

RAS 12985

January 30, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

January 30, 2007 (12:21pm)

In the Matter of)
)
 SHIELDALLOY METALLURGICAL)
 CORPORATION)
(License Amendment Request for)
 Decommissioning the Newfield Facility)
)

Docket No. 40-7102-MLA
 ASLBP No. 07-852-01-MLA-BD01

OFFICE OF SECRETARY
 RULEMAKINGS AND
 ADJUDICATIONS STAFF

**SHIELDALLOY'S ANSWER TO HEARING REQUEST OF
LORETTA WILLIAMS**

By letter dated January 3, 2007, Ms. Loretta Williams ("Petitioner") filed a "Request for a Public Hearing on Shieldalloy's Decommissioning Plan" ("Petition") in the above captioned proceeding. A copy was served by mail on Shieldalloy Metallurgical Corporation ("Shieldalloy" or the "Licensee"). Pursuant to 10 C.F.R. § 2.309(h)(1), Shieldalloy files this Answer in opposition to the Petition.

The Petition fails to propose any contentions that meet the admissibility requirements of 10 C.F.R. § 2.309(f). Accordingly, Petitioner's request for hearing should be denied and her Petition should be dismissed. 10 C.F.R. § 2.309(a).

I. PROCEDURAL BACKGROUND

The Petition seeks a hearing on the Decommissioning Plan ("DP") for Source Material License No. SMB-743 issued to Shieldalloy for its Newfield Facility in Newfield, New Jersey.

Template = SECY-037

SECY-02

Shieldalloy submitted the DP to the NRC on October 24, 2005.¹ Shieldalloy submitted a supplement to the DP on June 30, 2006 (available in the NRC ADAMS document system under Accession No. ML061980092). The DP was accepted for review by the NRC Staff on November 9, 2006. The NRC then provided an opportunity for “any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for a hearing and a specification of the contentions which the person seeks to have litigated in the hearing.” *Notice of Consideration of Amendment Request for Decommissioning for Shieldalloy Metallurgical Corporation, Newfield, NJ and Opportunity to Request a Hearing*, 71 Fed. Reg. 66,986 (Nov. 17, 2006).

II. STANDING

Even though Petitioner has only made a minimum showing of standing, see Petition at 1, Shieldalloy does not challenge her standing to seek to participate in this proceeding.

III. STANDARDS FOR ADMISSIBILITY OF CONTENTIONS

The Commission’s rules for admissibility of contentions in NRC licensing proceedings are clear and controlling. Under 10 C.F.R. § 2.309(f)(1)² a hearing request or petition to intervene “must set forth with particularity the contentions sought to be raised.” To satisfy this requirement, Section 2.309(f)(1) specifies that each contention must:

- (i) Provide a specific statement of the issue of law or fact to be raised or controverted;
- (ii) Provide a brief explanation of the basis for the contention;

¹ The DP filed by Shieldalloy in October 2005 was the culmination of a process that developed over the last thirteen years. Shieldalloy submitted a conceptual decommissioning plan on April 7, 1993. The initial version of the DP was submitted on August 30, 2002.

² In 2004 the Commission revised its procedural rules governing adjudicatory proceedings. See Final Rule, “Changes to Adjudicatory Process,” 69 Fed. Reg. 2182, 2217 (Jan. 14, 2004). 10 C.F.R. § 2.309(f)(1) is one of the provisions added by the revised rules, although a similar provision existed in the earlier version of the rules in 10 C.F.R. § 2.714(b)(2).

- (iii) Demonstrate that the issue raised in the contention is within the scope of the proceeding;
- (iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;
- (v) Provide a concise statement of the alleged facts or expert opinions which support the requestor's/petitioner's position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue; and
- (vi) Provide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant's environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief.

10 C.F.R. § 2.309(f)(1)(i)-(vi). The purpose of the contention rule is to “focus litigation on concrete issues and result in a clearer and more focused record for decision.” 69 Fed. Reg. at 2202. The Commission has stated that it “should not have to expend resources to support the hearing process unless there is an issue that is appropriate for, and susceptible to, resolution in an NRC hearing.” *Id.*

The Commission has also stated that the “contention rule is strict by design,” having been “toughened . . . in 1989 because in prior years ‘licensing boards had admitted and litigated numerous contentions that appeared to be based on little more than speculation.’” *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Units 2 and 3), CLI-01-24, 54 NRC 349, 358 (2001) (citation omitted). These pleading standards governing the admissibility of contentions are the result of a 1989 amendment to 10 C.F.R. § 2.714, now § 2.309, which was intended “to raise the threshold for the admission of contentions.” Final Rule, “Rules of Practice for Domestic Licensing Proceedings – Procedural Changes in the Hearing Process,” 54 Fed. Reg.

