



KERR-McGEE CORPORATION

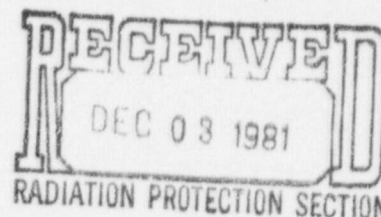
KERR-McGEE CENTER • OKLAHOMA CITY, OKLAHOMA 73125

November 30, 1981

ENVIRONMENT AND HEALTH MANAGEMENT DIVISION

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Mr. Gerald W. Stewart
Radiation Protection Bureau
New Mexico Environmental Improvement Division
P.O. Box 968
Crown Building
Santa Fe, New Mexico 87503



Dear Mr. Stewart:

This letter is in response to your letter of September 29, 1981, requesting timing commitments for the submittal of additional information required by EID for the Ambrosia Lake Mill License Renewal Application. A schedule for these submittals is attached. You will also find attached a discussion of several of the subjects covered in your letter.

Kerr-McGee notes that the Nuclear Regulatory Commission (NRC) has taken the position that New Mexico's authority over uranium mill tailings automatically terminated on November 8, 1981 and that the federal agency now has jurisdiction over uranium mill tailings in the State of New Mexico. See 46 Fed. Reg. 55505 (Nov. 10, 1981). If NRC is correct that it has jurisdiction, NRC's jurisdiction is exclusive, and the State lacks authority to regulate. More specifically, if NRC has jurisdiction, Kerr-McGee's pending license application to the State is moot. It is Kerr-McGee's position that New Mexico's regulatory authority did not automatically terminate on November 8 and that NRC accordingly lacks jurisdiction within the State. We are accordingly responding to your letter on the basis of our position that NRC's assertion of authority is unlawful. If NRC's position is upheld, however, we will immediately re-evaluate our position.

If you think a meeting in Santa Fe would be helpful to clarify some of the discussion, we can be available the week of December 14, or January 4.

Sincerely,

W. J. Shelley, Vice President
Nuclear Licensing & Regulations

attachments

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Discussion of items in EID September 29, 1981 letter to W.J. Shelley

Chapter 1: As noted in our earlier correspondence, the New Mexico Court of Appeals has invalidated Section 3.300.J, and the New Mexico Supreme Court has now rejected the State's Request for review. It is our view that the court proceedings have been completed and the regulation is not effective. Therefore, this information will not be furnished.

Chapter 2: 1. See schedule.
2. See schedule.
3. Section 3-300K.1.d. of the Radiation Protection Regulations states:

"engineered and natural site characteristics shall be such that the site is so well protected from flood damage, that any transport of radionuclides and the resulting radiation exposures to the public therefrom, as a result of damage from a flood of such magnitude, that it could be expected to occur but once in one hundred years shall not exceed the standards provided in Part 4;".

In accordance with this regulation, Kerr-McGee will design and implement a diversion system designed to protect the tailings pile from a 100-year flood. Moreover, due to difficulties encountered in obtaining access to the property in Section 36 T14N, R10W, current plans for rainfall diversion are directed toward improvement and realignment of the existing diversion to the south of the tailings area. A construction timetable will be prepared and submitted after engineering approvals are obtained from the State Engineer. These approvals are expected in March 1982. The discharge plan will be supplemented to so provide. EID will be provided with information for such a system in accordance with the attached schedule.

4. See schedule.

Chapter 4: See schedule.

Chapter 5: 1. See schedule.

2. Condition 14 of Source Material License SUA-616 states: "... the licensee shall conduct environmental surveys in accordance with the procedures described in Items 7 and 14 of Attachment B of his application dated February 3, 1970." To our knowledge, there has been no change or amendment to that license that changes those survey requirements. Accordingly, as we stated in our response, "analysis of Th-230, Pb-210, and Po-210 are not available."

See confirmed only ✓ mail →
We plan to sample and analyze for those requested items to establish the need for continued analysis. See schedule for timing commitments.

