

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

November 23, 2010

ORDER
(Reinstating Status Report Requirement)

This proceeding concerns the decommissioning of the Newfield, New Jersey facility of Shieldalloy Metallurgical Corporation (Shieldalloy), which contains a pile of radioactive slag and baghouse dust. On September 30, 2009, the Nuclear Regulatory Commission transferred jurisdiction over the facility to the State of New Jersey, pursuant to Section 274 of the Atomic Energy Act.¹ That transfer of jurisdiction was then challenged by Shieldalloy, which ultimately resulted in a November 9, 2010 decision by the United States Court of Appeals for the District of Columbia Circuit, vacating that transfer of jurisdiction and remanding jurisdiction to the NRC.²

This Licensing Board held a teleconference with the parties on November 22, 2010, for the principal purpose of determining what the NRC Staff planned to do in light of this development. The Board was advised that the NRC Staff would put before the Commission the options which the NRC Staff believes are available in response to the

¹ See Licensing Board Order (Oct. 21, 2009) at 1 (unpublished).

² Shieldalloy Metallurgical Corp. v. NRC, No. 09-1268, slip op. at 2, 14 (D.C. Cir. Nov. 9, 2010).

court's decision. Those options include the re-transfer of jurisdiction to the State of New Jersey (upon meeting the court of appeals' objections to the 2009 transfer) and the NRC Staff continuing its own technical review of Shieldalloy's decommissioning plan.

On the basis of these disclosures, the Board has decided to reinstate the obligation of the NRC Staff to file bi-monthly status reports. The first such report shall be due January 25, 2011, and each subsequent report shall be submitted on the 25th day of every other month thereafter.

It appears that the court's mandate will not issue until the end of December 2010. It is the expectation of the Board, however, that the NRC Staff will not await that issuance before embarking upon a close consideration of the options now available to the Commission.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD³

/RA/

Alan S. Rosenthal, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 23, 2010

³ Copies of this order were sent this date by Internet e-mail to the counsel/representatives for (1) Shieldalloy Metallurgical Corp.; (2) State of New Jersey; and (3) NRC Staff.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (Reinstating Status Report Requirement) have been served upon the following persons by U.S. mail, first class, and NRC internal mail.

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

U.S. Nuclear Regulatory Commission
Office of the General Counsel
Mail Stop O-15 D21
Washington, DC 20555-0001

Alan S. Rosenthal, Chair
Administrative Judge

Catherine Scott, Esq.
Michael Clark, Esq.

Richard E. Wardwell
Administrative Judge

OGC Mail Center

William Reed
Administrative Judge

Office of Commission Appellate
Adjudication
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

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

Stuart Rabner, Esq.
Attorney General of New Jersey
Andrew W. 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

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

Dated at Rockville, Maryland
this 23rd day of November 2010.