

April 2, 1997

NOTE TO: C. Paperiello

THRU: J. Greeves *not*

FROM: R. Nelson *MRN*

SUBJECT: FEDERAL REGISTER NOTICE FOR 2.206 PETITION

As the concurrence pages indicate, the attached Federal Register notice was approved on 10/11/96 but it was never forwarded to ADM for publication. The reason for this is unclear, but it appears that it was sent to the petitioner rather than ADM. We are resubmitting the notice to correct this error.

Attachment: As stated

cc w/o att: M. Federline
J. Hickey
J. Kennedy

AEC-314
(1-74)

UNITED STATES ATOMIC ENERGY COMMISSION

RECEIVED - COPY

40-7391

CERTIFICATE OF DISPOSITION OF MATERIALS
(ALL BLOCKS MUST BE COMPLETED)

LICENSEE NAME AND ADDRESS:

Foote Mineral Company
Route 100
Exton, Pennsylvania 19341

LICENSE NUMBER:

SMB-850

LICENSE EXPIRATION DATE:

August 31, 1975

The licensee and any individual executing this certificate on behalf of the licensee certify that (check appropriate item(s) below)

A. ☒ No materials have been procured by licensee.

B. ☐ All materials procured and/or possessed by licensee under license number shown above, have been:

Transferred to: _____

which has license number: _____

C. ☐ Disposed of in compliance with 10 CFR 20.

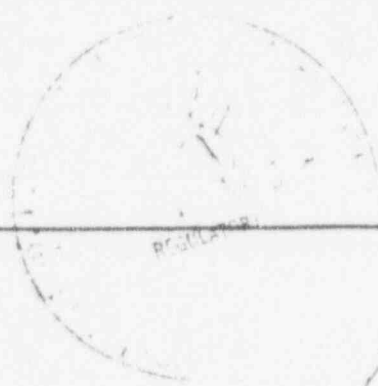
D. ☐ Licensed under license number _____ issued by:

_____, an Agreement State pursuant to Section 274 of the Atomic Energy Act of 1954, as amended.

REMARKS: (if additional space is needed, use reverse side)

DOCS

10/15/75



A. J. Primosic
A. J. Primosic
Signature of Certifying Official
September 15, 1975
Date

Please return to:
U.S. Atomic Energy Commission
Office of Regulation
Directorate of Licensing
Washington D.C. 20545

9002070213 1P

January 19, 1995

Mr. Sherwood F. Bauman, Chairman
Save the Wills Creek Water Resources Committee
6354 Cowgill Lane
Cumberland, OH 43732

SUBJECT: RESPONSES TO CONCERNS EXPRESSED TO THE NRC AT THE MEETING
CONDUCTED ON SEPTEMBER 13, 1994

Dear Mr. Bauman:

This refers to the subject meeting and Region III responses (Enclosure 1) to many of the concerns you expressed during the meeting on September 13, 1994. This meeting was initiated and sponsored by the NRC Region III office in an effort to effectively address your concerns related to the Shieldalloy facility near Cambridge, Ohio. Region III provided round trip transportation for you from your home to a rented neutral location near our office. The meeting was transcribed at NRC expense and a copy of the transcript was provided to you on October 7, 1994.

Some of the issues identified during the meeting are outside the purview of the NRC Region III office and these issues have been forwarded to the following NRC offices or other Federal agencies: the Department of Energy, the Army Corps of Engineers, the U.S. Environmental Protection Agency, and the NRC Office of Nuclear Material Safety and Safeguards, Low-Level Waste and Decommissioning Branch and Uranium Enrichment Branch. You are on the distribution list to receive a copy of the letters which we sent to outside agencies; a copy of the memos to NRC Headquarters is enclosed (Enclosure 2).

If you have any questions or concerns about the enclosed response or other NRC matters, please submit those concerns in writing as follows:

U.S. Nuclear Regulatory Commission
Region III Office
ATTN: Mr. Ray Glinski
801 Warrenville Road
Lisle, IL 60532

Sincerely,

Original Signed By

Gary L. Shear, Chief
Fuel Cycle and Decommissioning Branch

Enclosure: As stated

See Attached Distribution

DOCUMENT NAME: B:\SBAUMAN.RES

To receive a copy of this document, indicate in the box "C" = Copy without attach/enc1 "E" = Copy with attach/enc1 "M" = No copy

| | | | | | | | | |
|--------|----------|----|----------|-----|----------|-----|--|--|
| OFFICE | RIII | E | RIII | E | RIII | A | | |
| NAME | Glinski | RG | McCann | RLS | Shear | CLS | | |
| DATE | 01/19/95 | | 01/14/95 | | 01/14/95 | | | |

OFFICIAL RECORD COPY

9508280086 11 pp.

NRC Staff Response to Mr. Sherwood F. Bauman's Questions
Raised During the September 13, 1994 Transcribed Meeting

1. Page 11, Line 21 - Page 12, Line 1; The NRC believes that in situ disposal of depleted uranium (DU) at levels above 35 picocuries per gram would not result in creating economic and environmental sacrifice zones. As stated in the Action Plan to Ensure Timely Cleanup of Site Decommissioning Management Plan Sites (57 FR 13389; April 16, 1992), the NRC is applying existing criteria to determine whether sites have been sufficiently remediated so that they may be released for unrestricted use. These criteria include Options 1 and 2 of the 1981 Branch Technical Position on Disposal or Onsite Storage of Thorium or Uranium Wastes (46 FR 52061; October 23, 1981). Concentrations of depleted uranium in soil allowed under these options range from 35 to 300 pCi/g, depending on the solubility and conditions of disposal. Each proposal for in-situ radioactive waste disposal in accordance with 10 CFR 20.2002 is approved only after a thorough review by NRC technical staff. In addition, the implementation of the approved disposal plan would be monitored by NRC inspection staff.
2. Page 12, Line 18 - Page 13, Line 3; This is a Freedom of Information Act (FOIA) request, which must be submitted as described in our letter to you dated October 20, 1994.
3. Page 14, Lines 1-10; The NRC did commit to place you on a distribution list for licensing correspondence related to the Sheldalloy-Cambridge site in the fall of 1993. A Local Public Document Room (LPDR) has been established at the Guernsey County Public Library in Cambridge and many of the documents you have requested have been available at the LPDR. In addition, you were placed on the service list in August 1994, following your discussion with the Region III Deputy Regional Administrator. For this and other reasons, the NRC recommends that all future concerns and requests be submitted in writing. This issue was discussed during the meeting and the discussion is found from Page 99, Line 22 to Page 102, Line 1.
4. Page 14, Line 11 - Page 15, Line 8; In a September 9, 1975 letter, the NRC notified Foote Mineral Company (FMC) that its Source Material License, SMB-850, had expired on August 31, 1975. FMC submitted a "Certificate of Disposition of Materials, AEC-314" to the NRC on September 15, 1975; and the NRC retired the license on October 14, 1975. A site visit was not conducted by NRC staff to verify the disposal of the licensed material. Although the licensing record is unclear, it appears to NRC staff that the FMC may have mistakenly assumed that thorium and uranium in the slag were no longer considered source material because their concentrations were generally less than 0.05% by weight. The NRC retired the license based on the completed AEC-314

form, which indicated that all remaining source material (e.g., ores) had been transferred and no longer existed on the Cambridge site. Since the license was retired and licensed operations ceased, the NRC did not inspect during the period of October 1975 until early 1987.

