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SHIELDALLOY METALLURGICAL CORPORATION

DAVID R. SMITH  
ENVIRONMENTAL MANAGER

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12 WEST BOULEVARD  
P.O. BOX 768  
NEWFIELD, NJ 08344-0768  
TELEPHONE (856) 692-4200

November 15, 2002

Ms. Sheryl Villar  
Licensing Assistance Team  
Division of Nuclear Material Safety  
U. S. Nuclear Regulatory Commission  
475 Allendale Road  
King of Prussia, PA 19406-1415

P-5

040-07102

**Re: Application to Defer Decommissioning Action on Source Material License No. SMB-743 (Control No. 132074)**

Dear Ms. Villar:

As you know, Shieldalloy Metallurgical Corporation (SMC) submitted a decommissioning plan (restricted use) for its Newfield, New Jersey facility to the U.S. Nuclear Regulatory Commission (NRC) on August 30, 2002. SMC recently learned, however, that the NRC staff is reviewing the restricted use decommissioning program, and expects to make its recommendations for changes to that program to the NRC in the Spring of 2003.

The purpose of this letter is to request the NRC to defer taking action on SMC's decommissioning plan while the staff and NRC have the decommissioning program under review. Once the programmatic changes have been finalized, SMC also requests that it be granted an additional 30 working days to amend our decommissioning plan for consistency with the new policy and guidance, at which time we will proceed with the decommissioning process.

**Regulatory Authority for SMC's Request**

10 CFR 40.14 allows the USNRC to issue any specific exemption that will not endanger life or property, or the common defense and security, and that is in the public interest. Likewise, 10 CFR 40.42(f) gives the authority to the NRC to grant a request to delay or postpone the initiation of the decommissioning process if such an action is not detrimental to the public health and safety, and if it is in the public interest. SMC's request is analogous to a request to delay the initiation of the decommissioning process, and as we will demonstrate, is fully justifiable under the standards of both §40.14 and §40.42(f).

Here follows a brief summary of the status of License No. SMB-743, the reason for requesting a delay in the decommissioning process that has already been initiated, an assessment of the health and safety impacts of granting our request, and an explanation of why the request is in the public interest.

132074

NMSS/RONI MATERIALS-002

## **Authorized Licensed Activities and Restricted Areas**

License No. SMB-743 permits SMC to possess thorium and uranium, in any form, for the purposes of research and development, processing, and storage of raw materials for the production of speciality alloys and slag fluidizers, and for distribution of raw materials. Since June of 1998, the only activities performed by SMC under the provisions of License No. STAB-743 have included cleanup actions (e.g., Haul Road remediation in September of 1998, reforestation of the eastern end of the Storage Yard in 2001, etc.) and decommissioning of unused facilities (e.g., A-Warehouse in September of 1998, the AAF Baghouse in June of 1999, D-111 and D-102/111 that is currently ongoing, etc.)

## **Reasons for SMC's Request**

The License Termination Rule set forth in 10 CFR 20 Subpart E offers licensees the option to terminate their license under conditions of restricted use. Included in the rule are the requirements for achieving restricted use status. Consistent with SMC's interpretation of those requirements, the Newfield decommissioning plan requests license termination under restricted use conditions.

- In SECY-02-0177, "Initial Analysis and Plan for Addressing License Termination Rule Issues" (October 1, 2002) and its attachments, the USNRC identified a number of issues associated with the restricted use option that are hindering licensee efforts to secure license termination. The Staff has a commitment to present these issues, along with options, associated pros and cons, and recommendations, where appropriate, to the Commission in March of 2003.

Presumably, the follow-up to the Staff paper will include the release of new policy and guidance on securing license termination under restricted use conditions. And while the Staff has stated that the 2003 schedule will not delay pending licensing decisions, SMC is concerned that further regulatory action towards the approval of our decommissioning plan may not be consistent with the new policy, may close options for institutional controls that will later become available, and may make the exchange of information during the review process unnecessarily excessive.

As stated in our August 30, 2002 submission, operating funds will be used to implement the decommissioning plan once it is approved. However, in light of the current business climate, SMC wishes to be cautious in the expenditure of those funds prior to the approval of the decommissioning plan. Because SMC's fees are levied on a "full cost recovery basis", we are requesting all further action on our August 30" submission cease until such time as applicable policy and guidance on the issue of restricted release has been issued and SMC has had an opportunity to capture the relevant information in an amendment to its decommissioning plan.

## **Health/Safety Impacts if Decommissioning is Delayed**

Quarterly surveillance that is on-going at the Newfield facility shows that, in general, the dose rates throughout the plant are indistinguishable from background, and that contamination levels are low<sup>12</sup>. The exception is the Storage Yard, where ambient exposure rates range from background to approximately 0.2 millirem per hour at a single location that is within 30 feet of the slag piles. The

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<sup>1</sup> Integrated Environmental Management, Inc., Report No. 94005/G-5246, "Report of Radiation Safety Surveillance for Quarter 1, 2002".

<sup>2</sup> Buildings D-111 and D-102/111 are currently undergoing remedial action.

maximum possible annual exposure of a member of the general public for the most limiting of exposure scenarios is approximately one (1) millirem.

These data demonstrate that any delays in completing the decommissioning of the site will have trivial, if any, radiological impact on members of the public. Likewise, the radiation doses incurred by employees, who spend little if any time in the storage yard, will also be indistinguishable from the range of normal background exposures.

Please call me at (856) 692-4200, extension 226 if I can answer any questions, or provide you with additional information to facilitate your review of this important amendment request. We look forward to prompt USNRC approval on this request.

Sincerely,  
  
David R. Smith  
Radiation Safety Officer

cc: Eric E. Jackson - SMC  
Hugo L. Nieves - SMC  
Steve Danilak - SMC  
Charles L. Harp, Jr. Esq. – Archer & Greiner  
Carol D. Berger, C.H.P. – IEM  
Melvyn N. Leach, Chief Fuel Cycle Licensing Branch, USNRC  
Marie Miller - USNRC Region 1