3. See schedule.
4. See schedule.
5. See schedule.
6. Kerr-McGee notes that preparation of the information hinged in part in the nature of EIB's new regulations. Since the regulations are now in place, it is feasible to prepare the information. It will be submitted in accordance with the attached schedule.
7. See schedule.
8. See schedule.
9. See schedule.
10. See schedule.
11. See schedule.

Chapter 7: See response for Item 2 of Chapter 5 above. See schedule for timing commitments.

Chapter 8: 1. A contingency plan for actions required as a result of any realistic tailings release was submitted with

the License Renewal Report as Appendix F. The information requested under Section 3-300.L. of the NMRPR is not required. The New Mexico Court of Appeals ruled, "regulation 3-300L is not in effect because it was not adopted by a majority vote of a quorum of EIB after it was placed in a state of suspension." This ruling has been validated by the New Mexico Supreme Court's refusal to review the Court of Appeals decision.

2. See schedule.

3. See schedule.

Chapter 9: 1. See response for Item 2 of Chapter 5 above. To this date, there has been no such "license amendment, rule, regulation, order" that incorporates requirements for quarterly reporting of monitoring results. As stated earlier, the data will be summarized on a quarterly basis and will be available for EID review.

2. See schedule.

3. See schedule.

4. See Chapter 9, Table 9-1, for frequency of sampling.

5. See schedule.

6. See response for Item 2, Chapter 5 above.
See schedule for timing.

7. See response for Item 2, Chapter 5 above.
See schedule for timing.

8. See response for Item 2, Chapter 5 above.
See schedule for timing.

9. See response for Item 2, Chapter 5 above.
See schedule for timing.

Chapter: 10 1. The original KM plans for use of the existing tailings disposal area have been modified only slightly in the last 22 years. Any USGS map of the area clearly shows that 2 tailings areas existed very early in the operations.

The maps (1 & 6) submitted in the 1975 report clearly show tailings disposal in the area of currently existing ponds, 1, 2, 7 and 8. We are not now and have never contemplated use of a new tailings area. Assertions to the contrary are without any foundation in fact. In accordance with the regulations recently promulgated in New Mexico, an analysis of tailings management alternatives will be presented according to the schedule.

2. See schedule for timing commitments for liquid recycle programs and ponds 9 & 10 liner repair. Lining of ponds 1, 2, 3, or 8 is unreasonable and unnecessary. Pond lining is unreasonable because it would require movement of over 30 million tons of material. The cost of such an effort would clearly outweigh any possible benefit attributed to it. Pond lining is unnecessary because alternative efforts to minimize seepage will be adequate and effective. As stated in the License Renewal Report, Item 10.2, page 10-2, the Company intends to implement certain actions to minimize groundwater contamination. Item 10-2(d) states "install a bentonite-containing slurry trench down-gradient of the tailings pile just east of pond #3. (ii) Pump seepage collected behind the slurry trench into an existing lined evaporating pond." This engineering control will intercept all seepage from the ponds in question into the alluvium underlying the ponds. No other significant seepage will occur.

Stability analyses have been performed several times on the dam for tailing pond #1. Copies of these analyses are in the EID files. A review of Map 2, Sheet 1 in the applicant's License Renewal Report will reveal that ponds 2, 7 and 8 are upgrade from pond 1. Any breach of pond 7 would go into pond 2. The pond 2 dam also serves as the west dam for pond 1 and a breach of that

(over)

on 1/14/82, p. 2, "dam."
pond 4, 5, 6... will
minimize water content
- Why not minimize
I more by lining
2 & 3 & ditch 1-3?

dam would release tailings from pond 1 to pond 2. Therefore, since a breach of any of the dams for ponds 2,7, and 8 would be contained, the applicant considers stability analyses to be unreasonable and unnecessary.

Pond 3 is a seepage diversion pond with a liquid level normally only 1.5 feet deep which is retained by a dam which is less than 10 feet in height and backed up by a seepage draining ditch. It is considered unreasonable and unnecessary to require stability analyses for such a relatively insignificant system that has withstood the trials of nearly 23 years of service.

