

January 28, 2005

Mr. Jill Lipoti, Ph.D., Assistant Director
Radiation Protection and Release Prevention Programs
New Jersey Department of Environmental Protection
P. O. Box 415
Trenton, NJ 08625-0415

SUBJECT: U.S. NUCLEAR REGULATORY COMMISSION (NRC) STAFF RESPONSE TO
NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION LETTER
DATED DECEMBER 6, 2004, REGARDING THE SHIELDALLOY
METALLURGICAL (SMC) SITE IN NEWFIELD, NEW JERSEY.

Dear Dr. Lipoti:

I am responding to your December 6, 2004, letter to Samuel J. Collins, Regional Administrator of the U.S. Nuclear Regulatory Commission (NRC) Region I office regarding the Shieldalloy Metallurgical Corporation (SMC) site in Newfield, New Jersey. Please note that this response has been transferred here to the Division of Waste Management and Environmental Protection (DWMEP) in NRC Headquarters, because NRC's decommissioning program is managed in the DWMEP Decommissioning Directorate and includes project oversight of the SMC site.

Your letter expressed concerns with how SMC is implementing the requirement of 10 CFR 20.1403 to seek advice from affected parties regarding the use of institutional controls to restrict site use. You noted that SMC's use of the Site Specific Advisory Board (SSAB) was not consistent with NRC guidance and was not effective. The use of an SSAB is one acceptable method described in our guidance that a licensee can use to obtain advice. Although we have provided guidance to licensees on seeking advice from affected parties, the licensee is afforded flexibility for implementing the guidance as long as it meets the requirements of 10 CFR 20.1403. SMC, therefore, is responsible for the effectiveness of seeking advice from affected parties and documenting the results in the Decommissioning Plan (DP) for NRC's review.

We envision the licensee's involvement with its affected parties as an iterative process of informing and seeking advice, starting early at a general level and then becoming more detailed as specific plans and analyses are developed. We expect SMC to provide information about potential approaches commensurate with its early stage in planning, so that the affected parties can provide advice at a general level. For example, qualitative discussions of potential site access and use restrictions and how they could eliminate exposure pathways for specific radionuclides would provide useful risk insights for affected parties to understand and discuss before dose assessments are completed. Preliminary results of dose assessments, also could be discussed. This process for obtaining advice can continue as more detailed plans and analyses are developed by SMC for inclusion in submittal of its DP. Then, affected parties can provide more detailed comments to SMC, and when the DP becomes available, to NRC.

J. Lipoti

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Your letter also noted specific concerns with NRC's implementation of the regulations, the scenarios that are being addressed, and the use of institutional controls. Although NRC has already responded to similar concerns raised in the letter from New Jersey officials about the license termination rule restricted use option and the long term control license, we would like to meet with you in New Jersey to discuss your additional specific concerns.

Please contact Mr. Ken Kalman, the NRC Project Manager for the SMC site if you wish to arrange a meeting date, or if you have any further questions on this matter. He can be reached by telephone at 301-415-6664 or by email at klk@nrc.gov.

Sincerely,

/RA/

Daniel M. Gillen, Deputy Director
Division of Waste Management
and Environmental Protection
Office of Nuclear Material Safety
and Safeguards

cc: Shieldalloy Service List

J. Lipoti

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Sincerely,

/RA/

Daniel M. Gillen, Deputy Director
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and Environmental Protection
Office of Nuclear Material Safety
and Safeguards

cc: Shieldalloy Service List

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*See previous concurrence

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