

**UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

SHIELDALLOY METALLURGICAL CORPORATION )

Petitioner, )

)

v. )

) **No. 13-1259**

UNITED STATES NUCLEAR REGULATORY )

COMMISSION and the )

)

UNITED STATES OF AMERICA )

Respondents. )

)

**PETITIONER’S MOTION FOR RECONSIDERATION OF DENIAL OF  
CONSENT MOTION TO POSTPONE ORAL ARGUMENT**

Pursuant to D.C. Circuit Rule 27, Petitioner Shieldalloy Metallurgical Corporation (“Shieldalloy”) respectfully moves this Court for reconsideration of the Court’s denial (issued by order dated June 11, 2014) of Petitioner’s Consent Motion (“Motion”) seeking a postponement of the oral argument date of September 12, 2014 in the above captioned case, set by Order issued by the Court on June 10, 2014.

As explained in the Motion, the date set for the oral argument unavoidably raises unsolvable conflicts with other obligations of Counsel for Petitioner. Further elaboration of these conflicts is as follows. Matias Travieso-Diaz, Counsel for Petitioner, needs to travel to Italy on September 9 to attend the wedding, to be held on September 12, of his niece. Because the wedding date was announced

only a few weeks ago, it was not practical to advise the Court well in advance of the potential conflict that might arise if the argument were set for the second week of September. The undersigned has been counsel of record for this and two earlier cases before this Court dealing with the same matter,<sup>1</sup> as well as the related administrative proceedings before the Nuclear Regulatory Commission since 2006, and is most familiar with the issues presented to the Court and would be in the best position to provide the most illuminating discussion of these issues. In addition, Jay E. Silberg, co-counsel for Petitioner, has a two-week trial before the U.S. Court of Federal Claims which will begin the Monday immediately following the date currently set for the oral argument. *See, Systems Fuels Inc. and Entergy Arkansas, Inc. v. United States*, No. 12-389C, Scheduling Order (dated March 10, 2014), attached.

The other two co-counsel of record for Petitioner reflected in the pleadings and briefs are associates who have worked on the case. One, Alison Crane, has just relocated to Chicago, and the other, Stephen Markus, is a junior associate who has never argued a case in court. In short, there is nobody else in our Firm who is sufficiently familiar with the case to be able to assume the responsibility of appearing before the Court.

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<sup>1</sup> *See Shieldalloy Metallurgical Corp. v. NRC*, 624 F.3d 489 (D.C. Cir. 2010); *Shieldalloy Metallurgical Corp. v. NRC*, 707 F.3d 371 (D.C. Cir. 2013).

In the Motion, Petitioner requests that oral argument be postponed until no earlier than the week of September 29, 2014, at which time the undersigned Counsel for Petitioner will have returned to the United States and Mr. Silberg's Court of Federal Claims' trial will have ended. Alternatively, we could attend oral argument on the week of September 1, 2014, if feasible and acceptable to the Court.

Petitioner has sought to consult with counsel for Respondent NRC and Intervenor State of New Jersey regarding the Motion. Both counsel for the NRC and counsel for Intervenor State of New Jersey were amenable to a change in the oral argument date.

#### CONCLUSION

For the foregoing reasons, Petitioner earnestly requests that the Court reconsider its denial of the Motion and order a rescheduling of oral argument on this matter for either the week of September 1 or until after September 29, 2014.

Respectfully submitted,

/S/ Matias F. Travieso-Diaz

Jay E. Silberg

Matias F. Travieso-Diaz

Stephen L. Markus

Alison M. Crane

PILLSBURY WINTHROP

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Dated: June 12, 2014

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
 No. 12-389C  
 (Filed: March 10, 2014)

_____	)
SYSTEM FUELS, INC. and ENTERGY	)
ARKANSAS, INC.	)
Plaintiffs,	)
	)
v.	)
	)
UNITED STATES,	)
	)
Defendant.	)
_____	)

SCHEDULING ORDER

Before the court is the parties’ joint status report in which a proposed schedule for pretrial steps and trial is set out. The court generally approves the parties’ proposal and adopts the following schedule:

<u>Event</u>	<u>Deadline</u>
Meeting of counsel pursuant to Rules of the Court of Federal Claims (“RCFC”) Appendix A, ¶ 13	June 20, 2014
Certification, RCFC App. A, ¶ 13(d)	June 27, 2014
Plaintiffs’ Memorandum of Contentions of Fact and Law, Exhibit List, Witness List, and Notice Regarding Use of Deposition testimony, RCFC App. A, ¶¶ 14-15	July 3, 2014
Defendant’s Memorandum of Contentions of Fact and Law, Exhibit List, Witness List, and Notice Regarding Use of Deposition testimony, RCFC App. A, ¶¶ 14-15	August 8, 2014
Identification of Joint Exhibits and Preparation of Stipulations	Week of August 11-15, 2014
Submission of Joint Exhibit List and Stipulations	August 22, 2014

Pre-Trial Conference

September 8, 2014, commencing at 10:00 a.m.  
at the National Courts Building

Trial

September 15 through 24, 2014, commencing  
each day at 9:30 a.m. at the National Courts  
Building

It is so ORDERED.

s/ Charles F. Lettow

Charles F. Lettow

Judge

**ADDENDUM**

Pursuant to Circuit Rule 27, following are (1) A certificate of parties and amici, in accordance with Circuit Rule 28(a)(1)(A); and (2) a disclosure statement, in accordance with Circuit Rule 26.1.

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**PETITIONER’S CERTIFICATE OF PARTIES AND AMICI**

In accordance with Circuit Rule 28(a)(1)(A), Petitioner Shieldalloy Metallurgical Corporation (“Shieldalloy”) certifies as follows:

1. **Parties:** In addition to Petitioner, parties to this action are Respondents U.S. Nuclear Regulatory Commission (“NRC”) and the United States of America.
2. **Intervenors:** The State of New Jersey has been admitted as an intervenor in this action.



Respectfully submitted,

/S/ Matias F. Travieso-Diaz

Jay E. Silberg

Matias F. Travieso-Diaz

Stephen L. Markus

Alison M. Crane

PILLSBURY WINTHROP

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Counsel for Shieldalloy Metallurgical  
Corporation

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Dated: June 12, 2014

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**PETITIONER’S CORPORATE DISCLOSURE STATEMENT**

In accordance with Circuit Rule 28(a)(1)(A), Petitioner Shieldalloy Metallurgical Corporation (“Shieldalloy”) by and through its undersigned counsel, hereby certifies that:

Shieldalloy is a Delaware Corporation and is a direct, wholly-owned subsidiary of Metallurg, Inc., a Delaware corporation, and an indirect subsidiary of Metallurg Holdings, Inc., a Delaware Corporation. It is also an indirect subsidiary of Metallurg Delaware Holdings Corporation, a privately-owned holding company, and of AMG Advanced Metallurgical Group N.V., a publicly-owned company.

Shieldalloy is an industrial company that, at its facility in Newfield, New Jersey, manufactured for a number of years metal alloys from ores containing

small amounts of uranium and thorium. Shieldalloy has held for many years materials license No. SMB-743 issued by the U.S. Nuclear Regulatory Commission (“NRC”) authorizing it to possess the uranium and thorium at its Newfield facility. Such license has been transferred to the State of New Jersey by order of the NRC.

Respectfully submitted,

/S/ Matias F. Travieso-Diaz

Jay E. Silberg

Matias F. Travieso-Diaz

Stephen L. Markus

Alison M. Crane

PILLSBURY WINTHROP

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Dated: June 12, 2014

**CERTIFICATE OF SERVICE**

In accordance with Circuit Rule 31, I hereby certify that copies of the foregoing Petitioner's Motion for Reconsideration of Denial of Consent Motion to Postpone Oral Argument were filed with the Clerk of the Court using the CM/ECF System this 12th day of June 2014. An original and four paper copies were also filed with the Clerk of the Court by overnight mail on this date. In addition, the following participants in the case who are registered users will be served through the CM/ECF System:

Andrew P. Averbach, Esq., Solicitor  
Grace H. Kim, Senior Attorney  
Office of the General Counsel  
U.S. Nuclear Regulatory Commission

Eric Holder, Attorney General of the United States  
U.S. Department of Justice  
Washington, DC 20530-0001

John Jay Hoffman, Esq.  
Acting Attorney General of New Jersey  
Andrew W. Reese, Esq.  
Deputy Attorney General  
New Jersey Office of the Attorney General  
25 Market Street  
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