At that time, Shieldalloy Metallurgical Corporation (SMC) purchased the facility in 1987 and submitted a license application. Prior to the issuance of the SMC Source Material License No. SMB-1507 in May 1987, Region III licensing staff conducted a pre-licensing site visit.

At the time of the 1987 purchase, the NRC did not require licensees to provide financial assurance for decommissioning. However in June 1988, 10 CFR 40.36, "Financial Assurance and Recordkeeping for Decommissioning," was promulgated requiring financial assurance for decommissioning. This requirement became effective on July 27, 1988, and required existing licensees in certain categories to submit a certification of financial assurance for decommissioning or a decommissioning funding plan on or before July 27, 1990. Therefore, funding for decommissioning was not a licensing issue at the time SMC applied for a license.

The docket file does not indicate a history of problems at the FMC site prior to 1975. NRC conducted an inspection on March 23, 1967, and no items of non-compliance were identified. Discussion of this issue is found on Page 102, Lines 2 through 21.

5. Page 15, Lines 9-17; This a business matter between SMC and FMC and is outside the jurisdiction of the NRC.
6. Page 15, Lines 18-22; The NRC does not have monies budgeted for and is not authorized by law to conduct site remediation. It is the NRC's policy to work with current and former licensees to accomplish any required site remediation.
7. Page 16, Lines 1-8; The slag buttons found at the North Star Center in Cambridge, Ohio, constituted uncontrolled radioactive material with measurable levels of direct radiation in the public domain. In addition, the elevated levels were high enough to suspect that uranium and thorium concentrations were similar to the slag containing source material that is presently stored at the Cambridge site. As such, the NRC believes that temporary storage of these buttons at the SMC East Pile is prudent and that it is within the authority of the Commission to approve this temporary storage.

The SMC License No. SMB-1507, Section (9A) allows for use and storage of "slag from previous alloy operations." The temporary storage of these FMC slag buttons at the SMC facility does not constitute a violation of the license.

code of federal regulations

1975 ENERGY
PART 0 TO PART 199

10

ELD Library

Energy

PARTS 0 TO 199

Revised as of January 1, 1975



§ 37.13 Procedures for suppliers.

(a) Suppliers that receive requests for discount purchases are, before honoring such requests, responsible for obtaining a certified purchase order and a copy of a Discount Certificate as required by § 37.12.

(b) A supplier that has honored a discount purchase request for radioisotopes shall, within 45 days from the date of the discount sale, submit to the distributor from which the radioisotopes were obtained, a request for a credit, against the supplier's further purchases of radioisotopes, in the dollar amount of the discounts the supplier has allowed under and in accordance with the regulations in this part.

(c) Such a request for credit submitted to a distributor shall summarize the total of the credit requested for the period covered and shall be accompanied by supporting documents, such as shipping memoranda, shipping tabulations, or receipted purchase orders, which include the following pertinent information with respect to each sale or shipment and such additional information as may be required by the distributor:

- (1) Name of purchaser in the same manner as it appears on the purchaser's Discount Certificate;
- (2) Number of the purchaser's Discount Certificate;
- (3) Type and quantity of radioisotopes sold and delivered;
- (4) Date of shipment;
- (5) Evidence of the amount of the discount given to the purchaser.

(d) The distributor shall, within a reasonable time after receipt of a request for credit, require any supplementary supporting data that may be necessary and notify the supplier of the credit granted.

(e) No credit shall be requested, and none will be given, with respect to any shipments of radioisotopes after June 30, 1961.

[20 F.R. 4712, July 2, 1955, as amended at 20 F.R. 6606, Sept. 9, 1955; 26 F.R. 2821, Apr. 5, 1961]

§ 37.14 Expiration of Radioisotope Research Support Program.

Discount Certificates will not be issued on or after April 5, 1961, and credits will not be given with respect to any shipments subsequent to June 30, 1961 of radioisotopes ordered on the discount

purchase basis provided for in the program set forth in this part.

[26 F.R. 2821, Apr. 5, 1961]

NOTE: The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

PART 40—LICENSING OF SOURCE MATERIAL

GENERAL PROVISIONS

- | | |
|------|-----------------------|
| Sec. | Purpose. |
| 40.1 | Scope. |
| 40.2 | License requirements. |
| 40.3 | Definitions. |
| 40.4 | Communications. |
| 40.5 | Interpretations. |

EXEMPTIONS

- | | |
|-------|---|
| 40.11 | Persons using source material under certain Atomic Energy Commission contracts. |
| 40.12 | Carriers. |
| 40.13 | Unimportant quantities of source material. |
| 40.14 | Specific exemptions. |

GENERAL LICENSES

- | | |
|-------|--|
| 40.20 | Types of licenses. |
| 40.21 | General license to receive title to source material. |
| 40.22 | Small quantities of source material. |
| 40.23 | General licenses to export. |
| 40.24 | General license for import. |

LICENSE APPLICATIONS

- | | |
|-------|---|
| 40.31 | Applications for specific licenses. |
| 40.32 | Requirements for issuance of specific licenses. |
| 40.33 | Requirements for issuance of export licenses. |

LICENSES

- | | |
|-------|---|
| 40.41 | Terms and conditions of licenses. |
| 40.42 | Expiration. |
| 40.43 | Renewal of licenses. |
| 40.44 | Amendment of licenses at request of licensee. |
| 40.45 | Commission action on applications to renew or amend. |
| 40.46 | Inalienability of licenses. |
| 40.47 | License requirement for persons possessing source material on the effective date of this amendment. |

TRANSFER OF SOURCE MATERIAL

- | | |
|-------|------------------------------|
| 40.51 | Transfer of source material. |
|-------|------------------------------|

RECORDS, REPORTS, AND INSPECTIONS

- | | |
|-------|--------------|
| 40.61 | Records. |
| 40.62 | Inspections. |
| 40.63 | Tests. |
| 40.64 | Reports. |

MODIFICATION AND REVOCATION OF LICENSES

- | | |
|-------|---|
| Sec. | Modification, revocation and termination of licenses. |
| 40.71 | |

ENFORCEMENT

- | | |
|-------|-------------|
| 40.81 | Violations. |
|-------|-------------|

SCHEDULE

- | | |
|-------|-------------|
| 40.90 | Schedule A. |
|-------|-------------|

AUTHORITY: The provisions of this Part 40 issued under secs. 62, 63, 64, 65, 161, 182, 183, 68 Stat. 632, 933, 948, 953, 954, as amended; 42 U.S.C. 2092, 2093, 2094, 2095, 2261, 2232, 2233, unless otherwise noted. Section 40.46 also issued under sec. 184, 68 Stat. 954, as amended; 42 U.S.C. 2234. For the purposes of sec. 223, 68 Stat. 958, as amended; 42 U.S.C. 2273, § 40.41(c) issued under sec. 161b, 68 Stat. 945; 42 U.S.C. 2201(b) and § 40.23(e) (3), 40.61 and 40.62 issued under sec. 161c, 68 Stat. 950, as amended; 42 U.S.C. 2201(c).

