's deliberations. Once the Appeal Board issues its decision, the Commission may also find it appropriate to seek the further views of the parties on the implications of that decision on the City's hearing request.

The deferral of action on the hearing request will not serve to prejudice the City or any other interested persons. Although Kerr-McGee's NRC license authorizes Kerr-McGee to proceed with the off-site cleanup that is the subject of the City's hearing request, Kerr-McGee has not

commenced the cleanup program and does not anticipate
commencing the program until the Spring, at the earliest.

Respectfully submitted,



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December 21, 1990

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CERTIFICATE OF SERVICE

DEC 24 11:09

I hereby certify that I have caused copies of the foregoing Kerr-McGee Response to Commission Order to be served by first-class mail, postage prepaid, on this 21st day of December, 1990, as follows:

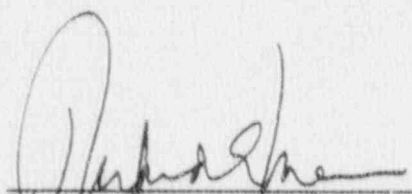
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