(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Quivira Mining Company, 6305 Waterford Boulevard, Suite 325, Oklahoma City, OK 73118;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) the requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings in 10 CFR Part 2, Subpart L.

Dated at Rockville, Maryland, this 22nd day of April 1997.

For the Nuclear Regulatory Commission.

Charles L. Cain,

Acting Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–10974 Filed 4–28–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of April 28, May 5, 12, and 19, 1997.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 28

Friday, May 2

9:00 a.m. Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public meeting) (Contact: John Larkins, 301–415–7360)

10:30 a.m. Meeting with Nuclear Safety Research Review Committee, (NSRRC) (Public meeting) (Contact: Jose Cortez, 301–415–6596)

Noon Affirmation Session (Public meeting) (if needed)

Week of May 5

Tuesday, May 6

2:00 p.m. Briefing on PRA Implementation Plan (Public meeting) (Contact: Gary Holahan, 301–415–2884

Wednesday, May 7

2:00 p.m. Briefing on IPE Insight Report (Public meeting)

3:30 p.m. Affirmation Session (Public meeting) (if needed)

Thursday, May 8

9:00 a.m. Meeting with Advisory Committee on Medical Uses of Isotopes (ACMUI) (Public meeting) (Contact: Larry Camper, 301–415–7231)

Week of May 12

Tuesday, May 13

2:00 p.m. Briefing by National and Wyoming Mining Associations (Public meeting)

Wednesday, May 14

2:00 p.m. Briefing on Status of Activities with CNWRA and HLW Program (Public meeting)

Thursday, May 15

10:00 a.m. Briefing on Status of HLW Program (Public meeting)

2:00 p.m. Briefing on Performance Assessment Progress in HLW, LLW, and SDMP (Public meeting)

3:30 p.m. Affirmation Session (Public meeting) (if needed)

Week of May 19

Tuesday, May 20

11:30 a.m. Affirmation Session (Public meeting)

2:00 p.m. Meeting with Advisory Committee on Nuclear Waste (Public meeting) (Contact: John Larkins, 301–415–7360)

Wednesday, May 21

10:00 a.m. Briefing on Program to Improve Regulatory Effectiveness (Public meeting)

* The schedule for Commission Meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415–1292. Contact person for more information: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

* * * * *

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 97–11231 Filed 4–25–97; 2:47 pm]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–07102]

Shieldalloy Metallurgical Corp. (Newfield, New Jersey); Director's Decision Under 10 CFR § 2.206

I. Introduction

In an undated letter addressed to U.S. Nuclear Regulatory Commission (''NRC'') Chairman Shirley Jackson and received on October 11, 1996, Sherwood Bauman, Chairperson of Save Wills Creek (''Petitioner''), requested that the NRC take action with respect to NRC licensee Shieldalloy Metallurgical Corporation (''SMC''), of Newfield, New Jersey. The Petitioner requested, pursuant to 10 CFR § 2.206, that the NRC modify SMC's license to allow only possession of radioactive material for the express purpose of decommissioning and decontaminating its Newfield facility, and that current operations resulting in additional radioactive material being stored at the site be immediately halted. The Petitioner cites the lack of adequate financial assurance, as required by 10 CFR § 40.36, as the basis for his request.

The Petitioner submitted a follow-up letter, addressed to the NRC Executive Director for Operations and dated February 7, 1997, reiterating the above request. In this letter, the Petitioner stated that SMC is attempting to reclassify wastes as potential resources for which the Petitioner believes there is no viable market. Furthermore, the Petitioner concludes that without a viable market and the resultant inadequate financial assurance for the company, SMC is jeopardizing the health and safety of the local Newfield community.

By letter dated November 14, 1996, I formally acknowledged receipt of the Petitioner's original correspondence and informed the Petitioner that his request was being treated pursuant to 10 CFR § 2.206 of the Commission's regulations. A notice of receipt of the petition was published in the **Federal Register** on Thursday, November 21, 1996 (61 FR 59251). By letter dated March 7, 1997, I formally acknowledged receipt of the Petitioner's supplementary letter.

I have evaluated the Petitioner's request and have determined that, for the reasons stated below, the Petition is granted in part and denied in part.

