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In accordance with the initial prehearing order, §II.D, the undersigned sent an email to counsel for the Staff requesting a response as to whether the Staff opposed or supported the instant motions, on Sunday, January 17, 1999.

By carbon copy, the request was also emailed to David Berz, Esq. of Weil, Gotshal & Manges LLP. Mr. Berz was indicated as a recipient on the presiding officer's initial prehearing order, although he had not filed an appearance at that time. Mr. Berz had previously indicated in a response to the undersigned's query about his appearance as a recipient, that he represents SMC. He has also indicated that he filed a notice of appearance which neither the undersigned nor counsel for Staff has received.

**Indication Of Whether The Request Is Opposed Or Supported By The Other Participants.**

Pursuant to the initial prehearing order, §II.D, a motion for extension of time must indicate whether the request is opposed or supported by the other participants to the proceeding. Counsel for Staff has indicated no objection to a reasonable period of time beyond that in the schedule

for further filings. Counsel for Staff further indicated that three weeks was a reasonable period of time.

The undersigned has no indication from SMC as to whether it opposes or supports the request. The undersigned has received two emails from Mr. Berz subsequent to and in reply to the request. However, neither reply was responsive to the request. The undersigned indicated to Mr. Berz that he would not contact SMC directly on the information and the belief counsel represents it. However, the fact that purported counsel for SMC has not entered an appearance in the proceeding and has not directly responded to the requested indication of opposition or support, cannot be construed as opposition to the motion. Therefore, the participants to the proceeding do not oppose the motion for extension of time.

### **Good Cause Supports Permitting The Extension.**

The undersigned indicated to counsel for Staff as reasons for the request for extension that:

- 1) The undersigned has an answer due in common pleas court on January 25, 1999 in one matter, that is in process,

and;

- 2) The undersigned has a pretrial conference in court on January 25, 1999 at 2:30 P.M. in another matter, and;
- 3) Notwithstanding, the foregoing conflicts, the time to available to respond was extremely short given
  - a) The criticality and fatality of the response on the issue of standing;
  - b) The original research required on this fundamental issue;
  - c) The resources available to the undersigned to respond within the prescribed period, including
    - i) The lack of a form response on the issue of standing as was likely available to counsel for Staff on raising the issue.

The foregoing reasons demonstrate good cause that supports permitting the extension of time.

## **Conclusion**

For the foregoing reasons, counsel for the unnamed citizens of Guernsey County, Ohio moves the presiding office to extend the time to respond until February 15, 1999.

Respectfully Submitted

*Michael Bruce Gardner*  
*MB Gardner*

Michael Bruce Gardner

Counsel for Unnamed  
Citizens of Guernsey County  
Ohio

DOCKETED  
USNRC

**Certificate of Service**

'99 JAN 26 P2:16

Pursuant to §II.B.1.g of the initial prehearing order, copies of the foregoing motion were served on the presiding officer, the administrative assistant, the office of the secretary, counsel for the Staff and counsel for SMC via email on this January 20, 1999.

OFFICE OF SECRETARY  
RULEMAKING AND  
ADJUDICATIONS STAFF

*Michael Bruce Gardner*  
*MBG*

Counsel for Unnamed  
Citizens of Guernsey County  
Ohio

## Certificate of Service

Pursuant to §II.B.1.g and §II.B.1.d of the initial prehearing order, copies of the foregoing motion were served on the presiding officer, the administrative assistant, the office of the secretary, counsel for the Staff and counsel for Sheildalloy Metallurgical Corporation via email at approximately 11:50 p.m. on 20 January 1999 and by regular mail on 21 January, 1999, at the addresses where shown below .

Administrative Judge  
G. Paul Bollwerk, III, Presiding Officer  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington D.C. 20555-0001  
[GPB@nrc.gov](mailto:GPB@nrc.gov)  
Fax: 301-415-5599


Administrative Judge  
Thomas D. Murphy, Special Assistant  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington D.C. 20555-0001  
[TDM@nrc.gov](mailto:TDM@nrc.gov)  
Fax: 301-415-5599

Office of Secretary (2)  
ATTN: Rulemaking and  
Adjudications Staff  
U.S. Nuclear Regulatory Commission  
Washington D.C. 20555-0001  
[hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)  
Fax: 301-415-1101

Charles A. Barth  
Counsel for NRC Staff  
Office of General Counsel  
U.S. Nuclear Regulatory Commission  
Washington D.C. 20555-0001  
[CAB@nrc.gov](mailto:CAB@nrc.gov)  
Fax: 301-415-3725

David Berz  
Counsel for Shieldalloy Metallurgical Corp.  
Weil, Gotshal & Manges, L.L.P.  
1615 L Street, N.W.  
Washington, D.C. 20035  
[david.berz@weil.com](mailto:david.berz@weil.com)  
Fax: 202-857-0940

James M. Cutchin, V  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington D.C. 20555-0001  
[JRC@nrc.gov](mailto:JRC@nrc.gov)

  
Michael Bruce Gardner  
Counsel for Unnamed Citizens of  
Guernsey County Ohio