33,168 (Aug. 11, 1989); *see also Duke Energy Corp.* (Oconee Nuclear Station, Units 1, 2 and 3), CLI-99-11, 49 NRC 328, 334 (1999); *Arizona Public Service Co.* (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), CLI-91-12, 34 NRC 149, 155-6 (1991). The pleading standards are to be enforced rigorously. “If any one . . . is not met, a contention must be rejected.” *Id.* at 155 (citation omitted). A licensing board is not to overlook a deficiency in a contention or assume the existence of missing information. *Id.*

The Commission has explained that this “strict contention rule” serves multiple purposes, which include putting other parties on notice of the specific grievances and assuring that full adjudicatory hearings are triggered only by those able to proffer at least some minimal factual and legal foundation in support of their contentions. *Oconee*, CLI-99-11, 49 NRC at 334. By raising the threshold for admission of contentions, the NRC intended to obviate lengthy hearing delays caused in the past by poorly defined or supported contentions. *Id.* As the Commission reiterated in incorporating these same standards into the revised Part 2 rules, “[t]he threshold standard is necessary to ensure that hearings cover only genuine and pertinent issues of concern and that issues are framed and supported concisely enough at the outset to ensure that the proceedings are effective and focused on real, concrete issues.” 69 Fed. Reg. at 2,189-90.

Failure to satisfy the admissibility requirements in 10 C.F.R. § 2.309(f)(1) must result in rejection of a proffered contention. *Private Fuel Storage, L.L.C.* (Independent Spent Fuel Storage Installation), CLI-99-10, 49 NRC 318, 325 (1999). Failure to proffer at least one admissible contention requires that a request for hearing or petition to intervene be denied. 10 C.F.R. § 2.309(a).

A. Contentions Must Have an Adequately Articulated Basis

A “brief explanation of the basis for the contention” is a necessary prerequisite of an admissible contention. 10 C.F.R. § 2.309(f)(1)(ii). This “brief explanation” of the logical underpinnings of a contention does not require a petitioner “to provide an exhaustive list of possible bases, but simply to provide sufficient alleged factual or legal bases to support the contention.” *Louisiana Energy Serv., L.P.* (National Enrichment Facility), CLI-04-35, 60 NRC 619, 623 (2004). The brief explanation helps define the scope of a contention – “[t]he reach of a contention necessarily hinges upon its terms coupled with its stated bases.” *Public Serv. Co. of New Hampshire* (Seabrook Station, Units 1 and 2), ALAB-899, 28 NRC 93, 97 (1988), *aff’d sub nom. Massachusetts v. NRC*, 924 F.2d 311 (D.C. Cir. 1991); *see also Baltimore Gas & Electric Co.* (Calvert Cliffs Nuclear Power Plant, Units 1 and 2), CLI-98-14, 48 NRC 39, 41 (1998). (“It is the responsibility of the Petitioner to provide the necessary information to satisfy the basis requirement for the admission of its contentions”).

B. Contentions Must be Within the Scope of the Proceeding, Must be Material to the Findings the NRC Must Make, and May Not Challenge NRC’s Rules

10 C.F.R. §§ 2.309(f)(1)(iii) and (iv) require a petitioner to demonstrate that the issue raised by each of its contentions is within the scope of the proceeding and material to the findings that the NRC must make. Licensing boards “are delegates of the Commission” and, as such, they may “exercise only those powers which the Commission has given [them].” *Public Service Co. of Indiana* (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-316, 3 NRC 167, 170 (1976) (footnote omitted); *accord, Portland General Electric Co.* (Trojan Nuclear Plant), ALAB-534, 9 NRC 287, 289-90 n.6 (1979). A contention is not cognizable unless the issues it raises fall within the scope of the proceeding for which the Commission has delegated

jurisdiction to the licensing board, as set forth in the Notice of Opportunity for Hearing. *Id.*; see also *Georgia Institute of Technology* (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 NRC 111, 118 (1995); *Duke Power Co.* (Catawba Nuclear Station, Units 1 and 2), ALAB-825, 22 NRC 785, 790-91 (1985); *Commonwealth Edison Co.* (Zion Station, Units 1 and 2), ALAB-616, 12 NRC 419, 426-27 (1980); *Commonwealth Edison Co.* (Carroll County Site), ALAB-601, 12 NRC 18, 24 (1980).