II. Background

At its Newfield, New Jersey facility, SMC processes pyrochlore, a concentrated ore containing columbium (niobium), to produce ferro-columbium, an additive/ conditioner used in the production of specialty steel and superalloys. The pyrochlore contains, by weight, more than 0.05 percent natural uranium and thorium, which are source materials and therefore require a NRC license pursuant to 10 CFR Part 40. SMC operates this process under the authority of NRC Source Material License No. SMB–743.

During the manufacturing process, the radioactive materials are concentrated in both high-temperature slag and baghouse[1] dust, which are then stored in the source material storage yard at the site. The slag contains most of the licensed material. In a letter to the NRC, dated June 24, 1996, the licensee indicated that the concentration of source material in the baghouse dust is, on average, less than the ''unimportant quantity'' source material threshold of 0.05 percent by weight, as described in 10 CFR § 40.13(a),[2] and need not be treated as licensed material after it is removed from the site. The licensee has stored source material in this manner at the Newfield site since the 1950s and has accumulated approximately 295,000 kilograms (kg) of thorium and 40,000 kg of uranium at the site. SMC's current license limits SMC to 303,050 kg of thorium and 45,000 kg of uranium. That license expired on July 31, 1985, and SMC has continued operations in accordance with its existing license under the timely renewal provisions of 10 CFR § 40.42(a). The SMC site has been included in the NRC's Site Decommissioning Management Plan because it contains a large volume of contaminated material for which disposal may prove difficult.

The primary issue significantly delaying SMC's license renewal is SMC's ability to meet the financial assurance requirements of 10 CFR § 40.36[3]. To meet its obligation under § 40.36, SMC originally provided the NRC with a Letter of Credit, dated July 23, 1990, in the amount of $750,000 to serve as financial assurance pending completion of the NRC's review of SMC's decommissioning funding plan.

In September 1993, SMC notified the NRC that it had filed for bankruptcy under Chapter 11 of the U.S. Bankruptcy Code. At that time, SMC also informed the NRC that it could not provide an acceptable decommissioning funding plan for reaching unrestricted release limits[4] by disposing of all stored material in a licensed disposal facility. Despite SMC's filing for bankruptcy and continued efforts to satisfy the NRC's financial assurance requirements, SMC has and continues to maintain public health and safety at its Newfield facility during continued operations under its existing license. Therefore, the status of current public health and safety protection is not at issue in this case.

By letter dated December 12, 1995, SMC submitted a new decommissioning funding plan to the NRC, proposing that the licensed slag be exported for use in steel production. The decommissioning funding plan also proposes that SMC sell the baghouse dust domestically (for cement manufacturing) without restriction because it is, on average, less than the 10 CFR § 40.13(a) ''unimportant quantity'' threshold described above. Finally, under the new decommissioning funding plan, SMC would decontaminate and decommission the remainder of the Newfield site, after off-site shipment of the aforementioned products and in accordance with the NRC's unrestricted release criteria, by disposing of remaining contaminated structures and soils in a licensed disposal facility.

In December 1994, SMC submitted an application to the NRC for a license to export a test shipment of slag to a steel mill in Trinidad. The NRC's review of the export license application became moot in early 1996 when public concern in Trinidad led SMC's potential customer to reconsider purchasing the material. SMC has unofficially indicated to the NRC that it is currently negotiating with other steel mills and will likely revise its export application for export to steel mills in one or more countries during 1997.

By letter dated June 24, 1996, SMC requested permission for the proposed domestic sale and transfer of the baghouse dust to unlicensed persons; the staff is currently reviewing the request.

