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PDR

State of New Jersey
Department of Environmental Protection and Energy

Division of Responsible Party Site Remediation

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Scott A. Weiner
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Director

VIA FACSIMILE

David R. Smith
Director of Environmental Services
Shieldalloy Metallurgical Corporation
PO Box 768
Newfield, New Jersey 08344

NOV. 21 1991

Dear Mr. Smith:

Re: Shipping of Ferrovandium Off-Site

During a site visit on November 15, 1991, Donna L. Gaffigan of my staff was informed that Shieldalloy Metallurgical Corporation (SMC) is very close to signing contracts to crush and sell the ferrovandium standard grade slag that is currently stockpiled at the facility. During the conversation it was stated that this slag is radioactive.

The major concern of the New Jersey Department of Environmental Protection and Energy (the Department) is the source of the radioactivity. It is still not clear whether the ferrovandium slag has been contaminated with materials regulated by the Nuclear Regulatory Commission (NRC) or if it is naturally occurring radioactive material under State jurisdiction. If either the slag or raw material is naturally radioactive, then the amount of uranium and thorium present must be determined in order to definitely conclude whether the ferrovandium slag falls under New Jersey or NRC jurisdiction.

SMC has not submitted to the Department any data as to the radioactive properties of the ferrovandium slag. The Department has requested this information on several occasions, including the September 24, 1990 comment letter on the Radiological Characterization Work Plan (item No. 20). SMC chose to ignore this request and implemented the work plan at peril without conducting the required analysis. Therefore, SMC shall provide to the Department within seven (7) calendar days of receipt of this letter, sufficient information to make this determination. Before this determination is made, SMC shall not remove the ferrovandium slag from the site. Failure to submit the required information could subject SMC to penalties pursuant to N.J.S.A. 26:2D-13 and/or paragraph 57 of the Administrative Consent Order dated October 5, 1988.

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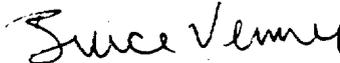
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Be advised that even if the ferrovanadium slag is found to be under State jurisdiction, but below minimum quantities requiring a New Jersey license, the Department still regulates the material. The New Jersey Radiation Protection Code defines radioactive material as "a natural or artificially produced substance, solid, liquid or gas which emits ionizing radiation spontaneously" (N.J.A.C. 7:28-1.4(b)). Furthermore, in order to dispose of radioactive material in the manner proposed by SMC, the Code states that the Department must approve the method of disposal (N.J.A.C. 7:28-11.7). Briefly, this entails an application including a description of the radioactive material, quantities, types, levels, disposal plans, environmental evaluation, and procedures for minimizing exposure. The New Jersey Radiation Protection Act describes the consequences that SMC may face if it is decided to proceed with the disposal plans prior to obtaining Department approval (N.J.S.A. 26:2D-11.1).

It is not the Department's intent to stop SMC from selling the ferrovanadium if the current plans constitute a legitimate reuse of the material. However, SMC has never provided the Department with sufficient information to determine the legitimacy of the proposal.

The Department is willing to work with SMC to bring this issue to a quick conclusion.

Sincerely,



Bruce Venner, Chief

Bureau of Federal Case Management

DG:mb

c: Robert Stern, Chief, Bureau of Environmental Radiation, NJDEPE
Charles Haughney, Branch Chief, Fuel Cycle Safety Branch, NRC
Craig Rieman, SMC