



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

July 9, 1999

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USNRC

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OFFICE OF THE  
GENERAL COUNSEL  
ADJUDICATIVE DIVISION

MEMORANDUM TO: G. Paul Bollwerk, III  
Chief Administrative Judge  
Atomic Safety and Licensing Board Panel

FROM: Annette L. Vietti-Cook, Secretary *Annette Vietti-Cook*

SUBJECT: REQUESTS FOR HEARING SUBMITTED BY  
THE CITY OF WASHINGTON, PENNSYLVANIA  
AND CANTON TOWNSHIP PENNSYLVANIA

Attached are hearing requests submitted by the City of Washington, Pennsylvania and Canton Township, Pennsylvania dated June 28, 1999. The requests were filed in response to a notice of receipt by the Nuclear Regulatory Commission of a license amendment request of Molycorp, Inc. (Docket Nos. 40-8794 and 40-8778) for temporary storage of decommissioned waste located at its facility in York, Pennsylvania, at its facility located in Washington, Pennsylvania. The Notice was published in the Federal Register at 64 Fed. Reg. 31021 (June 9, 1999) (copy attached).

The requests for hearing are being referred to you for appropriate action in accordance with 10 C.F.R. Sec. 2.1261.

Attachments: As stated

cc: Commission Legal Assistants  
OGC  
CAA  
OPA  
EDO  
NMSS  
John Daniels  
Molycorp, Inc.  
Randolph T. Struk, Esquire  
Jeffrey A. Watson, Esquire  
Samuel P. Kamin, esquire

20652

# Goldberg, Kamin & Garvin

Attorneys at Law

1806 Frick Building

437 Grant Street

Pittsburgh, PA 15219-6101

(412) 281-5227

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Office of the Secretary  
U.S. Nuclear Regulatory Commission  
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Robert J. Garvin  
Samuel R. Grego  
David A. Wolf  
Jonathan M. Kamin

Counsel To The Firm  
Stuart E. Savage

Of Counsel  
Robert W. Mandell

June 28, 1999

Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
Attention: Rulemakings and  
Adjudications Staff

Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

In Re: **Licensee Molycorp, Inc.'s Amendment Request  
Regarding Schedule for Submission of a Revised  
Site Decommissioning Plan for Licensee's  
Washington, Pennsylvania Site**

Dear Sir or Madam:

Enclosed please find a copy of a Request for Hearing by Canton Township, Pennsylvania on Molycorp, Inc.'s Amendment Request Regarding the Schedule for Submission of a Revised Site Decommissioning Plan and Environmental Report for Licensee's Washington, Pennsylvania Site, License No. SMB-1393, for filing in Docket Nos. 040-08794 and 040-08778. Please contact the undersigned if your office requires any further information or documentation concerning this Request for Hearing.

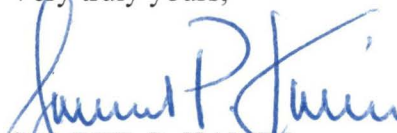
Of particular importance, please note (as set forth in the enclosed Request for Hearing) that there is a 16" main water line which runs under or in close proximity to the nuclear storage site proposed by Molycorp. This water line serves approximately 30% of the residents of Canton Township and a significant portion of the Tylerdale section of the nearby City of Washington, Pennsylvania. We are unsure whether Molycorp is aware of the existence and location of this 16" water line, how Molycorp's proposed Amendment treats the issue of the water line and if any safeguards have been proposed to ensure that such water supply is not contaminated by the proposed operation. This issue is of obvious and critical importance and Canton Township believes it is appropriate to bring this issue to your particular attention.

Office of the Secretary  
Executive Director for Operations  
U.S. Nuclear Regulatory Commission

June 28, 1999  
Page Two.

Please contact this office if you require any further information at this time concerning Canton Township's Request for Hearing and particularly the water line which is located under or near the proposed storage site. Thank you for your attention to this matter.

Very truly yours,



SAMUEL P. KAMIN  
Special Counsel for Requestor  
Canton Township

SPK:smm  
Enclosure

cc: Randolph T. Struk, Esquire (w/enc.)  
Molycorp, Inc. (w/enc.)  
John T. Olshock, Esquire (w/enc.)  
Canton Township Board of Supervisors (w/enc.)  
Pennsylvania Department of Environmental Protection (w/enc.)  
City of Washington (w/enc.)  
Pennsylvania Water Company (w/enc.)

