



United States Department of State

Washington, D.C. 20520

BUREAU OF OCEANS AND INTERNATIONAL  
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

September 3, 1985

Mr. James R. Shea  
Director of International Programs  
United States Nuclear Regulatory Commission  
Bethesda, Maryland

Dear Mr. Shea:

I refer to the letter from your office dated September 14, 1984, requesting Executive Branch views as to whether issuance of an export license in accordance with the application hereinafter described meets the applicable criteria in the Atomic Energy Act as amended by the Nuclear Non-Proliferation Act of 1978:

**NRC No. XMAT0308** — Application by Poco Graphite, Incorporated, for authorization to export to Austria, Dominican Republic, Hong Kong, Mexico, Peru, and Venezuela a total for all countries combined of 75 short tons of nuclear-grade graphite over a five-year period, for various commercial and industrial applications.

Austria, the Dominican Republic, Hong Kong, Mexico, Peru and Venezuela have not provided generic assurances confirming acceptance of the U.S. Government right to prior consent to transfers of U.S.-supplied nuclear components, substances and items. Exports of nuclear-grade graphite for use as moderator material could be made to those countries which have concluded agreements for cooperation with the U.S. However, these agreements were not intended to cover transfers of graphite for non-nuclear use as proposed by the applicant. It is also not possible to request case-specific recipient government assurances regarding retransfer consent in the absence of any specific orders for Poco Graphite. Since Poco Graphite, Inc. has filed applications in anticipation of sales, we have no information to provide recipient governments regarding the amount of graphite to be exported, the end user or the end use; information which, ordinarily, governments would require before issuing assurance statements.

It is our understanding that Poco Graphite would prefer a negative response to its request for export licenses rather than have the U.S. Government defer action until a possible change of circumstances.

In view of the foregoing, the Executive Branch recommends that the request for a license either be denied, or returned without action, since the necessary determinations for approval of the proposed exports cannot be made at this time.

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PDR EXPORT  
XMAT-0308 PDR

\*Copy to PDR and ACC SEP 4 1985 ELD/Becker, NMSS/2 copies, MRPeterson, JRShea

EXPORT IMPORT  
INT'L SAFEGUARDS

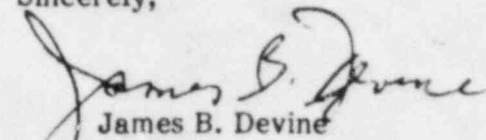
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- 2 -

The Executive Branch would be happy to give expeditious consideration to new applications for licenses should the company receive specific orders for sales of nuclear-grade graphite to the countries named above.

Sincerely,



James B. Devine  
Deputy Assistant Secretary