III. Discussion

The Petitioner cites the lack of adequate financial assurance, as required by 10 CFR § 40.36, as the basis for his request. The Petitioner states that SMC is attempting to reclassify wastes as potential resources for which the Petitioner believes there is no viable market. Furthermore, the Petitioner concludes that lacking both a viable market and adequate decommissioning funding, SMC is jeopardizing the health and safety of the local Newfield community. To support his request, the Petitioner presents three factors he believes are relevant to his petition:

1. The Petitioner stated that the NRC's draft environmental impact statement, dated July 1996, for SMC's Cambridge facility (docket 040–8948), discussed an identical proposal to sell slag from the

[1] The baghouses contain filters comprised of cloth (or similar material) arranged in a tubular fashion in an enclosed housing. The effluent stream from the production area is blown through the filter bags, which trap the particulates on the collected material that builds up on the bags. As the buildup of material on the bags increases, so too does resistance to flow. For that reason, the baghouse filters are equipped with shaking/vibrating devices to remove the collected dust and re-condition the bags. The rated efficiency of the filters used in the D–111 baghouses is over 99 percent.

[2] Under § 40.13(a), any person is exempt from the requirements of 10 CFR Part 40 and from the requirements for a license under Section 62 of the Atomic Energy Act to the extent that such person receives, possesses, uses, transfers or delivers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than 0.05 percent of the mixture, compound, solution, or alloy.

[3] The NRC's financial assurance requirements in 10 CFR § 40.36, as pertain to SMC's Newfield license, state that:

(a) Each applicant for a specific license authorizing the possession and use of more than 100 mCi of source material in a readily dispersible form shall submit a decommissioning funding plan (DFP) as described in paragraph (d) of this section.

* * * * *

(d) Each DFP must contain a cost estimate for decommissioning and a description of the method (such as a prepayment, a surety, or an external sinking fund as described in § 40.36(e)) of assuring funds for decommissioning.

[4] The NRC's guidance for unrestricted release limits can be found in ''Disposal or Onsite Storage of Thorium or Uranium Wastes from Past Operations'' (October 23, 1981; 46 FR 52061).

Cambridge site. As part of that discussion, the Petitioner noted that the NRC staff stated that SMC could not actually demonstrate that SMC's proposal for sale of ferro-columbium slag at the Cambridge site is a workable and viable option.

2. The Petitioner also stated that to prove the lack of marketability for sale of ferro-columbium, the NRC could determine whether or not potential customers in the United States would require a license to possess the material in question. The Petitioner believes that few, if any, domestic companies will be willing to obtain any NRC licenses that may be required for the use of this material.

3. Finally, the Petitioner stated that the only customer SMC has been able to locate, to date, was not in the United States, but in an under-developed third world country with little protection. After adverse publicity in the affected country, the facility purchasing the material canceled its order, and SMC has been unable to develop a new market during the succeeding 3 years.

A. Regulatory Framework.

1. Summary of 10 CFR § 40.36

Under 10 CFR § 40.36, a licensee is required to submit a detailed decommissioning funding plan, describing both the plan for decommissioning the site upon termination of operations and the method of assuring funds to complete the actions described in the decommissioning plan. The purpose of this requirement is to assure that a licensee possesses sufficient funds to eventually decontaminate and decommission the site to a level at which public health and safety is assured. This rule was originally implemented in 1990. The NRC generally requires its licensees to provide financial assurance sufficient to decommission a site for unrestricted release consistent with the definition of decommissioning in 10 CFR § 40.4. To meet these unrestricted release criteria, licensees generally transfer any radioactive waste generated during decommissioning to a licensed disposal facility. However, in some cases the staff has used its discretion to accept lesser amounts of financial assurance, based on a finding of the acceptability of alternative approaches (e.g., *in-situ* disposal) or a binding commitment (such as a license condition or NRC order) from the licensee to pursue alternative approaches. In cases that involve a major federal action and where the potential environmental impacts of the alternative approaches may be significant, the NRC prepares an Environmental Impact Statement (EIS) and Record of Decision in accordance with the requirements of 10 CFR Part 51.

2. Application of 10 CFR § 40.36 to License No. SMB–743

Prior to 1990, the NRC did not require financial assurance for decommissioning from its licensees. During the period prior to the rule's implementation, SMC amassed large quantities of slag at the site contaminated with source material. Because SMC was in timely renewal at the time, SMC was only required to provide certification of financial assurance for $750,000 to meet the financial assurance requirements pursuant to 10 CFR § 40.36(c)(2).