U. S. NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

LICENSEE: MOLYCORP, INC.  
License No. SMB-1393  
Docket Nos. 040-08794 and 040-08778

'99 JUN 30 P3:34

OFFICE OF  
REGULATORY  
AFFAIRS  
U.S. NUCLEAR  
REGULATORY  
COMMISSION

**REQUEST FOR HEARING BY CANTON TOWNSHIP, PENNSYLVANIA  
ON LICENSEE'S AMENDMENT REQUEST REGARDING THE  
SCHEDULE FOR SUBMISSION OF A REVISED  
SITE DECOMMISSIONING PLAN AND ENVIRONMENTAL REPORT  
FOR LICENSEE'S WASHINGTON, PENNSYLVANIA SITE**

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Petitioner/Requestor CANTON TOWNSHIP, by its Solicitor, JOHN T. OLSHOCK, and its special counsel, SAMUEL P. KAMIN and the law firm of GOLDBERG, KAMIN & GARVIN, hereby file the following Request for Hearing, and in support thereof states as follows:

1. The site proposed by Licensee Molycorp, Inc. ("Licensee") for the storage of certain nuclear by-products and/or waste, which material is currently located at Licensee's York, Pennsylvania facility, is located within the municipal boundaries of Petitioner/Requestor. There are three separate areas proximate to each other directly related to this proposed amendment, all as shown on "Attachment A" attached to and made part of this Request for Hearing. Those areas are designated on "Attachment A" as follows:

(a) Area X is the proposed permanent storage site

(b) Area Y is the existing nuclear waste burial mound located in the flood plain along the Chartiers Creek, adjacent to Caldwell Avenue, in Canton Township. This nuclear waste burial ground containing 64,000 cubic yards of waste material, is underlaid by a 16" municipal water line which serves portions of Canton Township and a significant portion of the Tylerdale section of the City of Washington, PA.

(c) Area Z is the "temporary" storage area housing 194 roll off boxes each containing 8,000 pounds of waste material.

Canton Township and its residents have a clear interest in the details of Licensee's proposed amendment to its Site Decommissioning Plan involving such nuclear by-products and/or waste.

2. Canton Township's interests include, but are not limited to:
- (a) Reviewing Licensee's plans insofar as they relate to the safety and protection and general welfare of residents of the Township who live next to and/or near the site;
  - (b) Reviewing Licensee's plans insofar as they relate to safeguards against contamination of nearby streams and other water sources near the site;
  - (c) Reviewing Licensee's plans insofar as they relate to the 16" main water line which serves approximately 30% of the residents of Canton Township and a significant number of residents of the Tylerdale section of the City of Washington, Pennsylvania, which line runs under or very close to Licensee's proposed storage site;
  - (d) Reviewing Licensee's plans insofar as they relate to safeguards against excessive soil erosion caused by physical changes to the site proposed by Licensee, which soil erosion may lead to contamination of nearby water sources and other problems the Township must administer;
  - (e) Reviewing Licensee's plans insofar as they relate to the steps Licensee intends to take in complying, to the best of its ability, with other land use regulations and zoning ordinances of the Township.

3. To date, Licensee has not shared the details of its proposed Amendment with Township representatives and therefore the Township, as the authorized body which represents the interests of all residents of Canton Township, must exercise all due caution to investigate and review the Licensee's plans.

4. Canton Township's interests will be deleteriously affected by the granting of Licensee's proposed Amendment if Licensee's plans do not, *inter alia*, adequately insure the safety, protection, and general welfare of residents of the Township, consider the close proximity of the main water line (which services, *inter alia*, the Tylerdale section of the City of Washington, Pennsylvania) to the existing and proposed storage sites, adequately protect against contamination of nearby streams and other water sources, adequately protect against excessive soil erosion caused by physical changes to the site and do not otherwise comply with the other applicable land use regulations and zoning ordinances of the Township.

5. The issue of the close proximity of the main water line which services Canton Township and the Tylerdale section of the City of Washington, Pennsylvania alone establishes the effect that any order that may be entered by the Nuclear Regulatory Commission on Licensee's proposed Amendment will have on Canton Township, the residents of Canton Township and the residents of the City of Washington. Canton Township is not aware at this time if Licensee's proposed Amendment takes into consideration in any way such water line (which runs under or close to the proposed storage site) and if any safeguards are proposed by Licensee to ensure no contamination of such water supply. For this reason, Canton Township's need for and right to a hearing on the Licensee's proposed Amendment is established.

6. Considering Canton Township's lack of knowledge concerning the Licensee's proposed plans, due in part to the Licensee's failure to date to comply with applicable Township land use regulations and zoning ordinances, the Township is limited in further expounding at this time about the possible effect of any order that may be entered by the Nuclear Regulatory Commission on Licensee's proposed Amendment. For this reason, as well as the very important interests set forth in Paragraph 2 above, Canton Township submits that its need for and right to a hearing on the Licensee's proposed Amendment is established.

