

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT
NO. 11-3228

STATE OF NEW JERSEY,)
)
Petitioner,)
)
v.)
)
UNITED STATES NUCLEAR REGULATORY)
COMMISSION and the)
UNITED STATES OF AMERICA,)
)
Respondents.)

UPDATE TO THE COURT

On April 30, 2013, the Court granted the parties' joint motion to hold this case in abeyance pending NRC action in response to the U.S. Court of Appeals for the District of Columbia Circuit's remand order in *Shieldalloy v. NRC*, 707 F.3d 371 (D.C. Cir. 2013), and a decision by the D.C. Circuit on review of that NRC action. The Court directed the parties to file status reports every 60 days.

On August 7, 2013, the parties reported that the NRC issued an order on remand that reinstated New Jersey's authority to regulate the Shieldalloy decommissioning. On October 3, 2013, the parties reported that Shieldalloy filed, in the D.C.

Circuit, a petition for review (dated October 1, 2013) of the NRC order reinstating New Jersey's authority to regulate the Shieldalloy decommissioning. On October 27, 2014, the parties reported that the D.C. Circuit issued a decision that upheld the NRC order reinstating New Jersey's authority to regulate the Shieldalloy decommissioning.

The parties now report that on December 1, 2014, Shieldalloy filed a Petition for a Panel Rehearing with the D.C. Circuit, and on December 10, 2014, the D.C. Circuit denied the petition.

Consistent with the parties' previous filings with the Court in this matter, if Shieldalloy does not seek and obtain Supreme Court review of the D.C. Circuit decision, or if such review does not result in reversing the decision's outcome, the dispute between the parties in the instant case would become moot and New Jersey will withdraw.

Because of Shieldalloy's unsuccessful Petition for Panel Rehearing, the deadline for Shieldalloy to file a petition for a writ of certiorari with the Supreme Court is now March 10, 2015.

The parties' next 60-day status report to this Court is due on February 26, 2015.

Respectfully submitted,

/s/ JAMES E. ADLER _____

JAMES E. ADLER
Attorney for the Federal
JERSEY

Respondents

(James E. Adler has
Consented to Andrew D.
Reese signing this joint
update on his behalf)

JOHN J. HOFFMAN
ACTING ATTORNEY GENERAL OF NEW

/s/ ANDREW D. REESE _____

Andrew D. Reese
Deputy Attorney General
Attorney for the Petitioner

Dated: December 18, 2014