In 1993, after SMC notified the NRC that it could not provide adequate financial assurance to meet unrestricted release limits, the NRC began to develop an EIS for the decommissioning of the SMC Newfield site in response to the licensee's request to dispose of the contaminated slag and baghouse dust *in situ*. The NRC suspended EIS development in 1995 when the licensee informed the NRC of its intent to transfer the slag for use in steel smelting and the baghouse dust for other, non-licensed purposes.

In December 1995, SMC submitted a modified decommissioning funding plan. That plan proposes that the licensed slag be exported for use in steel production as a fluxing agent that also removes impurities from the steel mixture, the result being a derived slag containing the impurities including the source material. This derived slag would be sold as an aggregate with no restrictions, because the concentrations of uranium and thorium would be, on average, well below the NRC's 10 CFR § 40.13(a) ''unimportant quantity'' limit. The concentration of source material in the derived slag is less than in SMC's slag because it is diluted with other inert materials (such as lime and alumina) during the smelting process. The latest decommissioning funding plan also proposes that SMC sell the baghouse dust domestically for other purposes (e.g., cement manufacturing) without restriction because the contaminated baghouse dust would also be, on average, less than 0.05 percent of source material by weight. By letter dated June 24, 1996, SMC requested permission for the proposed domestic sale of the baghouse dust; the staff is currently reviewing the request. Finally, under the new decommissioning funding plan, SMC would decontaminate and decommission the remainder of the Newfield site to conform to the NRC's unrestricted release limits; contaminated structures, soils, and radioactive wastes generated during decontamination and decommissioning would be sent to a licensed disposal facility. SMC calculated the cost for executing the decommissioning activities described in the 1995 modified decommissioning plan to be slightly less than $750,000.

The NRC has held a Letter of Credit for $750,000 from SMC, pursuant to 10 CFR § 40.36(c)(2), since 1990. On February 26, 1997, at SMC's request, the NRC drew upon the Letter of Credit and is currently holding the funds in trust.[5] Because SMC has in place the required decommissioning funding plan and a financial assurance mechanism which encompasses the cost estimates to perform the actions proposed in the decommissioning funding plan, SMC is considered to be in compliance with 10 CFR § 40.36 until such time as the NRC determines whether the submitted decommissioning funding plan is acceptable (as discussed below). Therefore, the issue being decided herein is whether the licensee's current decommissioning funding plan is acceptable.

B. Acceptability of Decommissioning Funding Plan

In SECY–96–210, dated October 1, 1996, the NRC staff informed the Commission of its concerns regarding the acceptability of SMC's decommissioning funding plan and described its plan to resolve the associated issues. As part of its plan, the staff informed the Commission of its intent to permit interim acceptance of the decommissioning funding plan to allow renewal of the license; however, the staff's plan also requires that SMC present adequate evidence (e.g., obtaining NRC approval of an export license application) regarding the marketability of the slag within one year after renewal of License SMB–743. If SMC cannot provide such evidence, the NRC will reconsider the acceptability of the licensee's decommissioning funding plan. This could include requiring the plan's revision to include a different approach for decommissioning and disposal of the radioactive slag (e.g., *in-situ* disposal). The NRC transmitted a copy of SECY–96–210 to the Petitioner as an enclosure to the November 14, 1996 acknowledgement letter.

[5] To facilitate its planned exit from bankruptcy proceedings and with the Bankruptcy Court's approval, SMC requested by letter dated October 25, 1996, that the NRC draw upon the existing Letter of Credit.

In the Petitioner's February 7, 1997 supplementary letter, the Petitioner elaborates upon his belief that the current decommissioning funding plan should be considered unacceptable and the licensee is not in compliance with the regulations in 10 CFR § 40.36 by stating that SMC's proposed plans to disposition the slags are neither technologically nor financially viable.

The Petitioner argues that the NRC has already stated that the sale of ferro-columbium slag is not viable, as referenced in the *Draft Environmental Impact Statement on Decommissioning of the Shieldalloy Metallurgical Corporation, Cambridge, Ohio* (NUREG–1543, July 1996) (Draft EIS). This is not correct.