7. Both the existing nuclear waste storage area and the proposed temporary storage areas have an adverse and detrimental effect on the nearby residential community as well as the local economy. Property values in the immediate vicinity of the site are negatively impacted.

8. Under these circumstances, Canton Township submits that it has established its need for and right to a hearing on Licensee's proposed Amendment under the standards set forth in 10 CFR §2.1205.

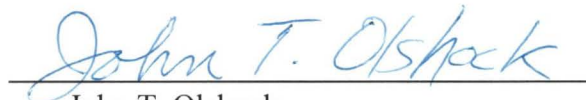
9. It is believed that the notice of the Licensee's Amendment request for the temporary storage of decommissioning waste from the Molycorp York, Pennsylvania facility at the Molycorp Washington, Pennsylvania facility was published in the Federal Register on June 9, 1999. Pursuant to 10 CFR §2.1205(d), a person, other than an applicant, may file a request for a hearing before the

Nuclear Regulatory Commission within thirty (30) days of the publication in the Federal Register of such a notice relating to an application or a licensing action. The instant Request for Hearing has been filed within thirty (30) days of June 9, 1999.

10. As set forth in the attached Certificate of Service, a copy of this Request for Hearing has been properly served on Licensee Molycorp, Inc. and its counsel and on the U.S. Nuclear Regulatory Commission as required by 10 CFR §2.1205(f).

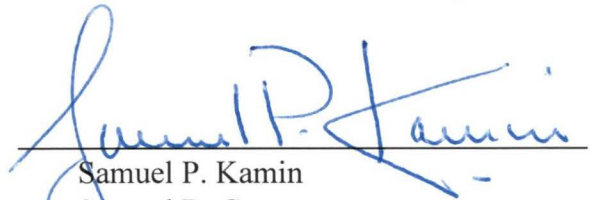
WHEREFORE, Petitioner/Requestor Canton Township, Pennsylvania hereby respectfully requests a hearing before the U.S. Nuclear Regulatory Commission on the pending Amendment request for the temporary storage of decommissioning waste from the Molycorp York, Pennsylvania facility at the Molycorp Washington, Pennsylvania facility of Licensee Molycorp, Inc.