SOURCE: The provisions of this Part 40 appear at 26 F.R. 284, Jan. 14, 1961, unless otherwise noted.

GENERAL PROVISIONS

§ 40.1 Purpose.

(a) The regulations in this part establish procedures and criteria for the issuance of licenses to receive title to, receive, possess, use, transfer, deliver, or import into or export from the United States source material and establish and provide for the terms and conditions upon which the Commission will issue such licenses.

(b) The regulations contained in this part are issued pursuant to the Atomic Energy Act of 1954, as amended (68 Stat. 919).

§ 40.2 Scope.

Except as provided in §§ 40.11 to 40.14, inclusive, the regulations in this part apply to all persons in the United States.

§ 40.3 License requirements.

No person subject to the regulations in this part shall receive title to, receive, possess, use, transfer, deliver, or import into or export from the United States any source material after removal from its place of deposit in nature, except as authorized in a specific or general license issued by the Commission pursuant to the regulations in this part.

§ 40.4 Definitions.

As used in this part:

(a) "Act" means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto;

(b) "Commission" means the Atomic Energy Commission or its duly authorized representatives;

(c) "Government agency" means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government;

(d) "License", except where otherwise specified, means a license issued pursuant to the regulations in this part;

(e) "Person" means (1) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission, any State or any political subdivision of, or any political entity within a State, any foreign government or nation or any political subdivision of any such government or nation, or other entity; and (2) any legal successor, representative, agent or agency of the foregoing;

(f) "Pharmacist" means an individual registered by a state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico to compound and dispense drugs, prescriptions and poisons.

(g) "Physician" means an individual licensed by a state or territory of the United States, the District of Columbia or the Commonwealth of Puerto Rico to dispense drugs in the practice of medicine.

(h) "Source Material" means (1) uranium or thorium, or any combination thereof, in any physical or chemical form or (2) ores which contain by weight one-twentieth of one percent (0.05%) or more of (i) uranium, (ii) thorium or (iii) any combination thereof. Source material does not include special nuclear material.

(i) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the Commission, pursuant to the provisions of section 161 of the Act, determines to be special nuclear material; or (2) any material enriched by any of the foregoing.

(j) "United States" means, used in a geographical sense, the United States and all ter-

ritories and possessions of the United States, the Canal Zone and Puerto Rico;

(k) "Unrefined and unprocessed ore" means ore in its natural form prior to any processing, such as grinding, roasting or beneficiating, or refining;

(l) Other terms defined in section 11 of the Act shall have the same meaning when used in the regulations in this part.

(m) "Agreement State" means any State with which the Commission has entered into an effective agreement under subsection 274b. of the Atomic Energy Act of 1954, as amended.

(n) "Commencement of construction" means any clearing of land, excavation, or other substantial action that would adversely affect the natural environment of a site but does not include changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine site characteristics or other preconstruction monitoring to establish background information related to the suitability of a site or to the protection of environmental values.

[36 FR 394, Jan. 16, 1961, as amended at 50 FR 18288, Dec. 10, 1985; 51 FR 18145, Dec. 2, 1986; 37 FR 5747, Mar. 21, 1972]

§ 40.5 Communications.

Except where otherwise specified in this part, all communications and reports concerning the regulations in this part, and applications filed under them, should be addressed to the Director, Division of Materials Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. Communications, reports, and applications may be delivered in person at the Commission's offices at 1717 H Street NW., Washington, D.C.; at 7920 Norfolk Avenue, Bethesda, Md.; or at Germantown, Md.

[51 FR 4889, Mar. 19, 1986, as amended at 34 FR 18546, Dec. 11, 1969; 38 FR 1272, Jan. 11, 1973]

§ 40.6 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretation of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized to be binding upon the Commission.

EXEMPTIONS

§ 40.11 Persons using source material under certain Atomic Energy Commission contracts.

Any prime contractor of the Commission is exempt from the requirements for a license set forth in sections 62, 63, and 64 of the Act and from the regulations in this part to the extent that such contractor, under his prime contract with the Commission, receives, possesses, uses, transfers, delivers, or imports into or exports from the United States source material for: (a) The performance of work for the Commission at a United States Government-owned or controlled site, including the transportation of source material to or from such site and the performance of contract services during temporary interruptions of such transportation; (b) research in, or development, manufacture, storage, testing or transportation of, atomic weapons or components thereof; or (c) the use or operation of nuclear reactors or other nuclear devices in a United States Government-owned vehicle or vessel. In addition to the foregoing exemptions, any prime contractor or subcontractor of the Commission is exempt from the requirements for a license set forth in sections 62, 63, and 64 of the Act and from the regulations in this part to the extent that such prime contractor or subcontractor receives, possesses, uses, transfers, delivers, or imports into or exports from the United States source material under his prime contract or subcontract when the Commission determines that the exemption of the prime contractor or subcontractor is authorized by law; and that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety. Any person exempt from licensing under this part prior to the effective date of this amendment who would otherwise be required by virtue of this section to obtain a license shall continue to be so exempt on an interim basis. Such interim exemption shall expire 60 days from the effective date of this amendment, unless within said 60-day period either an application for a license covering the activity or an application for an appropriate exemption under this

section is filed with the Commission. If either such application is filed within such 60-day period, the interim exemption shall remain in effect until final action in the matter is taken by the Commission.

[36 FR 14401, Oct. 20, 1964]

§ 40.12 Carriers.

Common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service are exempt from the regulations in this part and the requirements for a license set forth in section 62 of the Act to the extent that they transport or store source material in the regular course of carriage for another or storage incident thereto.

[37 FR 3985, Feb. 25, 1972]

§ 40.13 Unimportant quantities of source material.

(a) Any person is exempt from the regulations in this part and from the requirements for a license set forth in section 62 of the Act to the extent that such person receives, possesses, uses, transfers, delivers, or imports into or exports from the United States source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than one-twentieth of 1 percent (0.5 percent) of the mixture, compound, solution or alloy.

(b) Any person is exempt from the regulations in this part and from the requirements for a license set forth in section 62 of the Act to the extent that such person receives, possesses, uses, transfers, or imports into the United States unrefined and unprocessed ore containing source material; provided, that, except as authorized in a specific license, such person shall not refine or process such ore. The exemption contained in this paragraph shall not be deemed to authorize the export of source material.

(c) Any person is exempt from the regulations in this part and from the requirements for a license set forth in section 62 of the Act to the extent that such person receives, possesses, uses, transfers, or imports into the United States:

- (i) Any quantities of thorium contained in (i) incandescent gas mantles,
- (ii) vacuum tubes, (iii) welding rods,

(iv) electric lamps for illuminating purposes provided that each lamp does not contain more than 50 milligrams of thorium, (v) germicidal lamps, sun-lamps, and lamps for outdoor or industrial lighting provided that each lamp does not contain more than 2 grams of thorium, or (vi) rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these.

