

From: Averbach, Andrew
Sent: Thursday, May 29, 2014 9:58 AM
To: Travieso-Diaz, Matias F.; Kim, Grace;
Andrew.Reese@dol.lps.state.nj.us; McFadden, Lane (ENRD)
(Lane.McFadden@usdoj.gov)
Cc: Silberg, Jay E.; Markus, Stephen L.
Subject: RE: Joint Appendix in FW: 13-1259 Shieldalloy Metallurgical Corp v. NRC

We agree with that. I just want to make sure you are doing the same thing with 1757 that you did last time, which would be sufficient for our purposes.

From: Travieso-Diaz, Matias F. [<mailto:matias.travieso-diaz@pillsburylaw.com>]
Sent: Thursday, May 29, 2014 9:56 AM
To: Averbach, Andrew; Kim, Grace; Andrew.Reese@dol.lps.state.nj.us; McFadden, Lane (ENRD) (Lane.McFadden@usdoj.gov)
Cc: Silberg, Jay E.; Markus, Stephen L.
Subject: RE: Joint Appendix in FW: 13-1259 Shieldalloy Metallurgical Corp v. NRC

As we have done (without objection) in the two previous cases, we are only excerpting the longer documents. As you know, some of the documents, such as NUREG-1496 and NUREG-1543, are quite lengthy and it would not be appropriate to include them in the joint appendix in their entirety when only a few pages are being cited.

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From: Averbach, Andrew [<mailto:Andrew.Averbach@nrc.gov>]
Sent: Thursday, May 29, 2014 9:32 AM
To: Travieso-Diaz, Matias F.; Kim, Grace; Andrew.Reese@dol.lps.state.nj.us; McFadden, Lane (ENRD) (Lane.McFadden@usdoj.gov)
Cc: Silberg, Jay E.; Markus, Stephen L.
Subject: RE: Joint Appendix in FW: 13-1259 Shieldalloy Metallurgical Corp v. NRC

Thanks, Matias. I will confirm with Grace this morning, but this looks good to me.

I assume that the entirety of each document will be included, with the exception of vols. 1 and 2 of NUREG-1757, which will be excerpted in the same way as it was included in the JA in 11-1449?

Andrew

From: Travieso-Diaz, Matias F. [<mailto:matias.travieso-diaz@pillsburylaw.com>]
Sent: Thursday, May 29, 2014 9:22 AM
To: Averbach, Andrew; Kim, Grace; Andrew.Reese@dol.lps.state.nj.us; McFadden, Lane (ENRD) (Lane.McFadden@usdoj.gov)
Cc: Silberg, Jay E.; Markus, Stephen L.
Subject: RE: Joint Appendix in FW: 13-1259 Shieldalloy Metallurgical Corp v. NRC

Attached, as you requested, is the table of contents to the Joint Appendix that we will file in the above referenced case. The page numbers are still being inserted.

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From: Averbach, Andrew [<mailto:Andrew.Averbach@nrc.gov>]
Sent: Thursday, May 29, 2014 7:58 AM
To: Travieso-Diaz, Matias F.; Kim, Grace; Andrew.Reese@dol.lps.state.nj.us; McFadden, Lane (ENRD) (Lane.McFadden@usdoj.gov)
Cc: Silberg, Jay E.; Markus, Stephen L.
Subject: RE: Joint Appendix in FW: 13-1259 Shieldalloy Metallurgical Corp v. NRC

Matias:

As you know, the deferred appendix is due tomorrow. Do you have a listing of the docs and pages you propose to include? (I haven't seen any email traffic on this but wanted to be sure). We just want to make sure that the pages we need to refer to aren't omitted from the filing. If you could get back to us this morning it would be greatly appreciated.

Thanks,

Andrew

From: Travieso-Diaz, Matias F. [<mailto:matias.travieso-diaz@pillsburylaw.com>]
Sent: Thursday, May 15, 2014 4:49 PM
To: Averbach, Andrew; Kim, Grace; Andrew.Reese@dol.lps.state.nj.us; McFadden, Lane (ENRD) (Lane.McFadden@usdoj.gov)
Cc: Silberg, Jay E.; Markus, Stephen L.
Subject: RE: Joint Appendix in FW: 13-1259 Shieldalloy Metallurgical Corp v. NRC

Thanks. We will act accordingly.

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From: Averbach, Andrew [<mailto:Andrew.Averbach@nrc.gov>]
Sent: Thursday, May 15, 2014 4:06 PM
To: Kim, Grace; Travieso-Diaz, Matias F.; Andrew.Reese@dol.lps.state.nj.us; McFadden, Lane (ENRD) (Lane.McFadden@usdoj.gov)
Subject: RE: Joint Appendix in FW: 13-1259 Shieldalloy Metallurgical Corp v. NRC

Matias: Grace forwarded me your email but is out of the office this afternoon. The basis of our agreement, and the formulation of the original certified index, was that documents that were previously before the court (JA/SA) were properly included in the JA this time around. So, to the extent you want to cite to materials that were previously before the court, we don't have an objection to that or to altering the JA accordingly. This was the same thing we told Andrew Reese. That said, we reserve our right to object to materials that were not before the court before or are not properly raised in a reply brief.

I hope that's helpful to you; please let me know if you have any questions.

Andrew

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From: Travieso-Diaz, Matias F. [<mailto:matias.travieso-diaz@pillsburylaw.com>]

Sent: Thursday, May 15, 2014 1:39 PM

To: Kim, Grace

Cc: 'reeseand@dol.lps.state.nj.us' (reeseand@dol.lps.state.nj.us); Silberg, Jay E.; Markus, Stephen L.

Subject: Joint Appendix in FW: 13-1259 Shieldalloy Metallurgical Corp v. NRC

Importance: High

Grace: I just got off the phone with Andrew Reese, who indicated that you expressed to him that any materials that are now being cited by a party and were placed before the D.C. Circuit in previous cases – whether in the joint or supplemental appendices – could be included in the joint appendix this time around. Please confirm for me as soon as possible that such is your position, because if that is the case the number of documents that we would include in Shieldalloy’s motion to file a supplemental appendix, should we file one, would be greatly reduced. Many thanks,

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