Respectfully submitted,

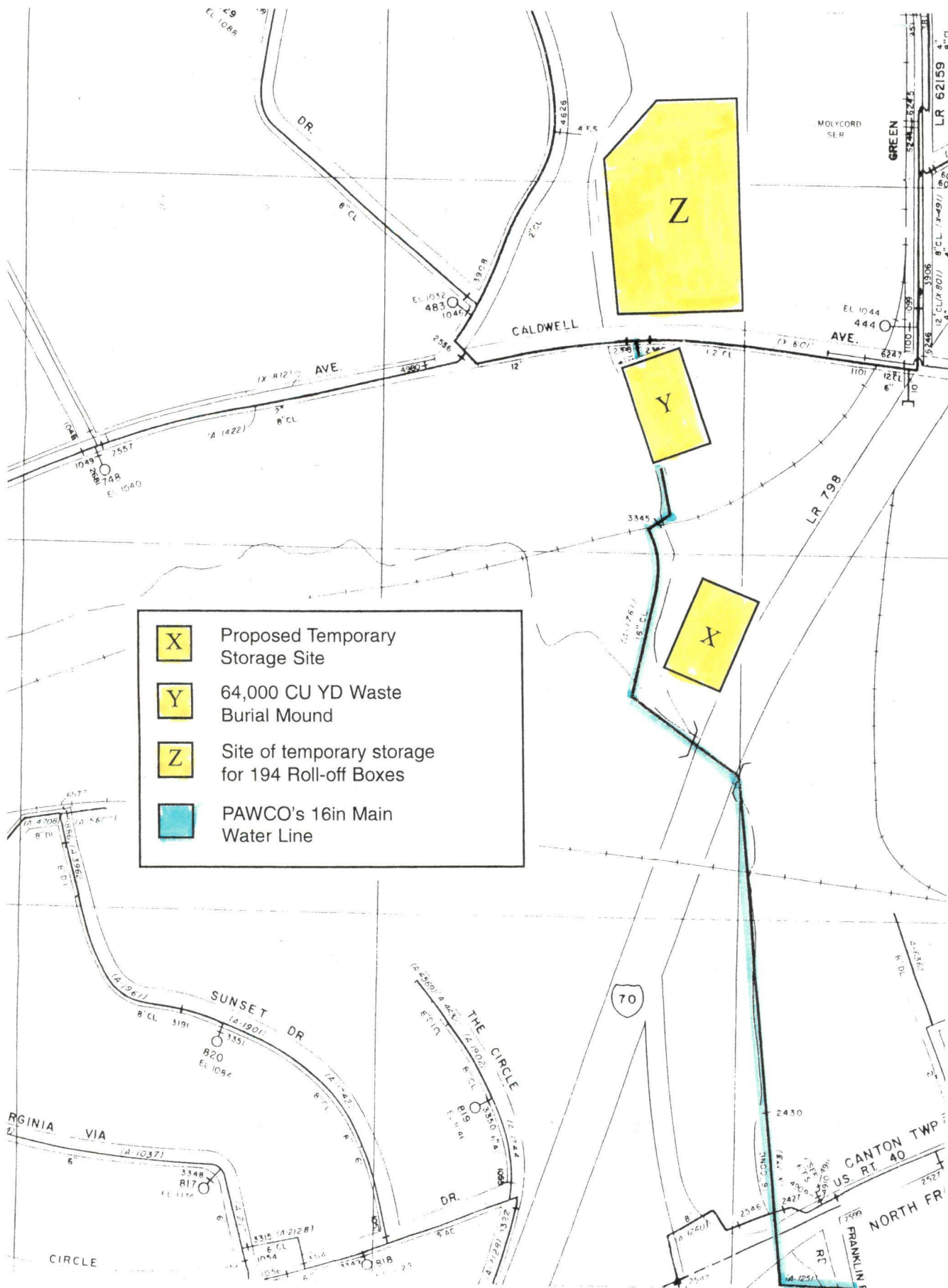


John T. Olshock  
JOHN T. OLSHOCK & ASSOCIATES  
96 N. Main Street  
Washington, PA 15301-4515  
(742) 225-8460  
Solicitor for Canton Township

Date: June 28, 1999



Samuel P. Kamin  
Samuel R. Grego  
GOLDBERG, KAMIN & GARVIN  
1806 Frick Building  
Pittsburgh, PA 15219  
(412) 281-1119  
Special Counsel for Canton Township



- X Proposed Temporary Storage Site
- Y 64,000 CU YD Waste Burial Mound
- Z Site of temporary storage for 194 Roll-off Boxes
- PAWCO's 16in Main Water Line

DISTRIBUTION SYSTEM MAPS  
 P.A.W. CO., WASHINGTON DISTRICT  
 SCALE 1" = 200'

SHEET N 2-

ATTACHMENT "A"



CERTIFICATE OF SERVICE

I hereby certify that the original and/or a copy of the foregoing Request for Hearing has been served this date on the following in the following manner, which service complies with the rules and regulations of the U.S. Nuclear Regulatory Commission:

**VIA FIRST-CLASS MAIL:**

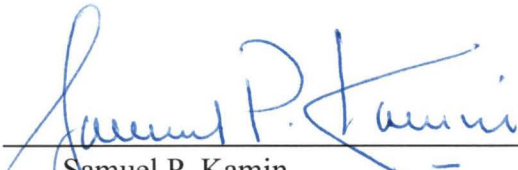
Molycorp, Inc.  
350 N. Sherman Street  
York, PA 17403  
Attention: Mr. John Daniels  
Licensee

Randolph T. Struk, Esquire  
Thorp, Reed & Armstrong, L.L.P.  
One Riverfront Center  
Pittsburgh, PA 15222  
Counsel for Licensee Molycorp, Inc.

Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
Attention: Rulemakings and  
Adjudications Staff

Date: June 28, 1999

  
\_\_\_\_\_  
Samuel P. Kamin  
GOLDBERG, KAMIN & GARVIN  
1806 Frick Building  
Pittsburgh, PA 15219  
(412) 281-1119

Special Counsel for Petitioner/Requestor  
Canton Township

0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Department of the Army, Headquarters U.S. Army Industrial Operations Command, Rock Island, Illinois 61299-6000, Attention: Ms. Rosalene E. Graham; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, between 7:45 am and 4:15 pm Federal workdays; or by mail, addressed to the Executive Director for Operations, U. S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

the interest of the requester in the proceedings.

How that interest may be affected by the results of the proceedings, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

For further details with respect to this action, the site decommissioning plan is available for inspection at the NRC's Public Document Room, 2120 L Street NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 3rd day of June 1999.

For The Nuclear Regulatory Commission.

**John W.N. Hickey,**

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99-14581 Filed 6-8-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-334 and 50-412]

**Duquesne Light Company; Ohio Edison Company; Pennsylvania Power Company; the Cleveland Electric Company; the Toledo Edison Company; Partial Withdrawal of Application for Amendment to Facility Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has

granted the request of Duquesne Light Company (the licensee) to withdraw a portion of its July 9, 1998, application for proposed amendment to Facility Operating License Nos. DPR-66 and NPF-73 for the Beaver Valley Power Station, Unit Nos. 1 and 2, located in Shippingport, PA.

