

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 29, 2011

ORDER

(Holding Proceeding in Abeyance)

This proceeding involves the decommissioning of the Shieldalloy Metallurgical Corporation's (Shieldalloy's) Newfield, New Jersey site, on which there remains radioactive material generated in the course of a now discontinued activity conducted on that site. For the second time, the Commission has transferred jurisdiction over Shieldalloy's decommissioning plan to the State of New Jersey, pursuant to Section 274 of the Atomic Energy Act.¹ And for the second time, Shieldalloy has petitioned the Court of Appeals for review of such transfer.²

¹ CLI-11-12, 74 NRC __ (slip op.) (Oct. 12, 2011). The Commission first transferred jurisdiction to New Jersey in September 2009. State of New Jersey: Discontinuance of Certain Commission Regulatory Authority Within the State; Notice of Agreement Between the Nuclear Regulatory Commission and the State of New Jersey, 74 Fed. Reg. 51,882 (Oct. 8, 2009). The United States Court of Appeals for the District of Columbia Circuit vacated that action and remanded the matter to the NRC for further consideration on the issue whether jurisdictional transfer comports with applicable law. Shieldalloy Metallurgical Corp. v. NRC, 624 F.3rd 489 (D.C. Cir. 2010).

² Shieldalloy Metallurgical Corporation Petition for Review (Nov. 22, 2011).

In view of the foregoing, we will continue to hold this proceeding in abeyance pending resolution of Shieldalloy's petition to the Court of Appeals. Shieldalloy is to keep the Board apprised of all significant future developments.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD³

/RA/

Alan S. Rosenthal, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 29, 2011

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 (Holding Proceeding in Abeyance) have been served upon the following persons by U.S. mail, first class, and NRC internal mail.

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

Dated at Rockville, Maryland
this 29th day of November 2011