(2) Source material contained in the following products: (i) Glazed ceramic tableware, provided that the glaze contains not more than 20 percent by weight source material; (ii) piezoelectric ceramic containing not more than 2 percent by weight source material; (iii) glassware, glass enamel, and glass enamel frit containing not more than 10 percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass, glass enamel or ceramic used in construction;

(3) Photographic film, negatives, and prints containing uranium or thorium;

(4) Any finished product or part fabricated of, or containing tungsten or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed 4 percent by weight and that the exemption contained in this subparagraph shall not be deemed to authorize the chemical, physical or metallurgical treatment or processing of any such product or part; and

(5) Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of such counterweights: Provided, That:

(i) The counterweights are manufactured in accordance with a specific license issued by the Commission authorizing distribution by the licensee pursuant to this subparagraph;

(ii) Each counterweight has been impressed with the following legend clearly legible through any plating or other covering: "Depleted Uranium";

(iii) Each counterweight is durably and legibly labeled or marked with the identification of the manufacturer, and

and mark such copy for transmittal to the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(b) A general license, designated AEC-GRO-SMB, is hereby issued authorizing the export of incandescent gas mantles containing thorium, without regard to quantity, from the United States to any foreign country or destination except Southern Rhodesia, Cuba or countries or destinations listed in § 40.90.

(c) A general license designated AEC-GRO-SMC is hereby issued authorizing the export from the United States to any foreign country or destination, except Southern Rhodesia or countries or destinations listed in § 40.90, of uranium in the form of counterweights installed in aircraft, rockets, projectiles, or missiles: *Provided*, That such counterweights have been manufactured under a specific license issued by the Commission and have been impressed with a statement, clearly legible after plating, which states, "Depleted Uranium".

(d) A general license designated AEC-GRO-SMD is hereby issued authorizing the export from the United States to any foreign country or destination, except Southern Rhodesia, Cuba or countries or destinations listed in § 40.90, of thorium contained in finished aircraft engine parts containing nickel-thoria alloy, *provided* that:

(1) The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thorium (thorium dioxide); and

(2) The thorium content in the nickel-thoria alloy does not exceed 4 percent by weight.

(e) (1) A general license, designated AEC-GRO-SME, is hereby issued authorizing the export of depleted uranium, when fabricated as shielding and contained in radiographic exposure or teletherapy devices, X-ray units, radioactive thermoelectric generators, or packaging for the transportation of radioactive materials, in quantities not to exceed 1000 kilograms per shipment, from the United States to any foreign country or destination, except Southern Rhodesia, Cuba, or countries or destinations listed in § 40.90.

(2) A general license, designated AEC-GRO-MED, is hereby issued, authorizing the export of uranium, when fabricated as shielding and contained in radiographic exposure or teletherapy devices, in quantities not to exceed 500 pounds per device, from the United States to Southern Rhodesia, to the

extent that such devices are for use in medical diagnosis or therapy.

(3) Each person exporting uranium pursuant to the general licenses established by subparagraphs (1) and (2) of this paragraph (e) shall file with the Customs Officer or the Postmaster one copy, in addition to those otherwise required, of the Shipper's Export Declaration covering each export, and mark such copy for transmittal to the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545.

(f) No person may export source material from the United States knowing or having reason to believe that it is to be reexported directly or indirectly, in whole or in part, from the country of ultimate destination shown on the export license, shipper's export declaration, bill of lading, or commercial invoice, unless either:

(1) The reexport has been authorized by the Commission; or

(2) At the time of export, the material may be exported directly from the United States to the new country of ultimate destination under the terms of one of the general licenses established in this section.

[26 FR 7825, Aug. 28, 1961, as amended at 26 FR 10929, Nov. 22, 1961; 27 FR 8173, Aug. 16, 1962; 27 FR 8825, Sept. 5, 1962; 31 FR 4669, Mar. 19, 1966; 31 FR 7960, June 4, 1966; 32 FR 15873, Nov. 18, 1967; 32 FR 11900, Aug. 22, 1968; 34 FR 14087, Sept. 8, 1969; 35 FR 11460, July 17, 1970; 36 FR 1272, Jan. 11, 1971; 36 FR 21176, Aug. 6, 1971]

§ 40.24 General license for import.

A general license is hereby issued authorizing any person to import into the United States source material which he is authorized to possess in the United States under a specific or general license issued by an agreement State.

[30 FR 15285, Dec. 10, 1965, as amended at 35 FR 11460, July 17, 1970]

LICENSE APPLICATIONS

§ 40.31 Applications for specific licenses.

(a) Applications for specific licenses should be filed in quadruplicate on Form AEC-2, "Application for Source Material License," or on Form AEC-7, "Application for License to Export Byproduct or Source Material," as appropriate, with the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. Applications may be filed in person at the Commission's offices at 1717 H Street NW., Wash-

ington, D.C.; at 7920 Norfolk Avenue, Bethesda, Md.; or at Germantown, Md. Information contained in previous applications, statements or reports filed with the Commission may be incorporated by reference, provided that such references are clear and specific.

(b) The Commission may at any time after the filing of the original application, and before the expiration of the license, require further statements in order to enable the Commission to determine whether the application should be granted or denied or whether a license should be modified or revoked. All applications and statements shall be signed by the applicant or licensee or a person duly authorized to act for and on his behalf.

(c) Applications and documents submitted to the Commission in connection with applications will be made available for public inspection in accordance with the provisions of the regulations contained in Parts 2 and 9 of this chapter.

(d) An application for a license filed pursuant to the regulations in this part will be considered also as an application for licenses authorizing other activities for which licenses are required by the Act: *Provided*, That the application specifies the additional activities for which licenses are requested and complies with regulations of the Commission as to applications for such licenses.

(e) Each application for a source material license, other than a license exempted from Part 170 of this chapter, shall be accompanied by the fee prescribed in § 170.31 of this chapter. No fee will be required to accompany an application for renewal or amendment of a license, except as provided in § 170.31 of this chapter.

(f) An application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment shall be filed at least 9 months prior to commencement of construction of the plant or facility in which the activity will be conducted and shall be accompanied by any Environmental Report required pursuant to Part 51 of this chapter.

[26 FR 284, Jan. 14, 1961, as amended at 31 FR 4669, Mar. 19, 1966; 33 FR 10924, Aug. 1, 1968; 34 FR 19646, Dec. 11, 1969; 36 FR 145, Jan. 6, 1971; 36 FR 12731, July 9, 1971;

37 FR 5748, Mar. 21, 1972; 38 FR 1372, Jan. 11, 1973; 39 FR 26279, July 18, 1974]

§ 40.32 Requirements for issuance of specific licenses.