The ponds 11-21 were analyzed for stability as a result of the State Engineer's requirements for such analyses for impoundments across waterways and the much larger volumes of liquids involved in the impoundments.

3. Kerr-Mcree believes that the information supplied is adequate, particularly when read in conjunction with the Company's groundwater discharge plan. However, the Company intends to supplement the information in accordance with the schedule.
4. See schedule for timing commitments.
5. See schedule.
6. Kerr-McGee has made initial estimates concerning the cost of complying with certain aspects of NRC's Uranium Mill Licensing Requirements, published at 46 Fed. Reg. 65521 (October 3, 1980).

Mr. Shelly testified concerning these estimates before the EIB on June 13, 1981. Kerr-McGee notes that Mr. Shelley was available for cross-examination by EID at the time concerning the Uranium Mill Licensing Requirements.^{1/} Kerr-McGee notes, however, that there are a plethora of proposed environmental regulations and no definitive quantification of their impact is possible. The Company will supply EID with information concerning various tailings management alternatives in accordance with EIB's regulations and the attached time schedule.

7. See schedule.

Chapter 11: 1. See schedule.

2. As EID is aware, at the time of Kerr-McGee's initial response, EIB was in the course of formulating specific New Mexico stabilization requirements. In EID's letter of September 29, EID recognizes that the identification and development of pertinent information necessarily was delayed pending issuance of EIB's regulations. In view of the EIB proceedings, providing the information requested by EID at an earlier time would have been unreasonable. Kerr-McGee will supply the information in accordance with the new EIB regulations as specified in the attached schedule.

Chapter 12: 1 through 8, see schedule.

^{1/} Kerr-McGee notes that Mr. Shelley's testimony concerning the cost to move or to bury the tailings (\$85,000,000) relates only to tailings generated in the future and does not include the 30,000,000 tons of tailings already in existence.

12/15/81

ITEMS REQUESTED BY EID TO COMPLETE KM LICENSE RENEWAL APPLICATIONDate to EIDChapter 9:

1. Quarterly reporting of monitoring results (including Th-230, Pb-210, Po-210)
2. Update Map 1 to show sampling methods and frequency from Table 9-1
3. Analytical procedures for U, Ra, Th, and Pb plus lower limits of detection and standard error
4. Stack flow measurement and process rate specified
5. Clarify particulate sampling duration
6. Groundwater and surface water analysis for Unat, Th-230, Ra-226, Pb-210, Po-210
7. Vegetation, food (cattle), and fish analysis for Pb-210
8. Sediment samples analyzed for Unat, Th-230, Ra-226, Pb-210
9. Collect soil samples at air sample site and analyze for Unat, Th-230, Ra-226, Pb-210

12/15/81

12/15/8112/15/8112/15/812/1/822/1/822/1/822/1/82Chapter 10:

1. Analysis of tailings management alternative sites and methods
2. Timing commitment for liquid recycle program and repair of liners in ponds 9 & 10
3. Details on tailings management program required
4. Analysis of tailings methodology alternatives
5. Quantitative details on size and impact of slurry trench
6. Technical and economic information on regulatory impact
7. Engineering details for adequacy of spigotting distance

3/1/8212/15/811/15/822/15/821/15/82

12/15/82Chapter 11:

1. Technical basis for assumption of 55% control for dam and roads
2. Proposed engineering plans and costs for stabilizing waste retention system

12/15/811/15/82Chapter 12:

1. Provide documentation for the periodic review sessions of the Rad Safety Training
2. Detailed description of respirator program
3. Formulate a response to the ALARA objective
4. Supply LLD for each mill survey and method of calculating U, Th, Ra, and Pb from gross alpha
5. Describe time studies for rad safety program
6. Detailed description of bioassay program
7. Details for surface contamination surveys
8. Provide documentation for chosen beta gamms/survey levels

2/15/822/15/822/15/822/15/822/15/822/15/822/15/822/15/82