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AREA CODE 512 / 479-8125

December 23, 1986

Linda L. Robinson, Chief
FOIA and Privacy Branch
U. S. Nuclear Regulatory Commission
Washington D.C. 20555

FREEDOM OF INFORMATION
ACT REQUEST

FOIA-86-896
Rec'd 12-30-86

Dear Ms. Robinson:

This is a request for information under the Freedom of Information Act, 5 U.S.C.A. Section 552, and the NRC's implementing regulations found at 10 CFR Part 9.

Please provide copies of the following:

1. Any NRC documents, correspondence, interpretive letters, or statements regarding the scope of the definition of "byproduct material" as defined at 42 U.S.C. Section 2014(e)(2). Please note that I am only concerned with Subsection 2 of the "byproduct definition" and the "processed primarily for its source material content" test set out therein.

2. Within request No. 1, the Final Environmental Statement for the Kerr McGee "Rare Earths" facility in West Chicago, at pages H-4, and H-5 apparently addresses the application of the byproduct definition to the Kerr McGee wastes. I know this from the discussion and citation in Brown v. Kerr McGee, 767 F.2d at 1242. Please provide copies of these pages and any other pages that discuss the applicability of the the byproduct definition to the wastes found at the Kerr McGee facility.

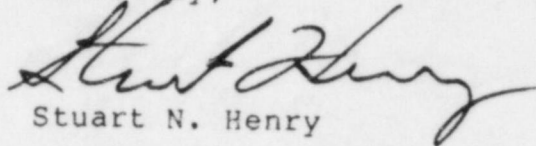
3. Also, within No. 1 above, please provide any documents discussing the applicablity of the byproduct definition to the wastes from other chemical facilities producing "rare earths." One such facility is the Rhone-Poulenc Inc. Rare Earths facility in Freeport, Texas.

4. Please provide any NRC documents, interpretive letters, or correspondence concerning the legality of the expansion of the byproduct definition under Texas law, Article 4590f, Section 3(a), Vernon's Texas Revised Civil Statutes, to add the phrase "other tailings of similar radiological characteristics" as such expansion may impinge on the compliance of the Texas "Agreement state" program under the Atomic Energy Act and the Uranium Mill Tailings Radiation Control Act of 1978.

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PDR FOIA
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I appreciate your assistance in this matter. If you have any questions regarding this request or need further information, please do not hesitate to contact me or Bill Bunch of my office.

Sincerely,

A handwritten signature in cursive script, appearing to read "Stuart Henry".

Stuart N. Henry