

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Alan S. Rosenthal, Chairman
Dr. Richard E. Wardwell
Dr. William H. Reed

In the Matter of

SHIELDALLOY METALLURGICAL CORP.

(Licensing Amendment Request for
Decommissioning of the Newfield, New Jersey
Facility)

Docket No. 40-7102-MLA

ASLBP No. 07-852-01-MLA-BD01

October 21, 2009

ORDER

The Board has been informed by the NRC Staff in its latest status report that, on September 30, 2009, the State of New Jersey and the NRC reached an agreement, pursuant to Section 274 of the Atomic Energy Act, whereby New Jersey assumed regulatory authority over source materials under 10 C.F.R. Part 40.¹ This authority extends to Shieldalloy's Newfield facility and, accordingly, the NRC has terminated its technical review of Shieldalloy's decommissioning plan.²

Additionally, Shieldalloy has informed the Board that it has filed two suits against New Jersey.³ One suit, filed in the United States District Court for the District of New Jersey, seeks, among other relief, to enjoin application of New Jersey's regulatory requirements to the Newfield

¹ See NRC Staff's Fifteenth Status Report at 1 (Oct. 1, 2009).

² Id. at 2.

³ Letter from Matais F. Travieso-Diaz, Counsel for Shieldalloy Metallurgical Corp., to The Atomic Safety and Licensing Board at 2 (Oct. 5, 2009).

facility.⁴ The other suit, filed in the Appellate Division of the New Jersey Superior Court, challenges the validity of those regulations.⁵ Shieldalloy also intends to seek judicial review of the NRC's decision to transfer regulatory authority over source materials to New Jersey and has moved before the Commission for a stay of that transfer pendente lite.⁶

Given that the NRC Staff is no longer conducting a technical review of Shieldalloy's decommissioning plan, the Board hereby suspends the obligation to file bi-monthly status reports, the sole purpose of which was to keep the Board informed as to the progress of that review. Nevertheless, the Staff remains obligated to inform the Board promptly of any significant developments relevant to this proceeding. Of course, restoration of the bi-monthly reports might be directed at a later date should the technical review be resumed.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁷

Alan S. Rosenthal, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
October 21, 2009

⁴ Id.

⁵ Id.

⁶ Shieldalloy's Motion for Stay Pending Judicial Review of Commission Action Transferring Regulatory Authority over Newfield, New Jersey Facility to the State of new Jersey (Oct. 13, 2009).

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Alan S. Rosenthal, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Richard E. Wardwell
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
William Reed
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Catherine Scott, Esq.
Michael J. Clark, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Jay E. Silberg, Esq.
Matias F. Travieso-Diaz, Esq.
Robert B. Haemer, Esq.
Pillsbury Winthrop Shaw Pittman LLP
2300 N Street, N.W.
Washington, DC 20037-1128

ORDER

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Stuart Rabner, Esq.
Attorney General of New Jersey
Andrew D. Reese, Esq.
Kenneth Elwell, Esq.
Deputy Attorneys General
New Jersey Office of the Attorney General
Department of Law and Public Safety
Division of Law
25 Market Street
P.O. Box 093
Trenton, NJ 08625-0093

David R. Smith, Radiation Safety Officer
Shieldalloy Metallurgical Corporation
12 West Boulevard
P.O. Box 768
Newfield, NJ 08344-0768

[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
This 21st day of October 2009