



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 October 3, 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. XMAT0311** — Application by Poco Graphite, Incorporated, for authorization to export to Colombia a total of 10 short tons of nuclear-grade graphite over a two-year period, for various commercial and industrial applications.

Colombia has 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 Colombia pursuant to the U.S.-Colombia Agreement for Cooperation. However, this agreement is 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 the Government of Colombia regarding the amount of graphite to be exported, the end user or the end use; information which, ordinarily, a government would require before issuing an assurance statement.

It is our understanding that Poco Graphite would prefer a negative response to its request for an export license 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 export cannot be made at this time.

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XMAT-0311 PDR

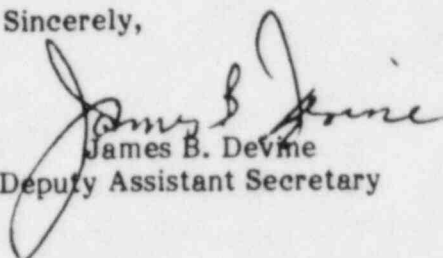
\*Copy to PDR and AEC SEP 4 1985 ELD/Becker, NMSS/2 copies, MRPeterson, JRShea

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The Executive Branch would be happy to give expeditious consideration to a new application by Poco Graphite, Inc., should the company receive an order for graphite from Colombia.

Sincerely,

A handwritten signature in dark ink, appearing to read "James B. Devine". The signature is fluid and cursive, with a large loop at the end of the last name.

James B. Devine  
Deputy Assistant Secretary