



SHIELDALLOY METALLURGICAL CORPORATION

December 31, 1998

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VIA HAND DELIVERY

OFFICE OF SECRETARY
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Annette L. Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
1 White Flint North
11555 Rockville Pike
Rockville, MD 20852-2738

SERVED JAN - 4 1999

Re: Answer to Michael Bruce Gardner Request for Hearing Regarding Docket No. 40-8948, Shieldalloy Metallurgical Corporation License Number SMB-1507

Dear Ms. Vietti-Cook:

Pursuant to 10 C.F.R. § 2.1205(g), applicant Shieldalloy Metallurgical Corporation ("Shieldalloy") hereby submits the following response to Mr. Michael Bruce Gardner's December 21, 1998 request for a hearing regarding Shieldalloy's request for a license amendment to Source Material License No. SMB-1507, Docket Number: 40-8948. For the reasons set forth below, Mr. Gardner's request for a hearing should be denied.

A. The Request for a Hearing Should Be Denied Because it Fails to Demonstrate Standing.

In his request for a hearing dated December 21, 1998, Mr. Gardner alleges that his request is submitted on behalf of his "clients," and at one point refers to the alleged "interests of the requesters, my clients." Mr. Gardner has failed anywhere in his request for a hearing to identify who those clients might be. Because he has failed to identify his clients, never mind to identify the injury in fact that they allegedly suffer with regard to this license amendment request, he has failed to demonstrate that they meet the "judicial standards for standing" with regard to this

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proceeding. See 10 C.F.R. 2.1205 (h). Moreover, as an attorney whose address is in Cleveland, Ohio, Mr. Gardner individually clearly has no standing with regards to the subject matter of this proceeding, and has alleged no injury that would grant him standing. Because the request for a hearing fails to establish standing, the request for a hearing on Shieldalloy's request for a license amendment should be denied.

B. The Request for a Hearing Should Be Denied Because the Specified Areas of Concern Are Not Germane to the Subject Matter of this License Amendment

This proceeding involves a discrete license amendment submitted by Shieldalloy, which would allow for the receipt and placement of off-site slag/soil from a temporary staging area on the Sheildalloy facility to an alternate location, the west slag pile, on the Shieldalloy facility. This slag was excavated from various residential properties in the Cambridge, Ohio area in 1996, and is currently staged in the temporary staging area.

Mr. Gardner's request fails to allege any interest in the discrete subject matter of this proceeding, i.e. the movement of certain slag currently stored on the Shieldalloy facility from one location to another. Mr. Gardner's request admits that the slag of concern to his clients is not the slag on the Cambridge facility that is the subject of this license amendment request when he refers at various points to "radioactive slag from operations at the Cambridge site *unaccounted for in the license amendment request*" (italics added). By this admission, Mr. Gardner has acknowledged that neither he nor his purported clients have concerns germane to the subject matter of this proceeding, but are instead concerned about other slag not relevant to this license request.

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Mr. Gardner alleges at another point that his clients "have substantial property, financial, legal, equitable, civic, social, and economic interests in the proceeding." Whoever these alleged clients may be, Mr. Gardner has failed to allege with any specificity the nature of this laundry list of alleged interests, and how they might relate to the movement of slag from one temporary storage location on the Shieldalloy facility to another. Because the request for a hearing fails to demonstrate concerns germane to the subject matter of this proceeding, the request for a hearing should be denied.

In summary, Shieldalloy requests that the request for a hearing with regard to the issuance of a license amendment to Shieldalloy's Source Material License, SMB -1507, Docket No. 40-8948, be denied.

Respectfully submitted,

James P. Valenti

James P. Valenti *by NNY*
Radiation Safety Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY this 31st day of December, 1998 that true and correct copies of the foregoing letter in response to Michael Bruce Gardner Request for Hearing were served by first-class mail, postage prepaid, on the following:



Michael B. Gardner, Esq.
22132 Westchester Road
Cleveland, OH 44122

Dr. William D. Travers
Executive Director for Operations
U.S. Nuclear Regulatory Commission
O-16 E 15
Washington, D.C. 20555

Nancy N. Young
on behalf of Shieldalloy Metallurgical Corporation

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

SHIELDALLOY METALLURGICAL CORP.
Cambridge, Ohio
(Request for Materials License
Amendment)

Docket No.(s) 40-8948-MLA

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing SMC ANSWER TO HEARING REQUEST have been served upon the following persons by U.S. mail, first class, except as otherwise noted and in accordance with the requirements of 10 CFR Sec. 2.712.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
G. Paul Bollwerk, III
Presiding Officer
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Thomas D. Murphy
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James P. Valenti
Shieldalloy Metallurgical Corporation
West Boulevard
P.O. Box 768
Newfield, NJ 08344

Dated at Rockville, Md. this
4 day of January 1999

Adrian T. Byrdson
Office of the Secretary of the Commission