An issue is only “material” if “the resolution of the dispute would make a difference in the outcome of the licensing proceeding.” 54 Fed. Reg. at 33,172. This means that there must be some link between the claimed error or omission regarding the proposed licensing action and the NRC’s role in protecting public health and safety or the environment. *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Units 2 and 3), LBP-04-15, 60 NRC 81, 89 (2004), *aff’d*, CLI-04-36, 60 NRC 631 (2004).³

It is also well established that a petitioner may not raise contentions that attack NRC requirements or regulations. *Oconee*, CLI-99-11, 49 NRC at 334. “[A] licensing proceeding . . . is plainly not the proper forum for an attack on applicable statutory requirements or for challenges to the basic structure of the Commission’s regulatory process.” *Philadelphia Electric Co.* (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 20, *aff’d in part on other grounds*, CLI-74-32, 8 AEC 217 (1974) (footnote omitted). A contention whose import is to attack a Commission rule or regulation is not appropriate for litigation and must be

³ As observed by the Commission, this materiality requirement is consistent with judicial decisions, such as *Conn. Bankers Ass’n v. Bd. of Governors*, 627 F.2d 245, 251 (D.C. Cir. 1980), which held that: “[A] protestant does not become entitled to an evidentiary hearing merely on request, or on a bald or conclusory allegation that . . . a dispute exists. The protestant must make a minimal showing that material facts are in dispute, thereby demonstrating that an ‘inquiry in depth’ is appropriate.”

rejected. 10 C.F.R. § 2.335(a);⁴ *Potomac Electric Power Co.* (Douglas Point Nuclear Generating Station, Units 1 and 2), ALAB-218, 8 AEC 79, 89 (1974); *Philadelphia Electric Co.* (Peach Bottom Atomic Power Station, Units 2 and 3), ALAB-216, 8 AEC 13, 20 (1974). Also, a contention that “advocate[s] stricter requirements than those imposed by the regulations” is “an impermissible collateral attack on the Commission’s rules” and must be rejected. *Public Service Co. of New Hampshire* (Seabrook Station, Units 1 and 2), LBP-82-106, 16 NRC 1649, 1656 (1982); *see also, Arizona Public Service Co.* (Palo Verde Nuclear Generating Station, Units 1, 2, and 3), LBP-91-19, 33 NRC 397, 410, *aff’d in part and rev’d in part on other grounds*, CLI-91-12, 34 NRC 149 (1991). Likewise, a contention that seeks to litigate a generic determination established by Commission rulemaking is “barred as a matter of law.” *Pacific Gas and Electric Co.* (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-93-1, 37 NRC 5, 30 (1993).

C. Contentions Must Be Specific and be Supported by Facts or Expert Opinion

Admissible contentions “must explain, with specificity, particular safety or legal reasons requiring rejection of the contested [application].” *Millstone*, CLI-01-24, 54 NRC at 359-60. A contention is admissible only if it provides a “specific statement of the issue of law or fact to be raised or controverted,” together with a “concise statement of the alleged facts or expert opinion” supporting the contention and “specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue.” 10 C.F.R. §§ 2.309(f)(1)(i), (v).

In accordance with these requirements, it is the obligation of the petitioner to present the factual information or expert opinions necessary to support its contention adequately. *Yankee Atomic Electric Co.* (Yankee Nuclear Power Station), CLI-96-7, 43 NRC 235, 262 (1996). Failure to do so requires that the contention be rejected. *Palo Verde*, CLI-91-12, 34 NRC 149,

⁴ 10 C.F.R. § 2.335 is a slightly modified version of former 10 C.F.R. § 2.758, which applied before the 2004 rule changes.

155. Under these standards, a petitioner is obligated “to provide the [technical] analyses and expert opinion” or other information “showing why its bases support its contention.” *Georgia Institute of Technology* (Georgia Tech Research Reactor, Atlanta, Georgia), LBP-95-6, 41 NRC 281, 305, *vacated in part and remanded on other grounds*, CLI-95-10, 42 NRC 1, *aff’d in part*, CLI-95-12, 42 NRC 111 (1995). Where a petitioner has failed to do so, “the [Licensing] Board may not make factual inferences on [the] petitioner’s behalf.” *Id.*, *citing Palo Verde*, CLI-91-12, 34 NRC 149.

