

U. S. NUCLEAR REGULATORY COMMISSION

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

DOCKETED
USNRC

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OFFICE OF THE
GENERAL COUNSEL
ADJUDICATIVE

**REPLY OF REQUESTOR CANTON TOWNSHIP, PENNSYLVANIA
AND REQUEST TO STRIKE APPLICANT MOLYCORP, INC.'S
RESPONSE TO REQUEST FOR HEARING**

Petitioner/Requestor CANTON TOWNSHIP, by its Solicitor, JOHN T. OLSHOCK, and its special counsel, SAMUEL P. KAMIN, SAMUEL R. GREGO and the law firm of GOLDBERG, KAMIN & GARVIN, hereby files the following Reply and Request to Strike Applicant Molycorp, Inc.'s Response to Request for Hearing, and in support thereof states as follows:

1. (a) Canton Township timely filed its Request for Hearing in this proceeding with the U.S. Nuclear Regulatory Commission ("Commission") on or about June 28, 1999 and service on Applicant Molycorp, Inc. was made that same date by mail to Applicant's counsel. However, Applicant did not file its Response to Canton Township's Request for Hearing until July 30, 1999, thirty-two (32) days after service of Canton Township's Request for Hearing.

(b) 10 C.F.R. §2. 1205(g) provides that an applicant may file an answer to a request for hearing within ten (10) days of service of a request for hearing. Applicant's Response to Canton Township's Request for Hearing was not filed and served until twenty-two (22) days after this deadline provided by the applicable regulations. Applicant Molycorp's Response to Canton Township's Request for Hearing therefore should be stricken from the record and disregarded in its entirety by the Commission.

2. In the event the Commission nevertheless considers any matter raised in Applicant's Response to Canton Township's Request for Hearing, Canton Township categorically disputes the unfounded assertions contained in Applicant's Response:

(a) Contrary to Paragraph 2 of Applicant's Response, Canton Township's Request for Hearing specifically relates to the proposed storage of York, Pennsylvania decommissioning waste which is the subject of the pending Amendment Request Regarding Schedule for Submission of a Revised Site Decommissioning Plan ("Amendment Request").

(b) Applicant Molycorp reveals its total disregard for its fellow residents of Canton Township in Paragraphs 4-7 of its Response to Request for Hearing. The Request for Hearing clearly indicates the proximity of the storage site (proposed by the Amendment Request) to the 16" water line which serves portions of Canton Township (and other nearby areas). Applicant nevertheless continues to refuse to provide Canton Township with the details of its proposed safeguards relating to any possible decontamination of the water supplied by the water line, as well as any safeguards against contamination of nearby streams and other water sources near the site and any soil erosion caused by proposed physical changes to the site which may also lead to contamination of, *inter alia*, nearby water sources. Canton Township has thereby indeed "specifically assert[ed] any potential for injury due to radiation from licensed materials necessary to bring the Request within the ambit of the AEA" (contrary to Molycorp's assertion in Paragraph 4 of its Response).

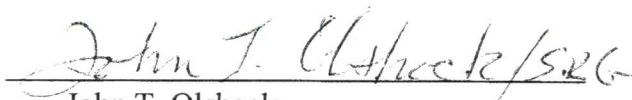
(c) Further specific radiation hazards cannot be identified at this time because Applicant continues to refuse to share its plans in any way with Canton Township. These very issues are to be addressed at the hearing requested by Canton Township and Applicant is attempting to subvert this routine procedure by disputing Canton Township's Request for Hearing.

3. Canton Township reiterates that it has established its need for and right to a hearing on Applicant's proposed Amendment Request under 10 C.F.R. §2.1205(e).

WHEREFORE, Petitioner/Requestor Canton Township, Pennsylvania hereby respectfully requests (i) that Applicant Molycorp, Inc.'s Response to its Request for Hearing be stricken as untimely, and (ii) that Canton Township's Request for Hearing be granted and that a

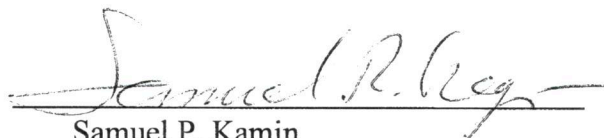
hearing before the U.S. Nuclear Regulatory Commission on Applicant's pending Amendment Request for the temporary storage of decommissioning waste from its York, Pennsylvania facility be held as provided by the Commission's regulations.

Respectfully submitted,



John T. Olshock
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Solicitor for Canton Township

Date: August 17, 1999



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CERTIFICATE OF SERVICE

DOCKETED
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I hereby certify that the original and/or a copy of the foregoing Reply of Requestor Canton Township, Pennsylvania and Request to Strike Applicant Molycorp, Inc.'s Response to 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:

Administrative Judge Peter B. Bloch
Presiding Officer
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. Richard F. Cole
Special Assistant
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

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

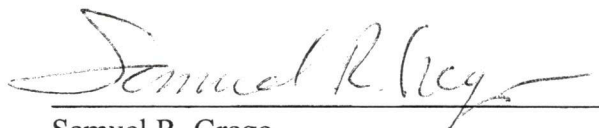
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
Attention: Rulemakings and
Adjudications Staff

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Attention: Mr. John Daniels
Licensee

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August 17, 1999

Administrative Judge Peter B. Bloch
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

In Re: **Licensee: Molycorp, Inc.'s Amendment Request**
License No. SMB-1393
Docket Nos. 040-08794 and 040-08778

Dear Judge Bloch:

Enclosed please find the original and a copy of the Reply of Requestor Canton Township, Pennsylvania and Request to Strike Applicant Molycorp, Inc.'s Response to Request for Hearing for filing in the above-referenced proceeding. Thank you for your assistance in this regard.

Very truly yours,



SAMUEL R. GREGO

SRG:smm

Enclosures

cc: Dr. Richard F. Cole (w/enc.)
Executive Director for Operations (orig. and copy)
Office of the Secretary (w/enc.)
Molycorp, Inc. (w/enc.)
Randolph T. Struk, Esquire (w/enc.)
Jeffrey A. Watson, Esquire (w/enc.)
John T. Olshock, Esquire (w/enc.)