The withdrawn portion of the proposed amendment would have removed the values of the orifice diameter of each main steam safety valve (MSSV) from TS Table 3.7-3 (Unit 1) and Table 3.7-2 (Unit 2). This information will remain in the TSs.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on August 12, 1998 (63 FR 43203). However, by letter dated March 31, 1999, the licensee withdrew this portion of the proposed change as discussed above.

For further details with respect to this action, see the application for amendment dated July 9, 1998, and the licensee's letter dated March 31, 1999, which partially withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this 3rd day of June 1999.

For the Nuclear Regulatory Commission.

**Daniel S. Collins,**

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99-14579 Filed 6-8-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 040-08794 and 040-08778]

**Receipt of An Amendment Request for the Temporary Storage of Decommissioning Waste From the Molycorp York, Pennsylvania Facility (License No. SMB-1408) at the Molycorp Washington, Pennsylvania Facility (License No. SMB-1393) and Opportunity for a Hearing**

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Source Materials License No. SMB-1393, to Molycorp, Incorporated (the licensee), for the temporary (5-10 years) storage of

waste from the former Molycorp rare earth processing facility (License No. SMB-1408) in York, Pennsylvania.

The licensee submitted the amendment in a letter dated February 8, 1996, requesting that License No. SMB-1393 be amended to allow temporary storage of waste from its York decommissioning operations at the Molycorp Washington, PA facility.

The waste from Molycorp's York facility consists of soils from decommissioning waste containing thorium-232 and uranium-238, with a volume of approximately 3,000-5,000 cubic yards, and resulted from operations to recover rare earth metals from bastnaesite ore containing uranium and thorium which are natural components of this ore. These operations were conducted from April 1962 to September 24, 1993. The NRC will require the licensee to demonstrate that the temporary storage facility provides: (1) adequate containment for the waste; (2) sufficient monitoring of effluents during the transfer and storage activities and; (3) an adequate radiation protection plan to help maintain doses as low as reasonably achievable.

Prior to the issuance of the proposed amendment, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulation. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

The NRC provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

2. By mail, telegram, or facsimile to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR § 2.1205(f), each request for a hearing

must also be served, by delivering it personally or by mail, to:

1. The applicant, Molycorp Incorporated, 350 North Sherman Street, York, Pennsylvania 17403, Attention: Mr. John Daniels, and;

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, between 7:45 am and 4:15 pm Federal workdays, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and 4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

For further details with respect to this action, the application for amendment request is available for inspection at the NRC's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 28th day of May 1999.

For the Nuclear Regulatory Commission,  
**John W.N. Hickey,**

*Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 99-14580 Filed 6-8-99; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-275 and 50-323]

### Pacific Gas and Electric Company; Diablo Canyon Power Plant, Units 1 and 2; Issuance of Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (Commission) has issued Amendment No. 135 to Facility Operating License Nos. DPR-80 and DPR-82 issued to Pacific Gas and Electric Company (the licensee) for operation of the Diablo Canyon Power Plant, Units 1 and 2 (DCPP) located in San Luis Obispo County, California.

Because the ITS were being issued as a single document for the two units, the licensee requested that the ITS be issued with the same amendment number for both units. This was acceptable to the Commission and the next amendment number for DCPP Unit 1 was used. Therefore, Amendment Nos. 133 and 134 for DCPP Unit 2 will never be used.

The amendments are effective as of the date of issuance and shall be implemented by May 31, 2000. The implementation of the amendments includes the two license conditions that are being added to Appendix D of the licenses as part of the amendments.

The amendments replace, in its entirety, the current Technical Specifications (TS) with a set of improved TS based on NUREG-1431, "Standard Technical Specifications, Westinghouse Plants," Revision 1, dated April 1995, including all approved changes to the standard TS; the Commission's Final Policy Statement, "NRC Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors," published on July 22, 1993 (58 FR 39132); and 10 CFR 50.36, "Technical Specifications," as amended July 19, 1995 (60 FR 36953). In addition, the amendments added two license conditions to Appendix D of the operating licenses that require (1) The relocation of current TS requirements into licensee-controlled documents, and (2) the first performance of new and revised surveillance requirements for the improved TS to be related to the implementation date for the improved TS. The implementation of the amendments and the license conditions will be completed by May 31, 2000, as stated in the amendments.

