

POLICY ISSUE NOTATION VOTE

February 24, 2003

SECY-03-0028

FOR: The Commissioners

FROM: Janice Dunn Lee, Director
Office of International Programs

SUBJECT: PROPOSED LICENSES TO EXPORT NUCLEAR GRADE GRAPHITE
TO CANADA AND OTHER COUNTRIES FOR NON-NUCLEAR END
USE (XMAT0403 AND XMAT0404, RESPECTIVELY)

PURPOSE:

To request Commission review of the proposed issuance of licenses to SGL Carbon, LLC, (SGL) involving the export of nuclear grade graphite for non-nuclear end use. The applications (Attachments 1 and 2) are being referred to the Commission in accordance with 10 CFR 110.40(b).

URGENCY:

The applicant has arranged for graphite suppliers from Europe to temporarily supply Canadian end-users until SGL receives the necessary NRC export license to resume direct exports to Canada. However, shipments of graphite to Canada from Europe by ship have been interrupted by freezing conditions on the St. Lawrence Seaway, forcing SGL to resort to more expensive air shipments. Accordingly, SGL has requested expeditious review of its export request. Congressman John E. Peterson (Pennsylvania) has written to NRC on SGL's behalf, noting the urgency caused by the shipping conditions (Attachment 3).

BACKGROUND:

SGL is a member of the SGL Carbon Group, a large manufacturer of carbon graphite and composite materials for industrial and aerospace applications, headquartered in Germany. The Carbon and Graphite Business Unit in America, SGL Carbon, LLC, makes electrodes for the metallurgical industry for electric arc furnace operation to melt scrap steel. On December 16, 2002, SGL made a voluntary self-disclosure of numerous large exports of bulk nuclear grade

CONTACT: S. Schuyler-Hayes, OIP
415-2333

graphite for non-nuclear end use that occurred during the period 1998 to October 2002. SGL exported the graphite to several countries without obtaining a specific license from the NRC as required under 10 CFR 110.25(a). The company stopped exporting in October 2002 upon understanding that it was in violation of NRC's regulations. The Office of International Programs (OIP) is working with the Office of Enforcement (OE) concerning the significance of the violations and potential enforcement actions. While the shipments made by SGL without an NRC license were both numerous and large, at this time, the staff does not believe the violations were willful. The Executive Branch agrees with this assessment, and has advised the staff that it is not aware of any information indicating that the unauthorized exports were inimical to the common defense and security of the United States. Consequently, OIP is continuing to process the license applications SGL submitted for the proposed exports of graphite for non-nuclear end use while the consideration of enforcement is ongoing.

DISCUSSION:

On November 20, 2002, SGL applied for a license requesting authority to export for non-nuclear end use, 869,000.0 kilograms of nuclear grade graphite to Canada (XMAT0403 at Attachment 1), and an additional license to export 11,617,833.0 kilograms to the countries of the European Union, Argentina, Australia, Bolivia, Brazil, Chile, China, Colombia, Czech Republic, Ecuador, French Guyana, Guyana, India, Japan, Malaysia, Mexico, New Zealand, Norway, Paraguay, Peru, Republic of Korea, Singapore, South Africa, Suriname, Taiwan, Thailand, Uruguay, and Venezuela (XMAT0404 at Attachment 2).

The graphite produced by SGL is very pure (as is much of the graphite currently produced in the U.S. and abroad) and meets the definition of nuclear-grade graphite in 10 CFR 110.2, having a boron equivalent content of less than five parts per million and density greater than 1.5 grams per cubic centimeter. Bulk shipments of such graphite are controlled by the United States and other members of the Nuclear Suppliers Group to help prevent its use as a moderator or reflector material in an un-safeguarded reactor. SGL, which produces graphite primarily for commercial non-nuclear end-uses, was unaware until recently that its graphite products were of the purity level requiring NRC export licensing controls.

In response to NRC's request for views on proposed export XMAT0403, the Executive Branch (EB), in a letter dated January 23, 2003 (Attachment 4), recommended that a license be issued to SGL to export up to 870,000 kilograms of bulk nuclear grade graphite for the production of various non-nuclear commercial articles by SGL affiliate, Spear Canada. Regarding NRC's request for views on proposed export XMAT0404, the EB recommended that a license be issued to SGL to export up to 11,617,833 kilograms of bulk nuclear grade graphite for the production of various non-nuclear industrial and commercial articles, but limited to the following destinations: member states of the European Union, Czech Republic, Japan, New Zealand, Republic of Korea, and Taiwan (Attachment 5). It would be limited to a period of five years, and exclude countries on application XMAT0404 which have not yet provided the necessary assurances to the U.S. Government on re-transfers. The applicant has been advised in this regard, and indicated interest in later amending the new XMAT0404 license to reinstate some excluded countries, if the EB approves and receives the required assurances.

