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State of New Jersey  
Department of Environmental Protection and Energy

CN 402  
Trenton, NJ 08625-0402

Scott A. Weiner  
Commissioner

December 18, 1991

Mr. Jerry Swift, Section Leader  
Fuel Cycle Safety Branch  
Nuclear Regulatory Commission  
Mail Stop 6H3  
Washington, D.C. 20555

Dear Mr. Swift,

We have reviewed your letter dated November 27, 1991, to Mr. David Smith of the Shieldalloy Metallurgical Corporation (SMC) regarding the transfer of ferrovanadium slag and to me December 3, 1991.

SMC has acknowledged that the ferrovanadium slag is contaminated and has provided limited data on the radioactive properties. In SMC's Application for Source Material License dated December 23, 1977, SMC states that "while the feed materials for this [ferrovanadium] process do not contain any source material and are non-radioactive nevertheless the process will be described since it is done in the same department as is the pyrochlore reduction." From these two acknowledgements we can only conclude that the ferrovanadium slag was contaminated by the Nuclear Regulatory Commission (NRC) regulated ferrocolumbium process. As you state in your December 3, 1991 letter, "the NRC regulates the source material and also any other material contaminated by it in the course of licensed operations." It is also our view that the NRC has implicitly accepted jurisdiction of the ferrovanadium slag by issuing directions to SMC regarding their responsibility to properly monitor all outgoing ferrovanadium slag to ensure that no unacceptable contamination with source material has occurred. Consequently, decisions regarding alternate uses of the ferrovanadium slag such as the proposed plan of crushing and selling the slag as an additive for the steel industry, are exclusively between the NRC and SMC.

In this regard we are advising SMC that they have the opportunity to provide information that refutes these arguments, such as the radioactive content of the ferrovanadium feed materials. If SMC wants to take issue regarding the question of jurisdiction then this information must be provided before any of the slag is moved off site. If any such information is provided

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after the slag is moved off site SMC faces the prospect of being cited with civil penalties; including those for failure to provide necessary information per the New Jersey Radiation Protection Act (N.J.S.A. 26:2D-9) and to comply with the New Jersey Radiation Protection Code (N.J.A.C. 7:28-11.7).

If the NRC is not of the same opinion regarding the jurisdiction of this material , then we suggest that you provide us with your position and supporting information before the ferrovanadium slag is moved off site. If we do not hear from you by December 30, 1991, we will assume that the jurisdictional issue at SMC is closed. Please do not hesitate to contact me at (609) 987-2101 if you have any questions regarding our position.

Even if the New Jersey Department of Environmental Protection and Energy (DEPE) is not directly involved with the regulation of this material we are also requesting from you the name of the processor and the location of the recipient for both the product and the waste material. This information will be forwarded to the appropriate management level within the DEPE.

Sincerely,



Robert Stern, Ph.D., Chief  
Bureau of Environmental Radiation

c: Jill Lipoti, Assistant Director, RPP  
Bruce Venner, Chief, BFCM  
✓ Charles Haughney, Branch Chief, Fuel Cycle Safety Branch, NRC  
David Smith, SMC  
Marie Miller, NRC