



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

Docket 40-7102
License SMB-743

JUL 17 1994

Ms. Donna L. Gaffigan, Case Manager
Bureau of Federal Case Management
State of New Jersey
Department of Environmental
Protection and Energy
401 East State Street
CN-028
Trenton, New Jersey 08625

Dear Ms. Gaffigan:

SUBJECT: DRAFT ENVIRONMENTAL IMPACT STATEMENT SCOPING PROCESS REPORT FOR THE
SHIELDALLOY METALLURGICAL CORPORATION FACILITY IN NEWFIELD, NJ

I have reviewed your letter dated May 12, 1994, conveying your concern that the Nuclear Regulatory Commission's responses in the draft scoping report for the Environmental Impact Statement (EIS) for the Shieldalloy Metallurgical Corporation (SMC) facility in Newfield, New Jersey, were insufficient. The NRC's responses were provided to you as a courtesy and to solicit general comment before the scoping report's formal issuance. Your main concern was that NRC did not appropriately address your comments submitted to us by letter dated January 11, 1994.

In your first comment regarding the draft scoping report, you state that the NRC failed to provide documentation to support its position that the ferrovanadium did not derive its radioactivity from source material, and therefore, it remains unclear which agency has jurisdiction over this material. In a January 15, 1992, letter from Jerry J. Swift of NRC to Dr. Robert Stern of the New Jersey Department of Environmental Protection and Energy (NJDEPE), NRC made its position very clear that based upon available data and NRC's knowledge of the processes involved, the ferrovanadium slag would not be considered as licensable source material because the ore's content of uranium and thorium was under 0.05 percent by weight in all aspects of its production. Furthermore, because separate foundries were used for each process within the same building, the possibility of cross-contamination was minimal.

NRC's jurisdiction over the ferrovanadium slag on SMC's site extends only to the fact that the ferrovanadium slag represents a source of radiation to be considered as a cumulative effect in the protection of workers and the public. Not only does NRC lack jurisdiction over the material, NRC has no resources to provide remediation costs if a licensee were to become insolvent, and in general would rely on the U.S. Environmental Protection Agency or U.S. Department of Energy to complete such actions.

140004

NRC FILE CENTER COPY

NF03

9407150092 940711
PDR ADDCK 04007102
C PDR

JUL 11 1994

Ms. Donna L. Gaffigan

2

In your second comment regarding "similar actions" provisions in Section 1508.25(a)(3) of the Council of Environmental Quality's National Environmental Policy Act Regulations, Section 1508.25(a)(3) specifically states that "An agency may wish to analyze these [similar] actions in the same impact statement. It should do so when the best way to assess adequately the combined impacts of similar actions ... is to treat them in a single impact statement." Because SMC (1) currently treats the ferrovanadium slag as a saleable commodity, (2) has reduced its inventories of the slag through sales, and (3) plans to continue such practices, NRC has no reason to expect that SMC would dispose of such material in the same method as the licensed slag material. Therefore, because NRC has no expectation that the ferrovanadium slag will be disposed of in the same manner(s) as the licensed slag, NRC is not including the ferrovanadium slag in its evaluation outside of a description of the cumulative impacts currently existing on site.

In regard to your final comment regarding the inclusion of soil cleanup standards for radioactive contaminants in the scope of the EIS, NRC agrees that analyses of final cleanup standards to be applied to this site are within the scope of the EIS, but only to the extent that the cleanup standards may exceed or be different than current NRC cleanup standards. Our review will also address the proposed action's and each alternative's ability to meet NRC and other governmental agency regulations. However, NRC's responsibility is limited to the enforcement of NRC regulations. It is not NRC's intent to enforce regulations or laws that fall under the jurisdiction of the State of New Jersey.

If you have any questions, please call me at 301-415-8106.

Sincerely,

Original Signed By

Gary C. Comfort, Jr.
 Licensing Section 2
 Licensing Branch
 Division of Fuel Cycle Safety
 and Safeguards, NMSS

DISTRIBUTION: w/encls.

Docket 40-7102
 FCSS R/F

NRC File Center
 FCLB R/F

PDR/LPDR
 Region I

NMSS R/F
 FCLB2 R/F

OFC	FCLB	C	FCLB	C	FCLB	E	FCLB	C	FCLB	N	FCLB	C
NAME	GComfort		VTharpe		MPokar		JAustin		RDonner		RPierson	
DATE	6/23/94		6/23/94		6/23/94		6/27/94		8/7/94		7/6/7/94	

C = COVER

E = COVER & ENCLOSURE

N = NO COPY

OFFICIAL RECORD COPY [G:\njresp.gcc]

OSB
 RB
 7/29/94