



**State of New Jersey**  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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LISA P. JACKSON  
Commissioner

April 30, 2008

John Hayes, Project Manager  
US Nuclear Regulatory Commission  
Office of Federal & State Materials & Env. Management Programs  
Mail Stop T8F5  
Washington, DC 20555

Dear Mr. Hayes:

The State of New Jersey and the Nuclear Regulatory Commission (NRC) have been in discussions about jurisdictional issues for over ten years regarding the Shieldalloy Metallurgical Corporation (SMC) site in Newfield, New Jersey. However, it has been suggested several times in the past few months that we have not raised a sufficient amount of attention regarding the contamination in the Hudson Branch outside the property line of SMC, even though this information was submitted to the NRC in an April, 1992 report entitled Assessment of Environmental Conditions at the Newfield Facility. We can go back to our letter of October 20, 1986 (over 20 years ago) where we reported to the NRC the results of our sampling that showed Radium-226 and Thorium-232 concentrations above background outside the fence line and where we warned the NRC about allowing large piles of waste to accumulate onsite. Perhaps we have misinterpreted your letters of December 3, 1991 (Enclosure 1) and January 15, 1992 (Enclosure 2) where you explained to us that the NRC has exclusive jurisdiction over material that originates from licensable source material. "Your understanding of NRC jurisdiction... is quite accurate. The NRC regulates the source material and also any other material contaminated by it in the course of licensed operations."<sup>1</sup> "The NRC's authority at a licensed site such as SMC's Newfield site also extends to facilities, material and equipment contaminated with the licensed material, and that authority is exercised to the extent necessary for adequate protection of the workers, the public and the environment."<sup>2</sup>

Therefore, we again pose the following questions. Since the contamination in the Hudson Branch is below NRC licensable source material concentrations (0.05% by weight) and since it is located outside the property line of SMC, does the Nuclear Regulatory Commission take the position that it has exclusive jurisdiction over this contamination? If the State of New Jersey takes action against Shieldalloy to compel cleanup of offsite contamination will the NRC affirmatively represent that such action does not infringe upon the NRC's jurisdiction under the

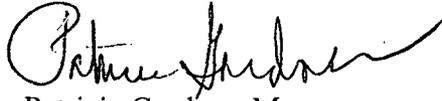
<sup>1</sup> Letter from Jerry J. Swift (NRC) to Dr. Robert Stern (DEP) dated December 3, 1991.

<sup>2</sup> Letter from Jerry J. Swift (NRC) to Dr. Robert Stern (DEP) dated January 15, 1992

Atomic Energy Act? If the NRC does have exclusive jurisdiction over this contamination, when will the NRC require SMC to remediate the Hudson Branch to unrestricted release levels?

Your prompt reply is appreciated.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Patricia Gardner".

Patricia Gardner, Manager  
Bureau of Environmental Radiation

Enclosures