

**BEFORE THE ENVIRONMENTAL APPEALS BOARD  
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C.**

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In the Matter of:	)	
	)	
Kerr-McGee Chemical LLC	)	CERCLA 106(b) Petition No. 03-01
	)	
Reed-Kepler Park Site,	)	
West Chicago, Illinois	)	

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**ORDER DISMISSING PETITION FOR REIMBURSEMENT**

On May 19, 2003, Kerr-McGee LLC (“KM” or “Petitioner”) filed a petition under section 106(b)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) seeking reimbursement of costs plus interest it had incurred in responding to a CERCLA section 106(a) removal order issued by United States Environmental Protection Agency, Region 5 (“Region”) in 1996. 42 U.S.C. § 9606(a), (b)(2). The Environmental Appeals Board (“Board”) stayed the case on June 4, 2003, at the request of the parties, and this stay has continued until the present time.<sup>1</sup>

On August 24, 2005, KM and the Region filed a Joint Notification of Entry of Consent Decree (“Joint Notification”). On the following day, the parties also filed a Joint Motion to Dismiss with Prejudice Petition for Reimbursement (Aug. 25, 2005) (“Joint Motion to Dismiss”).

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<sup>1</sup> The case was initially stayed pending settlement negotiations and was later stayed because the parties indicated that they had signed an Agreement in Principle involving four National Priorities List (“NPL”) sites, including the Reed-Kepler Park Site that is the subject of these proceedings. Order Granting Stay at 1-2 (Oct. 23, 2003). The parties expected that a consent decree would be lodged thereafter. *Id.* at 2-3. The stay was most recently continued until December 1, 2005, based upon the parties’ representations that a Consent Decree had been lodged in federal district court on April 27, 2005. *See* Order Continuing Stay (June 9, 2005).

The Joint Notification and the Joint Motion to Dismiss indicate that the United States District Court of the Northern District of Illinois entered a Consent Decree resolving issues related to four NPL sites around West Chicago, Illinois, including the Reed-Kepler Park Site at issue in this case, on August 10, 2005. Joint Notification at 1; Joint Motion to Dismiss at 1. The Consent Decree provided for the parties to file a motion to dismiss this CERCLA section 106(b) petition with prejudice.

Upon consideration of the foregoing, the Board grants the parties' motion. Accordingly, KM's petition seeking reimbursement under CERCLA for the Reed-Kepler Park Site filed May 19, 2003, is hereby **DISMISSED WITH PREJUDICE**.

So ordered.

ENVIRONMENTAL APPEALS BOARD

By: \_\_\_\_\_ /s/ \_\_\_\_\_

Kathie A. Stein  
Environmental Appeals Judge

Dated: August 29, 2005

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Order Dismissing Petition for Reimbursement in the Matter of Kerr-McGee Chemical LLC, CERCLA 106(b) Petition No. 03-01, were sent to the following persons in the manner indicated:

By Pouch Mail:

Padmavati G. Bending  
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Dated: August 29, 2005

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/s/  
Annette Duncan  
Secretary