An application for a specific license for purposes other than export will be approved if:

(a) The application is for a purpose authorized by the act; and

(b) The applicant is qualified by reason of training and experience to use the source material for the purpose requested in such manner as to protect health and minimize danger to life or property; and

(c) The applicant's proposed equipment, facilities and procedures are adequate to protect health and minimize danger to life or property; and

(d) The issuance of the license will not be inimical to the common defense and security or to the health and safety of the public; and

(e) In the case of an application for a license to possess and use source material for uranium milling, production of uranium hexafluoride, commercial waste disposal by land burial or for the conduct of any other activity which the Commission determines will significantly affect the quality of the environment, the Director of Regulation or his designee, before commencement of construction of the plant or facility in which the activity will be conducted, on the basis of information filed and evaluations made pursuant to Part 51 of this chapter, has concluded, after weighing the environmental, economic, technical and other benefits against environmental costs and considering available alternatives, that the action called for is the issuance of the proposed license, with any appropriate conditions to protect environmental values. Commencement of construction prior to such conclusion may be grounds for denial of a license to possess and use source material in such plant or facility.

[26 FR 284, Jan. 14, 1961, as amended at 36 FR 12731, July 7, 1971; 37 FR 5748, Mar. 21, 1972; 39 FR 26279, July 18, 1974]

§ 40.33 Requirements for issuance of export licenses.

(a) An application for a license to export uranium will be approved if the Commission determines that:

(1) The proposed export is within the scope of and consistent with the terms of an agreement between the United States and the government of the recipient containing safeguards against di-

version of the material to military use; or

(2) The cumulative quantity of uranium specifically licensed for export to the consignee since July 1, 1957, does not exceed one hundred (100) kilograms, provided that the cumulative quantity specifically licensed for export to the recipient country since July 1, 1957, does not exceed one thousand (1,000) kilograms, excluding any amounts exported pursuant to either subparagraph (1) of this paragraph or § 40.23; and

(3) The export will not be inimical to the interests of the United States.

(b) An application for a license to export thorium will be approved if the Commission determines that the export will not be inimical to the interests of the United States.

LICENSES

§ 40.41 Terms and conditions of license.

(a) Each license issued pursuant to the regulations in this part shall be subject to all the provisions of the act, now or hereafter in effect, and to all rules, regulations and orders of the Commission.

(b) Neither the license nor any right under the license shall be assigned or otherwise transferred in violation of the provisions of the act.

(c) Each person licensed by the Commission pursuant to the regulations in this part shall confine his possession and use of source material to the locations and purposes authorized in the license. Except as otherwise provided in the license, a license issued pursuant to the regulations in this part shall carry with it the right to receive, possess, use and import source material. Preparation for shipment and transport of source material shall be in accordance with the provisions of Part 71 of this chapter.

(d) Each license issued pursuant to the regulations in this part shall be deemed to contain the provisions set forth in sections 183b-d., of the act, whether or not said provisions are expressly set forth in the license.

(e) The Commission may incorporate in any license at the time of issuance, or thereafter by appropriate rule, regulation or order, such additional requirements and conditions with respect to the licensee's receipt, possession, use, transfer, import and export of source

material as it deems appropriate or necessary in order to:

(1) Promote the common defense and security;

(2) Protect health or to minimize danger to life or property;

(3) Protect restricted data;

(4) Require such reports and the keeping of such records, and to provide for such inspections of activities under the license as may be necessary or appropriate to effectuate the purposes of the act and regulations thereunder.

[26 P.R. 264, Jan. 14, 1951, as amended at 31 P.R. 15145, Dec. 2, 1956; 37 P.R. 3985, Feb. 28, 1972; 38 P.R. 33969, Dec. 10, 1973]

§ 40.42 Expiration.

Except as provided in § 40.43(b), each specific license shall expire at the end of the day, in the month and year stated therein.

[32 P.R. 7172, May 12, 1957]

§ 40.43 Renewal of license.

(a) Applications for renewal of a specific license shall be filed in accordance with § 40.31.

(b) In any case in which a licensee, not less than thirty (30) days prior to expiration of his existing license, has filed an application in proper form for renewal or for a new license, such existing license shall not expire until the application for renewal or for a new license has been finally determined by the Commission.

§ 40.44 Amendment of licenses at request of licensee.

Applications for amendment of a license shall be filed in accordance with § 40.31 and shall specify the respects in which the licensee desires his license to be amended and the grounds for such amendment.

§ 40.45 Commission action on applications to renew or amend.

In considering an application by a licensee to renew or amend his license, the Commission will apply the applicable criteria set forth in § 40.32 and 40.33.

§ 40.46 Inalienability of licenses.

No license issued or granted pursuant to the regulations in this part shall be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, through transfer of control of any license to any

person, unless the Commission shall after securing full information, find that the transfer is in accordance with the provisions of this act, and shall give its consent in writing.

§ 40.47 License requirement for persons possessing source material on the effective date of this amendment.

(a) Any person who on the effective date of this amendment possesses source material received pursuant to a specific license issued by the Commission shall be deemed to possess such material pursuant to a license issued under the regulations in this part. Such license shall be deemed to include all terms and conditions incorporated in the previous license which are not inconsistent with or otherwise provided for in the regulations in this part and shall expire 90 days from the effective date of this amendment or on the expiration date contained in the previous license, whichever is later.

(b) Any person who on the effective date of this amendment possesses source material received pursuant to a general license issued by the Commission shall be deemed to possess such material pursuant to a license issued under the regulations in this part. To the extent that such possession is not authorized under an exemption or general license pursuant to §§ 40.11 through 40.14 or §§ 40.20 through 40.23, respectively, the license granted pursuant to this paragraph shall expire ninety (90) days from the effective date of this amendment.

TRANSFER OF SOURCE MATERIAL

§ 40.51 Transfer of source material.

(a) No licensee shall transfer source material except as authorized pursuant to this section.

(b) Except as otherwise provided in his license and subject to the provisions of paragraphs (c) and (d) of this section, any licensee may transfer source material:

(1) To the Commission;

(2) To the agency in any Agreement State which regulates radioactive materials pursuant to an agreement with the Atomic Energy Commission under section 274 of the Act;

(3) To any person exempt from the licensing requirements of the Act and regulations in this part, to the extent permitted under such exemption;

(4) To any person in an Agreement State subject to the jurisdiction of that State who has been exempted from the licensing requirements and regulations of that State, to the extent permitted under such exemption;

(5) To any person authorized to receive such source material under terms of a specific license or a general license or their equivalents issued by the Commission or an Agreement State; or

(6) As otherwise authorized by the Commission in writing.

(c) Before transferring source material to a specific licensee of the Commission or an Agreement State or to a general licensee who is required to register with the Commission or with an Agreement State prior to receipt of the source material, the licensee transferring the material shall verify that the transferee's license authorizes receipt of the type, form, and quantity of source material to be transferred.

(d) The following methods for the verification required by paragraph (c) of this section are acceptable:

(1) The transferor may have in his possession, and read, a current copy of the transferee's specific license or registration certificate;

(2) The transferor may have in his possession a written certification by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of source material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date;

(3) For emergency shipments the transferor may accept oral certification by the transferee that he is authorized by license or registration certificate to receive the type, form, and quantity of source material to be transferred, specifying the license or registration certificate number, issuing agency and expiration date: *Provided*, That the oral certification is confirmed in writing within 10 days;

(4) The transferor may obtain other sources of information compiled by a reporting service from official records of the Commission or the licensing agency of an Agreement State as to the identity of licensees and the scope and expiration dates of licenses and registrations; or

(5) When none of the methods of verification described in paragraphs (d) (1) to (4) of this section are readily available or when a transferor desires to verify that information received by one of such methods is correct or up-to-date, the transferor may obtain and record confirmation from the Commission or the licensing agency of an Agreement State that the transferee is licensed to receive the source material.