The application for the amendments, as supplemented, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 29, 1999 (64 FR 14946). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and has determined not to prepare an environmental impact statement related to the action to convert the current TS to the improved TS. Based on the Environmental Assessment, the Commission has concluded that the

issuance of the amendments will not have a significant effect on the quality of the human environment beyond that described in the Final Environmental Statement (FES) related to the operation of DCPP dated May 1973, and in the addendum to the FES dated May 1976. The Environmental Assessment was published in the **Federal Register** on May 26, 1999 (64 FR 28532).

For CN 9-01-LG in CTS 3/4.4 (and associated CN 3-13-M in CTS 6.0), the licensee has proposed to relocate the pressure/temperature (P/T) limits and low-temperature overpressure protection (LTOP) system limits from the CTS to the pressure temperature limits report (PTLR) and proposed to reference WCAP-14040-NP-A, Revision 1, "Methodology Used to Develop Cold Overpressure Mitigating System Setpoints and RCS Heatup and Cooldown Curves," as the methodology for calculating the P/T and LTOP limits. The staff approved the use of this WCAP report in its generic SE dated October 16, 1995. The licensee, however, has determined that it will operate DCPP for the near future with the existing approved P/T and LTOP limits in the CTS. Therefore, the limits addressed in the PTLR of ITS 5.6.6 are the limits that the staff has previously reviewed and approved in Amendments 133 and 131 for DCPP, respectively, dated May 3, 1999. The amendments approved P/T limit curves that are valid for 16 effective full power years. The licensee will use the methodology in WCAP-14040-NP-A to calculate the future P/T and LTOP limits before the time when the current values given in the amendments become invalid. The staff will review the licensee's future plant-specific application of the PTLR methodology to allow the licensee's future use of PTLR methodology to calculate new P/T and LTOP limits without prior staff approval. In the associated CN 3-13-M in CTS 6.0, the licensee proposed to add a reference to the staff's letter providing this SE that addresses these amendments to the PTLR in ITS 5.6.6. This letter explained that Amendments 133 and 131 for DCPP approved the limits that are listed in the PTLR and addressed the methodology used by licensee to calculate the limits. The staff believes that the staff's approval of the P/T and LTOP limits in Amendments 133 and 131 was not an approval for the licensee to make future changes to these limits using the methodology described in the amendments. Listing the staff's letter that addressed Amendments 133 and 131 in ITS 5.6.6 may imply this is true and the staff is not ready at this time to

The Law Offices Of  
**Smider & Watson**  
A Professional Corporation

138 NORTH FRANKLIN STREET • WASHINGTON, PENNSYLVANIA 15301

PHONE (724) 228-6000 • FAX (724) 228-1570

'99 JUN 29 P2:48

John Patrick Smider

Jeffrey A. Watson

June 28, 1999

OFFICE OF THE SECRETARY  
RULEMAKINGS AND  
ADJUDICATION STAFF

**VIA FEDERAL EXPRESS and  
REGULAR FIRST CLASS MAIL**

Rulemakings and Adjudication Staff  
Secretary of Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, Maryland 20852

RE: Docket Nos. 040-08794 and 040-08778  
City of Washington, PA  
Request For Hearing In Accordance  
With 10 CFR Part 2 Sec. 2.1205 (a)  
Through (d), et seq.

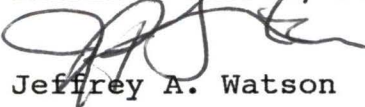
Dear Sir or Madam:

Enclosed please find the original Request For Hearing In Accordance With 10 CFR Part 2 Sec. 2.1205 (a) Through (d), et seq. to be filed on behalf of the City of Washington with regard to the above-noted matter.

Thank you and if you have any questions, or require anything additional, please advise me of the same.

Very truly yours,

SMIDER & WATSON, P.C.



Jeffrey A. Watson

JAW/msp

Enclosure

cc: Secretary, U.S. Nuclear Regulatory Commission, w/enc.  
Attn: Rulemakings and Adjudication Staff  
Executive Director for Operations, w/enc.  
Molycorp, Inc., w/enc.  
Attn: John Daniels  
John T. Olshock, Esquire, w/enc.  
City of Washington, w/enc.  
Canton Township, w/enc.

