

SEP 22 1988

Docket Nos. 50-603
50-604

Mr. Charles P. West
Division of Radiological Health
Tennessee Department of Health and
Environment
150 Ninth Avenue North
Nashville, TN 37219-5404

Dear Mr. West:

I am writing in response to your letter dated August 30, 1988, concerning letters from AlChemIE to the U.S. Nuclear Regulatory Commission, dated August 17, 1988. The letters concerned AlChemIE's revision to its information submitted previously on the applicability (or non-applicability) of all sections of 10 CFR Part 50 to their applications for licenses for facilities which enrich stable isotopes.

Based on my reading of the information in those letters and on my telephone conversation with you on September 14, 1988, I wish to provide the following observations:

1. In its letter of February 3, 1988, AlChemIE attached a letter from the Department of Energy which indicated that a total of 21.3 kilograms of uranium was firmly fixed to the centrifuge machines from the Department's testing program. If all of the feed material used in the test were natural uranium, the total uranium 235 would be about 150 grams (21300×0.0071). Thus, the 170 grams cited by AlChemIE for item §50.34 (c)(d) is an overestimate of that total.
2. Apart from the question of the quantity of uranium to be possessed by AlChemIE, Section 150.15 (a)(1) of 10 CFR Part 150 states that the Commission retains authority with respect to the construction and operation of any production or utilization facility and Section 8.4 of 10 CFR Part 8 indicates that the Atomic Energy Act sets forth a pattern for licensing production facilities on the basis of common defense and security, which pattern requires, in general, that the construction and operation of production facilities and the possession and use of source and special nuclear material, be licensed and regulated by the Commission. In simpler terms, if we license the facility, we license the material which goes with it. This is the basis for our jurisdiction over the residual uranium in this particular instance.

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- 3. With respect to the possible enrichment of naturally occurring radioactivity and State jurisdiction, we fully agree that the State has jurisdiction, but do not believe that it is an issue pertinent to our review and evaluation of the AlChemIE applications. In other words, if the State exercises its jurisdiction, AlChemIE will need the approval of both the Commission and the State in order to operate the two proposed facilities.

Sincerely,

Original Signed By:

A. Thomas Clark, Jr.
 Advanced Fuel and Special
 Facilities Section
 Fuel Cycle Safety Branch
 Division of Industrial and
 Medical Nuclear Safety
 Office of Nuclear Material
 Safety and Safeguards

cc: M. Pearigen, TN
 W. Pfeifer, AlChemIE

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*see previous concurrence

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- 3. With respect to the possible enrichment of naturally occurring radioactivity and State jurisdiction, we fully agree that the State has jurisdiction, but do not believe that it is an issue pertinent to our review and evaluation of the AlChemIE applications.

A. Thomas Clark, Jr.
 Advanced Fuel and Special
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 Fuel Cycle Safety Branch
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 Medical Nuclear Safety
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