

UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

SHIELDALLOY METALLURGICAL CORP.	)	
	)	
Petitioner	)	
	)	
v.	)	
	)	No. 09-1268
U.S. NUCLEAR REGULATORY COMMISSION	)	
and UNITED STATES OF AMERICA,	)	
	)	
Respondents	)	
	)	
	)	

**UNOPPOSED MOTION OF THE RESPONDENTS TO EXTEND  
BRIEFING DEADLINE AND TO MODIFY BRIEFING SCHEDULE**

Pursuant to Local Rule 28(e), Respondents, the U.S. Nuclear Regulatory Commission (NRC) and the United States of America, respectfully seek a 21-day extension of time, from June 7, 2010, to and including June 28, 2010, to file the answering brief in this case. To accommodate this 21-day extension, we also ask this Court to modify the remainder of the briefing schedule by extending the remaining deadlines by an equivalent 21 days. Petitioner (Shieldalloy Metallurgical Corporation) and *amicus curiae* (the State of New Jersey) consent to the grant of this motion.

This Court should grant the extension-of-time motion for the

following reasons:

1. Pursuant to a scheduling order that this Court issued on March 10, 2010, the respondents' answering brief is currently due on June 7, 2010.

2. Petitioner's opening brief raises seven "Issues Presented," some of which rest on technical matters or complex NRC requirements and guidance documents. See Petitioner's Brief, at 8-9.

3. The NRC lawyer with chief responsibility for drafting the answering brief, Grace H. Kim, has performed substantial research and engaged in discussions with NRC Staff members with pertinent expertise. She has written portions of the brief, but other portions require further inquiry.

4. Ms. Kim's work on the answering brief in this case was interrupted because of her work on a reply to a motion to dismiss in another case pending in this Court, *Blue Ridge Environmental Defense League v. NRC*, No. 10-1058 (D.C. Cir.). That reply was filed on May 20.

5. In addition, on May 19, 2010, Ms. Kim's son underwent unexpected, emergency surgery. He is now resting at home, under

Ms. Kim's care. She will be unable to resume intensive work on the answering brief for a week, if not longer.

6. NRC's Solicitor, John F. Cordes, who is responsible for NRC litigation and reviews all NRC briefs, will be unavailable for several days in late May due to an out-of-town family wedding.

7. In Hobbs Act cases like this one, NRC and the United States typically join in a single brief. The Department of Justice represents the United States. Collaborating on a single brief requires consultation and coordination between NRC and the Justice Department, including supervisory reviews at the Department. Because of the interruption in NRC's brief-drafting, additional time is necessary to ensure that Justice Department attorneys will have sufficient time to review the brief before the filing deadline.

8. This Court has not yet set an oral argument date for this case, so a 21-day delay in briefing will not disrupt this Court's consideration of the case.

9. Counsel for petitioner, Shieldalloy Metallurgical Corporation, and counsel for *amicus curiae*, the State of New Jersey have consented to the grant of a 21-day extension of time to file

respondents' answering brief, with an equivalent modification of the rest of the briefing schedule.

10. If this Court grants our motion to extend the deadline for the answering brief, it should modify the remaining briefing schedule to provide as follows:

Respondents' Brief	June 28, 2010
Amicus Curiae for Respondents' Brief	July 13, 2010
Petitioner's Reply Brief	July 27, 2010
Deferred Appendix	August 3, 2010
Final Briefs	August 17, 2010

### **CONCLUSION**

For the foregoing reasons, this Court should grant this motion to extend the deadline for filing respondent's answering brief by 21 days, to and including June 28, 2010, and to modify the remainder of the briefing schedule accordingly.

Respectfully submitted,

/S/  
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May 21, 2010

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**CERTIFICATE OF SERVICE**

I hereby certify that on May 21, 2010, a copy of the foregoing  
“UNOPPOSED MOTION OF THE RESPONDENTS TO EXTEND  
BRIEFING DEADLINE AND TO MODIFY BRIEFING SCHEDULE”  
was filed with the Clerk and served upon the following counsel of  
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