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'99 JUN 29 P2:48

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
Washington, D.C. 20555-0001

OFFICE OF THE  
RULEMAKING  
ADJUDICATION STAFF

IN RE: NOTICE OF RECEIPT OF AN	)	
AMENDMENT REQUEST FOR THE	)	Docket No. 040-08794
TEMPORARY STORAGE OF	)	Docket No. 040-08778
DECOMMISSIONING WASTE FROM THE	)	
MOLYCORP YORK, PENNSYLVANIA	)	REQUEST FOR HEARING IN
FACILITY (LICENSE NO. SMB-1408)	)	ACCORDANCE WITH 10 CFR
AT THE MOLYCORP WASHINGTON	)	PART 2 SEC. 2.1205 (a)
PENNSYLVANIA FACILITY	)	THROUGH (d) et seq.
(LICENSE NO. SMB-1393) AND	)	
OPPORTUNITY FOR HEARING	)	

AND NOW, comes the CITY OF WASHINGTON, a Third Class City organized and existing under the laws of the Commonwealth of Pennsylvania, by and through its Solicitors, who present the following:

1. That on or about June 4, 1999, the City of Washington received a Notice Of Receipt Of An Amendment Request For The Temporary Storage Of Decommissioning Waste From The Molycorp York, Pennsylvania Facility (License No. SMB-1408) At The Molycorp Washington Pennsylvania Facility (License No. SMB-1393) And Opportunity For Hearing, a copy of which is attached hereto, made a part hereof and marked as **Appendix "A"**.

2. The subject of said Notice requests that License No. SMB-1393 be amended to allow temporary storage of waste from Molycorp's York decommissioning operations at the Molycorp Washington Pennsylvania facility.

3. Said Notice provides that the waste from Molycorp's York Facility consists of soils from decommissioning waste containing

thorium-232 and uranium-238, with a volume of approximately 3,000-5,000 cubic yards, and resulted from operations to recover rare earth metals from bastnaesite ore containing uranium and thorium which are natural components of this ore. Said Notice provides that these operations were conducted from April, 1962, to September 24, 1993. The Notice provides that the NRC will require the licensee to demonstrate that the temporary storage facility provides: 1) adequate containment for the waste; 2) sufficient monitoring of effluents during the transfer and storage activities and, 3) an adequate radiation protection plan to help maintain doses as low as reasonably achievable.

4. The City of Washington, Washington County, Pennsylvania, by its Mayor and Council, believes that its interest may be affected by this proceeding and accordingly, files this Request For A Hearing In Accordance With 10 CFR Part 2 Sec. 2.1205, et seq.

5. In support of the within Request For A Hearing, and pursuant to the requirements of 10 CFR Part 2 of the NRC Regulations, the City of Washington avers as follows:

A. The City of Washington has an interest in the within proceedings. The territorial limits of the City of Washington are adjacent to the territorial limits of Canton Township, Pennsylvania, where the Molycorp Washington, Pennsylvania, facility is situate. In addition, the City of Washington believes, and, therefore avers, that a waterline under the Molycorp property also serves portions of

sections of the City of Washington and the City of Washington residents. In addition, due to the proximity in location from the MolyCorp Washington, Pennsylvania, facility and the territorial limits of the City of Washington, the City believes that the amendment of said License could pose a significant hazard upon the safety and well-being of the residents of the City of Washington and others who have any contact with the territorial limits of the City of Washington.

B. Said interest of the City of Washington may be affected by the results of this proceeding and, accordingly, the City of Washington should be permitted a hearing with regard to these matters. In addition, the City of Washington avers as follows:

(1) The nature of the request, or City of Washington's right, under the Act to be made a party to the proceeding is that the City of Washington, with a population of approximately 17,000, and the lands and territorial limits of the City of Washington may be significantly impacted in the event that the license amendment would be approved, for all the reasons set forth hereinabove.

(2) The nature and extent of the request, or the City of Washington's property, financial or other interest in these proceedings, is that the Mayor and Council of the City of Washington are charged with preventing nuisances and promoting the general health, safety and well-being of the residents of the City of Washington and approval of the license amendment may result in significant hazards to the safety and well-being of the residents of the City of Washington and of those who travel within the territorial limits of the City of Washington, as aforesaid.

(3) The possible effect of any order that may be entered in the proceeding is that it may be detrimental to the health, safety and well-being of the residents of the City of Washington and of those who travel within the territorial limits of the City of Washington and the City believes that the granting of the proposed license amendment could result in significant hazards to the health, safety and well-being of said individuals.

6. The area of concern of the City of Washington about the licensing activity which is the subject matter of this proceeding is that the City believes that approval of the licensing amendment,



as aforesaid, could lead to significant hazards and be detrimental to the health, safety and well-being of the residents of the City of Washington and of those who travel within the territorial limits of the City, for all the reasons aforesaid.

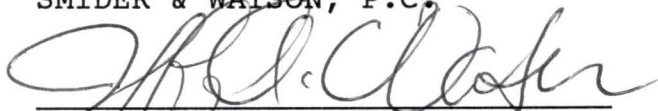
7. 20 CFR Part 2, Sec. 2.1205(d) provides that any person, including the City of Washington, may file a request for a hearing within thirty (30) days of the Agency's publication in the FEDERAL REGISTER, or if not published, thirty (30) days after the requester receives actual notice of the pending application. Accordingly, the City of Washington has filed this request for a hearing pursuant to said Rules.

