

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

SHIELDALLOY METALLURGICAL CORPORATION)

Petitioner,)

v.)

UNITED STATES NUCLEAR REGULATORY)
COMMISSION and the)

UNITED STATES OF AMERICA)
Respondents.)

No. 09-1268

**Petitioner's Consent Motion for Leave to Include Five Non-Record
Documents in the Supplemental Appendix**

Pursuant to Circuit Rule 27, Petitioner Shieldalloy Metallurgical Corporation respectfully moves this Court for permission to include in the Supplemental Appendix approved by the Court on April 28, 2010 five additional non-record documents cited in Petitioner's Reply Brief. Respondents (the U.S. Nuclear Regulatory Commission and United States of America) consent to the granting of this motion.

For the following reasons, this Court should grant Petitioner's motion to allow these five additional documents to be included in the Supplemental Appendix.

1. By order dated April 28, 2010, in response to a consent motion filed by Petitioner, this Court allowed the filing of a Supplemental Appendix to include documents that Petitioner considers part of the administrative record but which Respondents do not. That order allows lodging the disputed documents with this Court, "subject to the Court's determination of their relevance."

2. Petitioner's Reply Brief, to be filed July 27, 2010, makes reference to five additional documents not in the record. These five documents are referenced for purposes of general background and for addressing matters raised in Respondents' brief and the State of New Jersey's amicus curiae brief. The five documents are:

1	<i>Final Rule: Disposal of High-Level Radioactive Wastes in a Proposed Geologic Repository at Yucca Mountain, NV</i> , 66 Fed. Reg. 55,732, 55,736 & 55,751 (November 2, 2001)
2	SECY-09-0167 Enclosure 3, <i>Status of the Decommissioning Program 2009 Annual Report</i> (November 2009)
3	Advanced Medical Systems, Inc. site summary (available at http://www.nrc.gov/info-finder/decommissioning/complex/ams-ohio.html)

4	Shieldalloy Metallurgical Corporation (Metallurg Vanadium Corporation) site summary (available at http://www.nrc.gov/info-finder/decommissioning/complex/metallurg-vanadium-corporation.html)
5	SECY-99-123, <i>Oklahoma Agreement State Negotiations: State Proposal to Limit Scope of Agreement</i> (April 28, 1999)

These documents, while not in the certified record for this case, are all publicly available.

3. Placing the non-record documents referred to in Petitioner's Reply Brief in the Supplemental Appendix makes locating, citing and reading the documents more convenient for the parties and for this Court.

4. This is a deferred-appendix case that is still at the initial briefing stage. Appendices and final briefs have not yet been filed. It would not be burdensome to include five additional documents in the Supplemental Appendix that this Court has already approved.

5. Counsel for Respondents consent to the granting of this motion.

Conclusion

For the foregoing reasons, this Court should grant this consent motion to include five non-record documents in the Supplemental Appendix.

Respectfully submitted,

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Dated: July 27, 2010

CERTIFICATE OF SERVICE

I hereby certify that the electronic original and five copies of the foregoing Petitioner's Consent Motion for Leave to Include Five Non-Record Documents in the Supplemental Appendix (the "Motion") were filed with the Clerk of this Court this 27th day of July, 2010. In addition, on this 27th day of July, 2010, paper copies of the Motion were served on the following participants in the case by United States first class mail, postage prepaid:

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