



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

RELATED CORRESPONDENCE

July 25, 1985

DOCKETED  
USNRC

Anne Rapkin, Esq.  
Assistant Attorney General  
Environmental Controls Division  
100 W. Randolph - 13th Floor  
Chicago, IL 60601

'85 JUL 30 AIG 03

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

In the Matter of  
KERR-MCGEE CHEMICAL CORPORATION  
(West Chicago Rare Earths Facility)  
Docket No. 40-2061 ML, ASLBP No. 83-495-01-ML

Dear Ms. Rapkin:

This is in response to your letter of May 3, 1985, regarding the NRC Staff Answers to the People of the State of Illinois' Second Set of Interrogatories. The Staff is supplementing its responses to Interrogatories 21, 30, 31, 33, 45, 47 and 82. This letter sets forth the basis for our belief that no supplementation of our other responses is necessary. We address the specific comments in your letter, following the letter's format.

Interrogatory 4

The Staff's response is as specific as possible, since the features to be considered in judging the adequacy of existing tailings sites are those set forth in 10 C.F.R. Part 40, Appendix A.

The phrase "as evaluated by the criteria of 10 C.F.R. Part 40 Appendix A" in the response means that the proposal for disposal of the mill tailings must meet the applicable criteria of Appendix A. For example, Criterion 2 does not apply to the West Chicago Rare Earths Facility because it is not an in situ extraction operation and is not considered by the Staff to be a "small remote above ground extraction operation[s]." The Staff considers that its reference to the applicable regulations constitutes a complete response to your interrogatory. We did, however, list the principal hydrogeologic considerations involved in evaluating sites for mill tailings. We have nothing further to add to this response.

8507310042 850725  
PDR ADOCK 04002061  
C PDR

DS07

Interrogatory 5

The Staff's original answer is responsive to the interrogatory as posed, which was not limited to "site features," but asked the Staff to describe "all other features" (other than those addressed in Interrogatory 4). In your request for supplementation, you have asked the Staff to respond in terms of specific features which you list. The Staff relies in this regard on its reference to the applicable regulations.

Interrogatory 6

You seem to object to the Staff's understanding of the word "area." In the Staff's view, Illinois must contain "areas" having the hydrogeologic features addressed in our response to Interrogatory 4, since the State contains "sites" having those features. The Staff's understanding of "area" is that it includes "site" and that, therefore, if "sites" exist, "areas" must necessarily exist. The Staff has nothing to add to its response to this interrogatory.

Interrogatory 8

See the discussion, above, with respect to Interrogatory 5. Since the Staff considers its answer to Interrogatory 5 to be responsive, it also considers the answer to Interrogatory 8 to be responsive.

Interrogatory 21

The answer we provided was intended to indicate that the fact that mill tailings already exist on particular sites is a consideration to be given weight in the Commission's determinations regarding disposal of those tailings. This consideration is consistent with Appendix A to Part 40 and the National Environmental Policy Act, and reflects the fact that the Commission's determinations on the adequacy of existing tailings sites should include consideration of the benefits versus the costs of disposal at the existing sites as compared with alternative sites.

Interrogatory 30

The Staff's objection was not limited to the People's request for a projected total cost of maintenance measures, but went to the entire interrogatory. The Staff has not made a determination on what post-closure maintenance measures it considers necessary. The Staff will address post-closure maintenance measures in the Supplement to the FES. The last sentence of our response merely indicated that this matter would be addressed in the FES and was not intended to constitute a response to this interrogatory. Therefore, the Staff did not waive its objection by providing this information.

Interrogatory 31

The Staff has not determined what, if any, measures will be required to exclude human beings from the West Chicago disposal site for the case of permanent disposal. The Staff's objection reflected the fact that to provide the details requested by the People would entail additional research not yet completed by the Staff. The matter of interim measures to protect the site against human entry is addressed in the FES (e.g., at H-189).