8. The City of Washington believes, and, therefore avers, that amending the said license and permitting the waste from Molycorp's York facility consisting of soils from decommissioning waste, and otherwise, to be stored at the Molycorp Washington, Pennsylvania, facility may create a significant hazard as well as be detrimental to the life, health, safety, and well-being of the residents of the City of Washington and of those who travel within said territorial limits of the City of Washington. Accordingly, the City of Washington requests that a hearing be permitted and the City of Washington be permitted to participate at said hearing,

prior to any action by the U.S. Nuclear Regulatory Commission and further action by the Commission with regard to said request.

Respectfully submitted,

SMIDER & WATSON, P.C.

A handwritten signature in cursive script, appearing to read "Jeffrey A. Watson", written over a horizontal line.

Jeffrey A. Watson, Esquire  
Solicitors for the City of  
Washington, PA

## U.S. NUCLEAR REGULATORY COMMISSION

DOCKET NOS.: 040-08794 and 040-08778

NOTICE OF RECEIPT OF AN AMENDMENT REQUEST FOR THE TEMPORARY STORAGE  
OF DECOMMISSIONING WASTE FROM THE MOLYCORP YORK, PENNSYLVANIA  
FACILITY (LICENSE NO. SMB-1408) AT THE MOLYCORP WASHINGTON,  
PENNSYLVANIA FACILITY (LICENSE NO. SMB-1393) AND  
OPPORTUNITY FOR HEARING

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Source Materials License No. SMB-1393, to Molycorp, Incorporated (the licensee) for the temporary (5-10 years) storage of waste from the former Molycorp rare earth processing facility (License No. SMB-1408) in York, Pennsylvania.

The licensee submitted the amendment in a letter dated February 8, 1996, requesting that License No. SMB-1393 be amended to allow temporary storage of waste from its York decommissioning operations at the Molycorp Washington, PA facility.

The waste from Molycorp's York facility consists of soils from decommissioning waste containing thorium-232 and uranium-238, with a volume of approximately 3,000-5,000 cubic yards, and resulted from operations to recover rare earth metals from bastnaesite ore containing uranium and thorium which are natural components of this ore. These operations were conducted from April 1962 to September 24, 1993. The NRC will require the licensee to demonstrate that the temporary storage facility provides: 1) adequate containment for the waste; 2) sufficient monitoring of effluents during the transfer and storage activities and, 3) an adequate radiation protection plan to help maintain doses as low as reasonably achievable.

Prior to the issuance of the proposed amendment, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulation. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

The NRC provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to §2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with §2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this Federal Register notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or
2. By mail, telegram, or facsimile to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR §2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Molycorp Incorporated, 350 North Sherman Street, York, Pennsylvania 17403, Attention: Mr. John Daniels, and;
2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, between 7:45 am and 4:15 pm Federal workdays, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

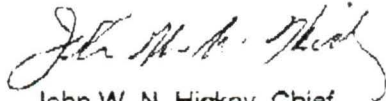
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1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in §2.1205(h);
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstances establishing that the request for a hearing is timely in accordance with §2.1205(d).

For further details with respect to this action, the application for amendment request is available for inspection at the NRC's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this <sup>4<sup>th</sup></sup> day of May 1999.

FOR THE NUCLEAR REGULATORY COMMISSION



John W. N. Hickey, Chief  
Decommissioning Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

CERTIFICATE OF SERVICE

I, Jeffrey A. Watson, Esquire, Solicitor for the City of Washington, hereby certify that the Request For Hearing In Accordance With 10 CFR Part 2 Sec. 2.1205 (a) Through (d), et seq, was served on the 28th day of June, 1999, as follows:

Original via Federal Express and Regular First Class mail:

Rulemakings and Adjudication Staff  
Secretary of Nuclear Regulatory Commission  
One White Flint North  
11555 Rockville Pike  
Rockville, Maryland 20852

Copies via U.S. Certified mail, Return Receipt Requested and Regular First Class mail:

Secretary, U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001  
Attention: Rulemakings and Adjudication Staff

Executive Director for Operations  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

Molycorp, Inc.  
350 North Sherman Street  
York, PA 17403  
Attention: John Daniels

Via Regular mail to:

John T. Olshock, Esquire  
Solicitor for Canton Township  
96 N. Main Street  
Washington, Pennsylvania 15301

Canton Township  
655 Grove Avenue  
Washington, PA 15301

Respectfully submitted,

SMIDER & WATSON, P.C.



Jeffrey A. Watson, Esquire  
Solicitors for the City of  
Washington, PA