[38 FR 33970, Dec. 10, 1973]

RECORDS, REPORTS, AND INSPECTIONS*

§ 40.61 Records.

(a) Each person who receives source material pursuant to a license issued pursuant to the regulations in this part shall keep records showing the receipt, transfer, export and disposal of such source material.

§ 40.62 Inspections.

(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect source material and the premises and facilities wherein source material is used or stored.

(b) Each licensee shall make available to the Commission for inspection, upon reasonable notice, records kept by him pursuant to the regulations in this chapter.

§ 40.63 Tests.

Each licensee shall perform, or permit the Commission to perform, such tests as the Commission deems appropriate or necessary for the administration of the regulations in this part, including tests of:

- (a) Source material;
- (b) Facilities wherein source material is utilized or stored;
- (c) Radiation detection and monitoring instruments; and
- (d) Other equipment and devices used in connection with the utilization and storage of source material.

§ 40.64 Reports.

(a) Except as specified in paragraph (d) of this section, and except for exports of unimportant quantities of source material specified in § 40.13 (b), (c), and (d), each licensee who transfers or receives at any one time 1,000 kilograms or more of uranium or thorium, or any combination thereof, shall complete and distribute a Nuclear Material Trans-

action Report on Form AEC-741, in accordance with the printed instructions for completing the form. Each licensee who transfers such material shall submit a completed copy of Form AEC-741 to the Commission and three copies to the receiver of the material promptly after the transfer takes place. Each licensee who receives such material shall submit a completed copy of Form AEC-741 to the Commission and to the shipper of the material within ten (10) days after the material is received. The Commission's copies of the reports shall be submitted to the U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, TN 37830.

(b) Except as specified in paragraph (d) of this section, each licensee who is authorized to possess at any one time and location more than 1,000 kilograms of uranium or thorium, or any combination thereof, shall submit to the Commission within thirty (30) days after _____ and within thirty (30) days after June 30 of each year thereafter, a statement of his source material inventory. The reports shall be submitted to the U.S. Atomic Energy Commission, Post Office Box E, Oak Ridge, Tenn. 37830, and shall include the Reporting Identification Symbol (RIS) assigned by the Commission to the licensee.

(c) Except as specified in paragraph (d) of this section, each licensee who is authorized to possess uranium or thorium pursuant to a specific license shall report promptly to the Director of Regulatory Operations, U.S. Atomic Energy Commission, Washington, D.C. 20545, by telephone, telegram, or teletype any incident in which an attempt has been made or is believed to have been made to commit a theft or unlawful diversion of more than 15 pounds of such material at any one time or more than 150 pounds of such material in any one calendar year. The initial report shall be followed within a period of fifteen (15) days by a written report submitted to the Director of Regulatory Operations, which sets forth the details of the incident and its consequences. Subsequent to the submission of the written report required by this paragraph, the licensee shall promptly inform the Director of Regulatory Operations by means of a written report of any substantive additional information, which becomes available to the licensee, concerning an at-

* 35 FR 12195, July 30, 1970.

* Effective date of this amendment.

tempted or apparent theft or unlawful diversion of source material.

(d) The reports described in paragraphs (a), (b), and (c) of this section are not required for:

- (1) Processed ores containing less than five (5) percent of uranium or thorium, or any combination thereof, by dry weight;
- (2) Thorium contained in magnesium, thorium and tungsten-thorium alloys, provided that the thorium content in the alloys does not exceed 4 percent by weight; or
- (3) Chemical catalysts containing uranium depleted in the ^{235}U isotope to 0.4 percent or less, provided that the uranium content of the catalyst does not exceed 15 percent by weight.

[35 FR 12195, July 30, 1970, as amended at 36 FR 10938, June 5, 1971; 38 FR 1272, Jan. 11, 1973; 38 FR 2330, Jan. 24, 1973]

MODIFICATION AND REVOCATION OF LICENSES

§ 40.71 Modification, revocation and termination of licenses.

(a) The terms and conditions of each license shall be subject to amendment, revision, or modification by reason of amendments to the act, or by reason of rules, regulations, or orders issued in accordance with the act.

(b) Any license may be revoked, suspended, or modified, in whole or in part, for any material false statement in the application or any statement of fact required under section 182 of the act, or because of conditions revealed by such application or statement of fact or any report, record, or inspection or other means which would warrant the Commission to refuse to grant a license on an original application, or for violation of, or failure to observe any of, the terms and conditions of the act, or the license, or of any rule, regulation or order of the Commission.

(c) Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, no license shall be modified, suspended, or revoked unless, prior to the institution of proceedings therefor, facts or conduct which may warrant such action shall have been called to the attention of the licensee in writing and the licensee shall have been accorded opportunity to demonstrate or achieve compliance with all lawful requirements.

(d) The Commission may terminate a specific license upon request submitted

by the licensee to the Commission in writing.

(Secs. 186, 187, 68 Stat. 955; 42 U.S.C. 2235, 2237) [26 FR 284, Jan. 14, 1961, as amended at 35 FR 11460, July 17, 1970]

ENFORCEMENT

§ 40.81 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Act or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of section 53, 57, 62, 63, 81, 82, 101, 103, 104, 107 or 109 of the Act or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

[35 FR 18397, Aug. 26, 1971]

SCHEDULE

§ 40.90 Schedule A.

Albania.
Bulgaria.
China, including Manchuria (and excluding Taiwan (Formosa)) (includes Inner Mongolia; the provinces of Tainghai and Sinkiang; Sinkiang; Tibet; the former Kwantung Leased Territory, the present Port Arthur Naval Base Area and Liaoning Province).
Communist-controlled area of Viet Nam.
Czechoslovakia.
East Germany (Soviet Zone of Germany and the Soviet Sector of Berlin).
Estonia.
Hungary.
Latvia.
Lithuania.
North Korea.
Poland (including Danzig).
Outer Mongolia.
Rumania.
Union of Soviet Socialist Republics.

PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

GENERAL PROVISIONS

| | |
|------|--|
| Sec. | |
| 50.1 | Basis, purpose, and procedures applicable. |
| 50.2 | Definitions. |
| 50.3 | Interpretations. |
| 50.4 | Communications. |

9/2
To: President Bill Clinton
The Whitehouse
Washington, DC

From: Sherwood (forest) Bauman
Save the Wills Creek Water Resources Committee
6354 Cowgill Lane
Cumberland, Ohio 43732

Reas: Request that the Nuclear Regulatory Commission be removed as Lead Agency in regards to the EIS which is being conducted for the Shieldalloy site as allowed in Superfunds CERCLA section 105 D (Deferral Policy) for behavior that is at a minimum arbitrary and capricious, an at the extreme represents not only wanton and negligent, but perhaps criminal behavior on the part of the staff of said agency.