Interrogatory 32

The Staff has not determined what measures will be necessary for post-closure groundwater monitoring for permanent onsite disposal. The Staff's objection reflected the fact that to provide the details requested by the People would entail research that the Staff has not undertaken and may not need to undertake. The details that this interrogatory requests will be determined upon the Staff's review of Kerr-McGee's proposal, as indicated in our answer.

Interrogatory 33

The Staff has not determined in any greater detail than that set forth in Section 7.4.3 of the FES what measures will be necessary for post-closure radiological monitoring for onsite disposal. The Staff's objection reflected the fact that it had not determined the details requested in this interrogatory and would have to undertake research to provide the details requested.

Interrogatory 36

The reason for the Staff's statement in its response that it relied on its calculations only to demonstrate that releases will be maintained below 20 pCi/m<sup>2</sup>/sec is that 20 pCi/m<sup>2</sup>/sec is the applicable regulatory standard. See 40 C.F.R. § 192.32(b)(1)(ii). Therefore, the interrogatory, insofar as it relates to the 2 pCi/m<sup>2</sup>/sec standard, which has been superseded, is not material to this proceeding.

Interrogatory 43

This interrogatory appears to be premised on an assumption that the Staff has devised a neutralization plan that differs from that described in Kerr-McGee's response to the People's Interrogatory 37. That premise is incorrect. As indicated in the Kerr-McGee response, Kerr-McGee has not yet determined precisely what neutralization procedure it will employ. The Staff expects that Kerr-McGee will present its proposed procedure during the course of testimony in this proceeding and that will afford the Staff the opportunity to provide any comments it may have on the proposed procedure. The Staff, therefore, has nothing to add to its response.

Interrogatory 45

Under the Commission's regulations (10 C.F.R. §§ 2.740(b)(1) and 2.751a(d)), discovery may not be had on contentions that have not been admitted into the proceeding. As indicated in the sentence that is left out of your quotation from LBP-84-42, 20 NRC 1296, at 1318, the contention on this issue (AG-1(f)) has been held in abeyance pending a proposal by Kerr-McGee to add material from the identified locations to the proposed disposal cell. Without waiving our objection, we note that the Staff has requested Kerr-McGee to provide estimates of the volume of contaminated soil that has been or may be moved back to the site from the scattered hot spots in the City of West Chicago, Reed-Keppler Park and the Sanitary Treatment Plant. The Staff has not yet received these estimates from Kerr-McGee.

Interrogatory 47

The Staff is providing a supplemental response to Interrogatory 47.

Interrogatory 60

If the term "buffer land" is a term of art, it is one that the Staff does not understand. The applicable regulations make no reference to "buffer land." Similarly, "appropriateness," not being a regulatory standard, is not a concept on which the Staff would base a judgment regarding disposal options. Therefore, the Staff's views regarding the appropriateness of the purchase of buffer land is irrelevant to any determination the Staff would be required to make under the applicable regulations. Accordingly, the Staff has nothing to add to its response.

Interrogatory 69

The Staff has nothing further to add to its response.

Interrogatory 70

The Staff has made no attempt to identify particular uses which might be compatible with maintaining the cover against damage and erosion. The Staff has nothing to add to its initial response.

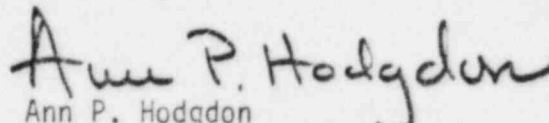
Interrogatory 72; Interrogatory 75

The Staff's comments in response to the People's comments on Interrogatory 45 are equally applicable to Interrogatories 72 and 75.

Interrogatory 82

The Staff stands on its previously stated objection but is supplementing its response to indicate why it has not undertaken the research you seem to think is necessary.

Sincerely,

  
Ann P. Hodgdon  
Counsel for NRC Staff

cc: Peter Nickles, Esq.  
Mead Hedglon, Esq.  
Steven Seiple, Esq.  
Thomas W. Fawell, Esq.

Richard A. Meserve, Esq.  
John C. Berghoff, Esq.  
Docketing and Service Section