A contention, therefore, is not to be admitted “where an intervenor has no facts to support its position and where the intervenor contemplates using discovery . . . as a fishing expedition which might produce relevant supporting facts.” 54 Fed. Reg. at 33,171. As the Commission has emphasized, the contention rule bars contentions where petitioners have what amounts only to generalized suspicions, hoping to substantiate them later, or simply a desire for more time and more information in order to identify a genuine material dispute for litigation. *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear Station, Units 1 and 2), CLI-03-17, 58 NRC 419, 424 (2003). Therefore, under the Rules of Practice, a statement “that simply alleges that some matter ought to be considered” does not provide a sufficient basis for an admissible contention. *Sacramento Municipal Utility District* (Rancho Seco Nuclear Generating Station), LBP-93-23, 38 NRC 200, 246 (1993), *review declined*, CLI-94-2, 39 NRC 91 (1994). Similarly, a mere reference to documents provides no basis for a contention. *Baltimore Gas & Electric Co.* (Calvert Cliffs Nuclear Power Plant, Units 1 and 2), CLI-98-25, 48 NRC 325, 348 (1998).

D. Sufficient Information to Show that a Genuine Dispute Exists

An admissible contention must include “sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact,” which showing must include “references to specific portions of the application (including the applicant’s environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner’s belief.” 10 C.F.R. § 2.309(f)(1)(vi). Making a “bald or conclusory allegation that such a dispute exists” is not sufficient, as a petitioner must make some showing that material facts are in dispute, thereby demonstrating that an inquiry in depth is appropriate. 54 Fed. Reg. at 33,171 (quoting *Connecticut Bankers Ass’n v. Board of Governors*, 627 F.2d 245, 251 (D.C. Cir. 1980)).

E. Contentions Cannot Ignore Publicly Available Documentation

NRC’s pleading standards require a petitioner to read the pertinent portions of the licensing request and supporting documents state the applicant’s position and the petitioner’s opposing view, and explain why it has a disagreement with the applicant. 54 Fed. Reg. at 33,170; *Millstone*, CLI-01-24, 54 NRC at 358. Indeed, an intervenor

[h]as an ironclad obligation to examine the publicly available documentary material pertaining to the facility in question with sufficient care to enable the petitioner to uncover any information that could serve as the foundation for a specific contention. Neither Section 189a of the Atomic Energy Act nor [the corresponding Commission regulation] . . . permits the filing of a vague, unparticularized contention, followed by an endeavor to flesh it out through discovery against the applicant or Staff.

54 Fed. Reg. at 33,170 (1989) (quoting *Duke Power Co.* (Catawba Nuclear Station, Units 1 and 2), ALAB-687, 16 NRC 460, 468 (1982), vacated in part on other grounds, CLI-83-19, 17 NRC

1041 (1983)). The obligation to make specific reference to relevant facility documentation applies with special force to an applicant's Safety Analysis Report and Environmental Report and a contention should be rejected if it inaccurately describes an applicant's proposed actions or misstates the content of the licensing documents. *See, e.g., Carolina Power & Light Co.* (Shearon Harris Nuclear Power Plant, Units 1 and 2), LBP-82-119A, 16 NRC 2069, 2076 (1982); *Duke Power Co.* (Catawba Nuclear Station, Units 1 and 2), LBP-32-107A, 16 NRC 1791, 1804 (1982); *Philadelphia Electric Co.* (Limerick Generating Station, Units 1 and 2), LBP-82-43A, 15 NRC 1423, 1504-5 (1982).

If the petitioner does not believe the licensing request and supporting documentation address a relevant issue, the petitioner is "to explain why the application is deficient." 54 Fed. Reg. at 33,170; *see also Palo Verde*, CLI-91-12, 34 NRC at 156. A contention that does not directly controvert a position taken by the applicant in the license application is subject to dismissal. *See Texas Utilities Electric Co.* (Comanche Peak Steam Electric Station, Unit 2), LBP-92-37, 36 NRC 370, 384 (1992). An allegation that some aspect of a license application is "inadequate" or "unacceptable" does not give rise to a genuine dispute unless it is supported by facts and a reasoned statement of why the application is unacceptable in some material respect.

Florida Power & Light Co. (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-90-16, 31 NRC 509, 521 & n.12 (1990).

IV. PETITIONER HAS NOT SUBMITTED AN ADMISSIBLE CONTENTION

The Petition consists solely of an enumeration of Petitioner's concerns about the DP. Petitioner's claims clearly lack specificity, provide no supporting basis, are offered without factual support, are not backed by expert testimony, and reference no supporting documentation. They also do not raise a genuine dispute with the Licensee on any material issue of fact or law.