Dear President Bill Clinton:

I do realize that your extremely busy, especially with your bid to be re-election to the office you now hold. It is not an easy job, and I know that this letter will do nothing in the way of easing the burden. However, the health and safety of our community and the protection of our environmental treasures are being threatened by capricious, wanton negligence on the part of a federal agency under your control, namely the Nuclear Regulatory Commission.

Despite the fact that they (NRC) are sworn to protect human health and the environment, they to often do more protecting of the licensees under their control. In our community, we see this agency more concerned with approving insitu disposal of 600,000 tons of LOW LEVEL RADIOACTIVE WASTE than enforcing the laws and regulations put in place by Congress to protect human health and the environment.

Additionally, due to numerous mistakes or callous disregard for their duties and responsibilities, this agency has more than enough reason to attempt a cover up of the problems involved with this site. Please allow us to quickly list off some of these so that you can see why our belief is that said agency cannot be impartial in making the right decision for our communities long term viability. Additionally, these reasons begin to map out why we believe that this agency with assistance from cooperating agencies have been negotiating with the licensees in bad faith and could be guilty of collusion in visiting a cover up upon our community. Some of the questionable acts include but are not limited to the following oversights or deliberate actions:

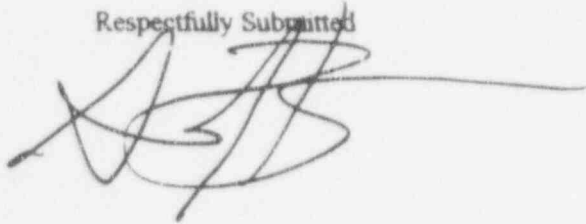
1. From 1975 to 1987 the Nuclear Regulatory Commission failed to police the licensee. Foote Mineral which is now owned by Cypress Amax Corp. The line has it that somehow the file got placed in a pending area and then stayed there for a period of twelve years. All the while, some 600,000 tons of Radioactive Waste languished in obscurity unlicensed and unwatched!
2. Oversight above was not realized until 1986/87 when the licensee applied to the NRC for a formal retirement of their license. Once this 12 year oversight was realized, one would have thought that said agency would have conducted some kind of inspection of said site. However, with no questions asked, they instead retired Foote Minerals license for the site. One of the reasons for retiring said license, was that the company made the fraudulent claim that no materials of licensable concern remained at the site. Even a cursory glance would have shown this information to be capriciously false. One has to wonder here if the NRC retired the license in the hopes of hiding this grave and serious regulatory oversight of one of their licensees
3. The retirement of the license becomes much more suspect in view of the fact that the NRC at almost the exact same time received a license request from Shieldalloy to be in possession of licensed materials for the purposes of decommissioning for the exact same site. One does have to wonder how it is that the NRC could close one file and retire a license while at the same time issuing a license to a new party to possess licensed materials located at the same site? Again, this smells of a cover up of a grave error on the part of the agency.

4. Due to miscalculations and poor investigation on the part of the NRC, one attempted remediation failed at the above named site. (This occurred from 1987-1991)
5. In 1993-94, our organization uncovered the fact that the former licensees had been giving away Radioactive slag above NRC's general release criteria for a period of some forty years. The NRC later verified our allegations. However, they have allowed the former licensee Foote Mineral to wrongfully claim that materials left the facility for only a short period in the late seventies to early eighties. (conveniently during the time the NRC forgot to police said licensee) This gave the NRC incentive to find a way to make this problem seem less severe than it really is.
6. Despite the fact that Shieldalloy is not licensed to be in possession of Radioactive waste belonging to others (IE-licensed storage and waste disposal facility), the NRC illegally and against the laws of this nation allowed the return to the site of radioactive slag belonging to Foote Mineral. The NRC instead should have made arrangements to have said materials shipped to a licensed care facility such as Barnwell or Envirocare. *"note-our organization filed a complaint on this issue."*
7. The NRC has allowed Shieldalloy to submit a decommissioning plan which wrongfully mixes licensed and unlicensed materials. *"Note-see attached exhibit A for more details on this issue."* This co-mingling of licensed and unlicensed materials is not only illegal, but also allows the Licensee (Shieldalloy) to greatly reduce the Radioactive exposure levels that we the citizens of the affected area would be exposed to. A computer modeling using only the licensed waste streams under NRC jurisdiction would raise our exposure levels to well above 600 M/rem per year.
8. To further cover up their own agency's actions, the NRC has decided to claim that off site slag was/is unlicensed materials, and thus outside of their jurisdictional control. This act absolves them of guilt in their failure to police the facility, additionally makes the return of off site slag more legal, and lastly paves the way to leave this dangerous by product where it lays which is in and around family homes.

Resultantly, we have come to the conclusion that this agency is more concerned with covering their own misdeeds and protecting their licensees. We are therefore asking you to order a full investigation of the record in this case. Additionally, as allowed under federal statute, we are asking that you remove the NRC as lead agency in the EIS for this site, and instruct the US EPA to reinstate the scoring of said site for Superfund inclusion. (note-this sites Superfund scoring which was conducted by Jennifer Wendell of the US EPA places us as one of the worst sites in America. However, due to a Memorandum of Understanding between the NRC and US EPA, the standing policy is NOT to place NRC licensee sites on the Superfund list regardless of their scoring.)

We thank you in advance for your careful scrutiny of this matter. Should you have any questions, please feel free to contact me at (614) 638-2529 between 8-10 in the mornings, or 6-8 of an evening.

Respectfully Submitted

A large, stylized handwritten signature in black ink, appearing to be the initials 'JTB' or similar, with a long horizontal line extending to the right.

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 11, 1996

Mr. Sherwood Bauman, Chairman
Save the Wills Creek
Water Resources Committee
6354 Cowgill Lane
Cumberland, Ohio 43732

Dear Mr. Bauman:

I wish to acknowledge receipt of, and respond to, your letter dated July 22, 1996, requesting action with regard to Nuclear Regulatory Commission licensee Shieldalloy Metallurgical Corporation (Shieldalloy) and former NRC licensee Foote Mineral (FM) (now Cypress Foote). Your request is being treated as a petition under 10 CFR 2.206 of the Commission's regulations.

Your petition requests that FM's license be reinstated, and that Shieldalloy and Cypress Foote be made co-responsible licensees with regard to the proper remediation and decommissioning of the Shieldalloy site. You also request that any and all parties found to be involved in any wrongdoing as alleged in your complaint be terminated from employment, and that where appropriate, criminal charges be pursued. You go on to ask that the environmental impact statement (EIS) now being performed for the Shieldalloy site be terminated, and that Shieldalloy and Cypress Foote be jointly ordered to submit a decommissioning plan for licensed material that includes only a plan to remediate licensed material (to include grading and evaluation of all various assorted options, including disposal at a licensed disposal facility). Finally, you request that the Ohio Environmental Protection Agency and Ohio Department of Health evaluate all unlicensed slag found at the Shieldalloy site.

