

reinstate a defunct license, B) Make the return of offsite slag to the site legal (especially since there happens to be quite a bit of it), and C) avoid yet another public embarrassment for the federal agency

The solution though long in coming was simple. Claim that the materials were NEVER licensed materials, and thus not within the jurisdictional control of the NRC. Nice neat package if they could sell all parties on this plan. (Problem is, I am not buying as I know a rat when I smell one) So, open up talks with Ohio EPA, Ohio Department of Health, State Attorney General's office and the responsible parties. If Ohio Department of Health agrees to jurisdictional control, and everyone else goes along with the plan a nice neat package is delivered with the following benefits.

- A) NRC does not have to reinstate a defunct license.
- B) The return of off site slag to the Shieldalloy site becomes legal.
- C) All contaminated off site area's become much less so since they no longer contained licensed materials above NRC's established release criteria, thus making insitu disposal in and around people's home a much greater likelihood.
- D) Clears the way for any slag excavated off site to be returned to the site for insitu disposal, as it eliminates the problem of Shieldalloy being in possession of licensed materials not belonging to them.
- E) Shieldalloy's license can be extended on an administrative level thus avoiding public scrutiny.

One nice neatly packaged idea that eliminates lots of problems. Only problem is the legality of it. Even a cursory glance raises eyebrows and makes one wonder what kinds of laws have been violated. This goes well beyond simple back room politics. It is made even worse in that the Ohio EPA and Department of Health are refusing to release various records claiming Attorney/Client privilege. (see recent court decision that Vonnich and his cronies lost in regards to his personal army of in house attorneys) Test results show that both on and off site slag have identical matching test results. So, this begs the question... how can one sample be licensed while the other is unlicensed. Perhaps part two of this Complaint will shed more light on this part of the equation.

## **SECTION TWO: SHIELDALLOYS DECOMMISSIONING PLAN WRONGFULLY MIXED LICENSED AND UNLICENSED WASTE:**

When the Shieldalloy company applied to the NRC to retire their license, they submitted a decommissioning plan and preferred option to said agency. In said plan, they state that some 500,000 tons of **LICENSED MATERIALS ON SITE** (emphasis added) needed to be remediated for their license to be terminated. The NRC only has jurisdictional control over **LICENSED MATERIALS** (emphasis added).

Our organization has learned that a public announcement and official position will soon be released regarding the off site slag and which agency has control of it. Said announcement will claim that all slag which left the facility was never licensed radioactive materials and thus not within the regulatory oversight of the NRC. Instead, all jurisdiction for the off site slag will become that of the Ohio Department of Health. Now this raises a very interesting dilemma that the NRC seems unwilling to admit.

We know that over the years the plant was in operation, that both licensed and unlicensed materials were processed at the Shieldalloy site. The fact that various owners may have mixed licensed materials with unlicensed materials does not change the fact that the NRC only has jurisdictional control over the materials that fall under the classification of licensed materials. So, in declaring the off site slag materials non licensed materials, the NRC has now drawn a distinct line of demarcation between licensed slag and unlicensed slag materials. This being so, it now seems to reason that the same line **MUST** be drawn in regards to the 500,000 tons of materials found at the Shieldalloy site.

Our organizations best estimates indicate that the Shieldalloy site contains 150,000 tons of licensed materials, and some 350,000 tons of non licensed materials. In Shieldalloy's decommissioning plan submitted to the NRC, they wrongfully and illegally have combined both licensed and unlicensed materials. If the NRC does its job properly, they would order said plan redone. All options (and primarily the insitu disposal option) numbers change dramatically if only licensed slag is factored into the equations. By combining the two separate and distinct waste streams, the company has greatly reduced the real risk factors from exposure to licensed materials thus wrongfully enhancing their own preferred plan for insitu disposal which would require the NRC waving enforcement rules and regulations.

Proper regulatory review and oversight would require that the NRC evaluate and maintain investigative control of the licensed materials, while the Ohio EPA and Department of Health evaluate the 350,000 tons of non licensed materials in their RI/FS. Once the Ohio Department of Health had done so, said information as a part of the RI/FS would be incorporated into the EIS as required under federal law. However, said law does not allow the NRC to evaluate waste streams which fall outside of its jurisdictional control. Not only is this not being done, but the NRC has told me that they do not want to make said distinction as it would then be impossible for the NRC to approve insitu disposal for said licensed wastes. A computer modeling of **ONLY LICENSED WASTES ON SITE** (emphasis added) would raise the exposure levels to members of the general public from licensed materials to well above 600 mrem per year (these are our organizations estimates and would have to be verified through proper lab analysis.)

Again in attempting to allow insitu disposal to become a reality, the NRC, Ohio EPA, Department of Health, parties to the decommissioning and the Ohio Attorney General's office in collusion with each other are trying to circumvent the rules, regulations and laws that have been put in place to protect human health and the environment. In fact, when the above license issue was brought to the attention of the NRC in a phone conversation with Jim Kennedy, I was told that I brought up an interesting point but that it did not matter, the NRC was going to have the current EIS available for public comment by Sept 16 as they had a time line that had to be met... end of discussion. I tried to point out that a division of the waste streams would invalidate all the data found within said document, and was told that if that happened they would circumvent it by having the company submit a revised decommissioning plan after the EIS had been approved and insitu disposal officially sanctioned.

The bottom line in all of this, is that a NRC licensee (Shieldalloy and Foote Mineral) at two different times have submitted fraudulent data, and both times the NRC refuse's to take appropriate action.

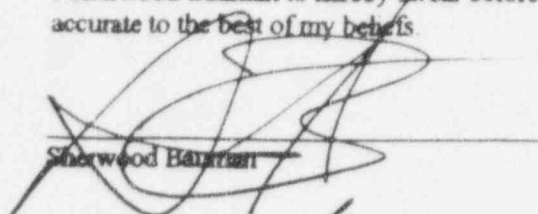
1. To tilt their decommissioning plan in favor of insitu disposal, the Shieldalloy company fraudulently and with malice and forethought used unlicensed materials to mitigate the health and safety effects which the general public would be exposed to from **LICENSED MATERIALS**.
2. Foote Mineral fraudulently claimed that no licensable materials were at the Shieldalloy site when they filed the papers to have their license officially retired.

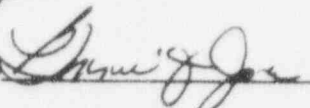
It is therefore requested that 1) Foote Mineral's license be reinstated, and that Shieldalloy and Cypress Foote be made co responsible licensee's responsible for the proper remediation and decommissioning of the Shieldalloy site. 2) That any and all parties found to be involved in any wrong doing as alleged in this complaint be terminated from employment, and where appropriate criminal charges pursued. That the current EIS be terminated, and Shieldalloy and Cypress Foote be jointly ordered to submit a decommissioning plan for the licensed materials that includes within it only a plan to remediate licensed

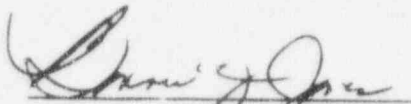
materials. ( In this fashion, all of the various assorted options including disposal at a licensed disposal facility will be fairly graded and evaluated. )

It is further asked, that the Ohio EPA and Department of Health broaden the current RI/FS to include the evaluation of "all" unlicensed slag found at the Shieldalloy site.

I Sherwood Bauman to hereby swear before a Notary Public that the foregoing statements are true and accurate to the best of my beliefs.

  
Sherwood Bauman

Sworn to before me  a Notary Public on this the 20<sup>th</sup> day of July, 1996.

  
June 16, 1999