

April 13, 2006

The Honorable Frank A. LoBiondo
Member, United States House of Representatives
5914 Main Street
Mays Landing, NJ 08330

Dear Congressmen LoBiondo:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated March 1, 2006, to Rebecca Schmidt, Director of NRC's Office of Congressional Affairs. In your letter, you asked for help in responding to Ms. Loretta Williams' concerns about the decommissioning of the Shieldalloy Metallurgical Corporation (SMC) site in Newfield, New Jersey.

In August 2001, SMC informed NRC of its intent to decommission the site. SMC submitted a decommissioning plan (DP) in September 2002, but it was rejected because it did not have the necessary information to allow the staff to conduct a comprehensive technical review. A revised DP was submitted in October 2005, but was also rejected because of information deficiencies. NRC staff have held telephone conversations with Ms. Williams, with the New Jersey Department of Environmental Protection (NJDEP), and with Mayor Richard Westergaard, of the Borough of Newfield, New Jersey, about their concerns with SMC's plans for decommissioning the site. We have told them it is the licensee's role to consider alternatives for decommissioning its site and to justify its preferred alternative in its DP.

We are aware of SMC's present intent to obtain NRC approval for decommissioning using a restricted use option, which entails leaving the contaminated slag and baghouse dust at the site under an NRC Long-Term Control license. Restricted use is an alternative available to any licensee under our regulations if specific requirements are met. However, until SMC submits a DP that is acceptable for NRC staff technical review, we cannot determine whether its plan will meet NRC regulations and decommissioning criteria designed to fulfil our mission to protect public health and safety and the environment.

Ms. Williams has asked that we use the U.S. Environmental Protection Agency (EPA) process for disposal of the contaminated material. NRC already is working with EPA for many of our decommissioning sites. We have entered into a Memorandum of Understanding (MOU), with EPA, to address issues related to EPA's involvement under its Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as Superfund, at contaminated sites. Under this MOU, there are specific situations that will trigger NRC consultation with EPA. These include situations when: 1) groundwater contamination exceeds EPA's Maximum Contaminant Levels; 2) the planned level of residual radioactive soil concentrations in the proposed action, or the actual residual level of radioactive soil concentrations found in the final status survey, exceeds the radioactive soil concentrations in Table 1 of the MOU; or 3), as is the case for SMC, if the licensee is proposing restricted use of the property. EPA has participated in a few of our conference calls with NJDEP and has been kept aware of our

interactions with SMC, as a recipient of all our correspondence with SMC and NJDEP. EPA will be consulted during NRC's technical review of the SMC DP.

As for Ms. William's suggested use of Superfund, I note that, on a case-by-case basis, we request EPA to evaluate a site under Superfund - we do not have the authority to score a site. As we understand from our meetings with SMC, it believes there would be sufficient funding for completing decommissioning with the restricted use alternative, and it believes it has sufficient financial assurance as a backup if funding should be insufficient. During the detailed review of the DP, NRC staff will evaluate SMC's financial assurance for decommissioning and determine whether it meets NRC requirements. However, until NRC's review of SMC's DP is complete, or SMC has exhausted its decommissioning alternatives, it would be premature for NRC to consider requesting Superfund listing. Furthermore, if NRC were to approve the DP with the restricted use alternative, it would not have a basis for requesting EPA Superfund listing.

The Commission appreciates your interest in the SMC site, as well as the opportunity to explain the process for decommissioning. Please contact me if I can be of further assistance.

Sincerely,

/RA William F Kane Acting for/

Luis A. Reyes
Executive Director
for Operations

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