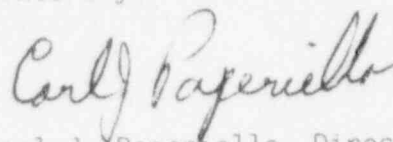
As bases for your requests, you provide additional information within your Petition. In Section I of your Petition, alleging collusion among agencies and responsible parties to remediate offsite slag, you claim that NRC failed to properly police FM for a period of 12 years, and that NRC then allowed FM to retire its license without investigating the licensee's claims that no licensable materials remained onsite. You then assert that NRC illegally allowed FM to return slag to a site owned by Shieldalloy, in the process conspiring with Ohio State agencies.

In Section II of your Petition, you allege that Shieldalloy has a decommissioning plan that would wrongfully mix licensed and unlicensed waste. In support of this claim, you state your belief that the material at the Shieldalloy site is made up of 150,000 tons of licensed material and 350,000 tons of nonlicensed material. You believe that Shieldalloy's decommissioning plan illegally combined both licensed and unlicensed materials, thus greatly reducing the real risk factors from exposure to licensed material and wrongfully enhancing the company's own preferred plan for in-situ disposal, which would require the NRC to waive enforcement rules and regulations. You also allege an NRC-Ohio conspiracy to allow in-situ disposal to proceed.

Your Petition has been referred to me pursuant to 10 CFR 2.206 of the Commission's regulations. As provided by section 2.206, action will be taken on your requests within a reasonable time. I have referred, to the NRC Office of the Inspector General (OIG), those allegations of NRC wrongdoing contained in your Petition. I have also enclosed for your information a copy of the Notice that is being filed with the Office of the Federal Register for publication.

Finally, the White House referred, to NRC, a copy of your recent letter to the President describing many of the same issues you have raised in your Petition. The substantive issues contained in that letter will be addressed in my forthcoming response to your Petition. All allegations of NRC wrongdoing will be referred to the NRC OIG as described above. As for your requests that NRC be removed as lead agency for the Shialdalloy EIS and that the Environmental Protection Agency (EPA) reinstate scoring of that site for Superfund inclusion, it is NRC's responsibility, under 10 CFR Part 51 of NRC regulations and Section 102 of the National Environmental Policy Act, to prepare an EIS in connection with NRC consideration of Shialdalloy's decommissioning plan for its Cambridge, Ohio, site. With regard to EPA scoring of the Shialdalloy site for Superfund inclusion, EPA's policy is to not designate NRC licensee sites as Superfund sites, unless the sites present other hazards that are not already being addressed under the NRC license or some other regulatory program.

Sincerely,



Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards

Enclosure: As stated

cc w/encl: SMC Cambridge
Distribution List

NUCLEAR REGULATORY COMMISSION

cket No. 040-8948]

Action: Notice of Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by a letter dated July 22, 1996, Mr. Sherwood Bauman requested the U.S. Nuclear Regulatory Commission (NRC or Commission) to take action with regard to NRC licensee Shieldalloy Metallurgical Corporation (Shieldalloy) and former NRC licensee Foote Mineral (now Cypress Foote).

The Petition requests that Foote Mineral's license be reinstated, and that Shieldalloy and Cypress Foote be made co-responsible licensees with regard to proper remediation and decommissioning of the Shieldalloy site. The Petition also requests that Shieldalloy's current environmental impact statement (EIS) for the site be terminated, and that Shieldalloy and Cypress Foote be jointly ordered to submit a decommissioning plan for licensed material that includes within it only a plan to remediate licensed material.

The Petition is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The Petition has been referred to the Director of Nuclear Material Safety and Safeguards. As provided by 10 CFR 2.206, appropriate action will be taken on this Petition within a reasonable time. A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW, Washington, D.C. 20555.

Dated at Rockville, Maryland this 11 day of October 1996.

FOR THE NUCLEAR REGULATORY COMMISSION

Carl J. Paperiello

Carl J. Paperiello, Director
Office of Nuclear Material Safety
and Safeguards



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 5, 1997

Mr. Sherwood Bauman, Chairperson
Save Wills Creek
Water Resources Committee
6354 Cowgill Lane
Cumberland, Ohio 43732

SUBJECT: DIRECTOR'S DECISION ON SAVE WILLS CREEK WATER RESOURCES
COMMITTEE 10 CFR 2.206 PETITION

Dear Mr. Bauman:

By letter dated July 22, 1996, you submitted to the U.S. Nuclear Regulatory Commission, on behalf of the Save Wills Creek Water Resources Committee, a Petition, pursuant to 10 CFR 2.206, requesting that NRC take action regarding Shieldalloy Metallurgical Corporation. Specifically, you requested that Foote Mineral's (now Cyprus Foote Mineral Company) previous license for the Shieldalloy facility be reinstated, and that Shieldalloy and Cyprus Foote be made co-responsible licensees with regard to the proper remediation and decommissioning of the Shieldalloy site. You also requested that any and all parties found to be involved in any wrongdoing as alleged in your complaint be terminated from employment, and that where appropriate, criminal charges be pursued. You further asked that the environmental impact statement (EIS) now being developed for the Shieldalloy site be terminated, and that Shieldalloy and Cyprus Foote be jointly ordered to submit a decommissioning plan for licensed material that includes only a plan to remediate licensed material (to include grading and evaluation of all various assorted options, including disposal at a licensed disposal facility). Finally, you requested that the Ohio Environmental Protection Agency and Ohio Department of Health evaluate all unlicensed slag found at the Shieldalloy site.

As bases for your requests, you provide additional information within your Petition. In Section I of your Petition, alleging collusion among agencies and responsible parties to remediate offsite slag, you claim that NRC failed to properly police Foote Mineral for a period of 12 years, and that NRC then allowed Foote Mineral to retire its license without investigating the licensee's claims that no licensable materials remained onsite. You then assert that NRC illegally allowed Foote Mineral to return slag to a site owned by Shieldalloy, in the process conspiring with Ohio State agencies.

In Section II of your Petition, you allege that Shieldalloy has a decommissioning plan that would wrongfully mix licensed and unlicensed waste. In support of this claim, you state your belief that the material at the Shieldalloy site is made up of 150,000 tons of licensed material and 350,000 tons of nonlicensed material. You believe that Shieldalloy's decommissioning plan illegally combined both licensed and unlicensed materials, thus greatly reducing the real risk factors from exposure to licensed material and wrongfully enhancing the company's own

9705200030 2 pp

S. Bauman

2

preferred plan for in-situ disposal, which would require the NRC to waive enforcement rules and regulations. You also allege an NRC-Ohio conspiracy to allow in-situ disposal to proceed.

The Director, Office of Nuclear Material Safety and Safeguards, has completed his review of the other issues raised in your Petition, with the exception of those related to staff wrongdoing, which have been referred to our Office of the Inspector General (OIG). For reasons explained in the enclosed Decision (Enclosure 1), your requests have been denied.

As provided by 10 CFR 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision unless the Commission, on its own motion, institutes a review of the Decision within that time. In addition, a copy of the notice that is being filed for publication with the Office of the Federal Register is included as Enclosure 2 for your information.

Sincerely,


Hugh L. Thompson, Jr.
Deputy Executive Director
for Regulatory Programs

Enclosures: As stated (2)

cc: Cambridge distribution list