Listed below are the concerns asserted in the Petition and the requirements of 10 C.F.R. § 2.309(f)(1) that they fail to satisfy:

- Waste stored at the Newfield site “will become a health risk to the residents of Newfield and surrounding communities.” Petition at 1. Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (i), (ii), (v) and (vi).
- The waste will “sit on top of the Kirkwood Cohansey aquifer, which is the source of drinking water for Newfield and most of Southern New Jersey.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (i), (ii), (v) and (vi).
- The waste “is also located near the environmentally sensitive headwaters of the Maurice River and storm water runoff from the waste piles will discharge to the Hudson Branch of the Maurice River.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (i), (ii), (v) and (vi).
- “[T]he area down-gradient from SMC has been designated as a well restriction area, requiring mandatory connection to municipal water systems.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (i), (ii), (v) and (vi).
- In the DP, “Shieldalloy provides no cost estimates for perpetual water monitoring, no cost to retrofit the cell with a liner, no provision for pump and treat technology if the cap fails, and no projected cost for added security.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).
- “Shieldalloy’s five million dollars in financial assurances are not adequate to provide for construction costs, inflation, perpetual groundwater monitoring, maintenance of the cap and security of the facility for a thousand years.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).
- The DP “will place an undue burden on the Borough of Newfield and surrounding communities.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (i), (ii), (v) and (vi).
- “Environmental and Health risk from radioactive materials leaching into the soil and the groundwater and possibly into the Hudson Branch of the Maurice River.” *Id.* at 2. Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).
- “Economic and financial burden to the Borough of Newfield in devaluation of the land in and around the site.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).
- “There will be lost tax revenues from the lost development opportunities, and devaluation of business and residential housing close to the SMC site.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).
- “Security risk, the waste will be stored above ground with only a fence surrounding the area.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).

- “Increase cost for police protection will be needed to prevent intruders from trespassing on the site and increased Municipal taxes to pay for the additional costs.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).
- “The result [of solubility testing] for radium which is also present in the slag, does not support [Shieldalloy’s] statement [that the radioactive materials are not soluble.]” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).
- “I take issue with the NRC contradicting their own regulations requiring the threat of radioactive exposure to be as low as reasonably achievable.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (i), (ii), (v) and (vi). (Allegation also appears to challenge NRC regulations).
- “Shieldalloy claims that [the cost estimated by Energy Solutions of off-site disposal of the slag] is cost prohibited, but has rejected less expensive off-site alternatives.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).
- “Uranium prices have more than tripled since SMC submitted their DP for the LTC [long term care] license and the prices are increasing weekly. I know of no recent attempts by SMC to find an alternative use for this valuable resource.” *Id.* Fails to satisfy 10 C.F.R. §§ 2.309(f)(1) (ii), (v) and (vi).

Since the Petition does not raise any admissible contentions, there is no need to respond to the substance of these allegations. Suffice it to say that the claims uniformly ignore the information and analyses provided in the DP and should be rejected on that basis alone. For example, the Petition asserts that Petitioner knows of “no recent attempts by SMC to find an alternative use for this valuable resource.” However, unsuccessful attempts to find potential alternative uses for the waste were discussed repeatedly at public meetings in August 15, 2003, September 19, 2003, and November 5, 2004, and on September 18, 2003 the New Jersey Department of Environmental Protection wrote Shieldalloy stating that “[c]ontinued lengthy searches for a reuse option are not acceptable.” See Appendix 19.7 to the DP.

In short, the claims asserted in the Petition fail to satisfy the requirements in 10 C.F.R. § 2/309(f)(1) for the assertion of admissible contentions. Since no admissible contentions are proffered in the Petition, it must be dismissed and its request for a hearing must be denied.

V. CONCLUSION

For the reasons stated above, the Petition should be denied.

Respectfully Submitted,



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Dated: January 30, 2007

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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CORPORATION) ASLBP No. 07-852-01-MLA-BD01
(License Amendment Request for)
Decommissioning the Newfield Facility)
)

CERTIFICATE OF SERVICE

I hereby certify that copies of "Shieldalloy's Answer to Hearing Request of Loretta Williams" dated January 30, 2007, were served on the persons listed below by deposit in the U.S. Mail, first class, postage prepaid, and where indicated by an asterisk by electronic mail, this 30th day of January, 2007.

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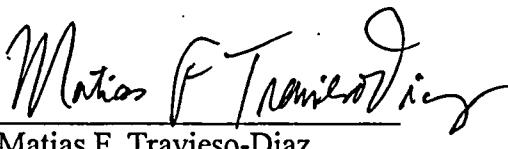
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