The respective viabilities of the Newfield and Cambridge ferro-columbium slags for use in steel production are considered by the NRC to be different in each case. As stated below, the Newfield ferro-columbium slag was produced using the same process that produced a previously marketed Newfield ferro-vanadium slag, demonstrating that the process using the Newfield ferro-columbium slag appears to be viable. In contrast, the Cambridge ferro-columbium slag was produced using a different process and different feedstock materials. Consequently, the metallurgical properties of the Cambridge slags have not yet been demonstrated to be technologically viable. For this reason, the export sale alternative was not included for consideration in the Draft EIS for decommissioning of the Cambridge site.

With regard to the previously marketed ferro-vanadium slag, SMC delivered, on average, 7000 tons of ferro-vanadium slag per year to the domestic steel industry from 1991 to 1995, with the highest annual amount reaching 9000 tons. By comparison, SMC currently stores approximately 70,000 tons of ferro-columbium slag at its Newfield site. The licensed ferro-columbium slag at the Newfield site was produced in a manner similar to the ferro-vanadium slag. SMC's extensive metallurgical evaluations indicate that the ferro-columbium slag has metallurgical properties relating to the proposed steel process that are similar, if not superior, to relevant properties of the ferro-vanadium slag.

The NRC staff acknowledges the Petitioner's statement that the domestic use of ferro-columbium slag would likely require an NRC or Agreement State license for possession and use, thus possibly constraining domestic commercial interest in the product and thereby impacting the financial viability of the slag product. However, SMC is marketing the material to international locations where regulatory conditions may be less of a factor in determining the product's financial viability. As part of any international export application and prior to issuance of an export license, the NRC will inform the importing government of the proposed importation and use of the product containing the source material, in accordance with the International Atomic Energy Agency's Code of Practice on the International Transboundary Movement of Radioactive Waste.

Finally, the Petitioner argues that the only potential customer SMC has been able to locate, to date, has been in Trinidad. Because of internal country concerns, the customer purchasing the material canceled its order, and SMC has been unable to develop a new market during the succeeding years, thus significantly decreasing viability of the product. The NRC agrees with the Petitioner that this raises a concern as to the viability of the proposed decommissioning funding plan and therefore grants the Petitioner's request in part. The NRC intends to require, in the form of a license condition as part of any future license renewal, that SMC provide additional proof (in the form of an NRC-approved export application) of the viability of the proposed disposition method within one year of the license's renewal. If such proof is not forthcoming within the time limit, the NRC staff plans to issue an order requiring the submission of a new decommissioning funding plan along with appropriate mechanisms for financial assurance. Furthermore, the NRC will include a condition in any renewed SMC license requiring SMC to provide financial assurance commensurate in value for the costs of offsite disposal for future source material possession increases. These two conditions are intended to prevent SMC from continuing to accumulate licensed material at the site in perpetuity without adequate financial assurance.

IV. Conclusion

The staff has carefully considered the request of the Petitioner. For the reasons discussed above, I conclude that no substantial public health and safety concerns warrant NRC action concerning the request. However, because the staff is proposing to impose certain restrictions on the licensee for reasons similar to those presented by the Petitioner, I grant the Petitioner's request to that extent and deny it in other respects.

A copy of this Decision will be placed in the Commission's Public Document Room, Gelman Building, 2120 L Street, NW, Washington, DC, and at the Local Public Document Room for the named facility. A copy of this Decision will also be filed with the Secretary for the Commission's review as provided in 10 CFR § 2.206(c) of the Commission's regulations.

As provided by this regulation, the Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 15 day of April 1997.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–10975 Filed 4–28–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 6e–2, SEC File No. 270–177, OMB Control No. 3235–0177

Rule 22d–1, SEC File No. 270–275, OMB Control No. 3235–0310

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget requests for approval of extension on previously approved collections of information:

Rule 6e–2 [17 CFR 270.6e–2] under the Investment Company Act of 1940 (''Act'') is an exemptive rule which permits separate accounts, formed by life insurance companies, to fund certain variable life insurance products. The rule exempts such separate accounts from the registration requirements under the Act, among others, on conditions that it comply with all but certain designated provisions of the Act and meet the other requirements of the rule. The rule sets forth several information collection requirements.

Rule 6e–2 provides a separate account with an exemption from the registration