

U.S. NUCLEAR REGULATORY COMMISSION

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

'99 AUG -2 P3:17

OFFICE OF SPECIAL
RULEMAKING AND
ADJUDICATION

**MOLYCORP, INC.'S RESPONSE TO THE REQUEST FOR HEARING
OF CANTON TOWNSHIP**

Molycorp, Inc. ("Molycorp") submits the following Response to the Request for Hearing submitted by Canton Township ("Canton"). Canton's Request for Hearing should be denied because Canton does not have standing to seek a hearing under Subpart L of 10 C.F.R. Part 2. In support hereof, Molycorp states as follows:

1. Canton has submitted its Request for Hearing ("Request") pursuant to a Notice of Receipt of an Amendment Request for the Temporary Storage of Decommissioning Waste from the Molycorp York, Pennsylvania Facility, which was published in the Federal Register on June 9, 1999.
2. This notwithstanding, the vast majority if not all of the issues and interests raised in Canton's Request do not pertain specifically to the proposed temporary storage of York decommissioning waste but, rather, pertain and relate to activities which were the subject of past license amendments for which the time to request a hearing has long since expired. Accordingly, Canton's Request should be denied as untimely.
3. To the extent that Canton is deemed to have requested a hearing in a timely fashion at least with respect to certain issues, Canton's Request should nonetheless be

denied because Canton's Request fails to satisfy the prerequisites necessary to obtain a hearing under Subpart L of 10 C.F.R. Part 2.

4. Setting aside the numerous factual inaccuracies in Canton's Request for Hearing¹, Canton's Request fails to even remotely allege an interest within the zone of protection of the Atomic Energy Act of 1954, as Amended ("AEA"). In this regard, Canton fails to specifically assert any potential for injury due to radiation from licensed materials necessary to bring the request within the ambit of the AEA. Rather, the only interests alleged by Canton are vague and conclusory assertions of governmental and economic interests which do not fall within the zone of protection of the AEA.

5. For example, Canton alleges a vague governmental duty to protect the welfare of its citizens. However, Canton fails to allege any specific radiation hazard and, indeed, no such hazard exists.

6. Although Canton has raised an issue with respect to a 16-inch water line which runs through Molycorp's property, Canton has no property or financial interest in this water line which, in any case, is not physically near enough to the storage site to be impacted by any activity at the site.

7. Canton fails to identify a specific person or specific piece of property that could be injured due to the proposed temporary storage of the York material. Vague references

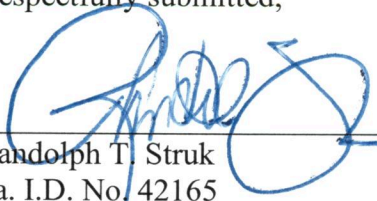
¹ For example, Canton's Request inaccurately depicts the size and location of storage areas depicted in Attachment "A" to the Request, as well as misstates certain volumes. See, paragraph 1 of the Request. The proximity of the water line referred to in paragraph 5 is also misrepresented.

to the water line which fail to identify the nature of any alleged potential injury, or conclusory allegations regarding alleged diminution in property values generally, are legally insufficient.

WHEREFORE, Canton is not entitled to a hearing under Subpart L of 10 C.F.R. Part 2 and, accordingly, Canton's Request for Hearing should be denied.

Dated: July 30, 1999

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Randolph T. Struk, counsel for Molycorp, Inc., hereby certify that a copy of Molycorp, Inc.'s Response To The Request For Hearing Of Canton Township was served on the 30th day of July, 1999, as follows:

Original via Federal Express:

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Secretary, U.S. Nuclear Regulatory Commission
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Attention: Rulemakings and Adjudication Staff

Executive Director for Operations
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Administrative Judge Peter B. Bloch
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