The EB has concluded that the proposed exports under the new licenses are consistent with the provisions of the Atomic Energy Act, as amended, if limited to the countries/destinations and quantities as specified above. The EB letter notes that, as parties to the Non-proliferation Treaty (NPT), all of the countries/destinations to be approved under XMAT0403 and XMAT 0404 (Canada, European Union countries, Czech Republic, Japan, New Zealand, Republic of Korea, and Taiwan) have committed to maintaining IAEA safeguards on all of their peaceful nuclear activities and have pledged not to produce or otherwise acquire any nuclear explosive device, therefore, satisfying criteria (1) and (2) of Section 109b of the Atomic Energy Act, as amended, for exports of nuclear components, substances and items. The right of prior consent on the retransfer of U.S. origin nuclear grade graphite has been satisfied and confirmed by the receipt of generic assurances from all the countries/destinations to be authorized under XMAT0403 and XMAT0404. Finally, the proposed exports will not be inimical to the common defense and security of the United States.

Security Significance of the Exports

The amount of material to be exported to the authorized destinations does not raise any additional security concerns related to transportation, including the domestic shipping portion of the export, beyond those applicable to other past and current licensed exports of nuclear grade graphite from the U.S. under general or specific NRC export licenses. The licensee is prepared to comply fully with current domestic shipping requirements imposed by NRC. Accordingly, the staff does not believe that security considerations warrant denial of the SGL applications.

Review of Other Sources of Information

The Office of International Programs has reviewed recent Department of State telegrams and other sources of information and found nothing which would preclude issuing the export licenses to the destinations approved by the EB.

CONCLUSION:

The staff concurs with the EB judgment that the proposed exports, as modified, would not be inimical to the common defense and security of the United States and also meet the three specific export licensing criteria of Section 109b of the Atomic Energy Act of 1954, as amended. There are no applicable safeguards or foreign physical protection requirements for the proposed exports of nuclear grade graphite for non-nuclear end use.

RECOMMENDATIONS:

1. That the Commission should authorize the issuance of the requested export license, XMAT0403 (Canada), to SGL for a period of five years.
2. That the Commission should authorize the issuance of export license, XMAT0404 (European Union countries, Czech Republic, Japan, New Zealand, Republic of Korea, and Taiwan), to SGL for a period of five years.

3. That amendments should be issued for XMAT0404 for other requested destinations, contingent upon receipt of more specific contract information from the applicant on anticipated future exports and favorable views from the EB, including U.S. assurances from the foreign governments.

/RA/

Janice Dunn Lee, Director
Office of International Programs

Attachments:

1. 11/20/02 S.L. Carbon, LLC Graphite Export License Application
2. 11/20/02 S.L. Carbon, LLC Graphite Export License Application
3. 1/30/03 Letter from Congressman Peterson to D.K. Rathbun
4. 1/23/03 DOS Letter, R. J. Stratford to J. D. Lee, Views, XMAT0403
5. 2/12/03 DOS Letter, R. J. Stratford to J. D. Lee, Views, XMAT0404

DISTRIBUTION:

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ADAMS ACCESSION #: _____

* See previous concurrence

X Publicly Available G Non-Publicly Available G Sensitive X Non-Sensitive

OFFICE	OIP/B	OIP/B	OIP/DD	NSIR
NAME	S Schuyler-Hayes*	M Peterson*	E Baker*	R Nelson*
DATE	2/ 01/03	2/05/03	2/11/03	2/10/03

OFFICE	OE	OGC	EDO	OIP/DD
NAME	J Luehman	T Rothschild*	W Travers	J D Lee
DATE	2/12/03	2/06/03	2/ /03	2/ /03

OFFICIAL RECORD COPY

NRC FORM 7 (4-2000)		U.S. NUCLEAR REGULATORY COMMISSION		APPROVED BY OMB: NO. 3165-0027		EXPIRES: 04/30/2003	
APPLICATION FOR LICENSE TO EXPORT NUCLEAR MATERIAL AND EQUIPMENT (See Instructions on Reverse)				Estimated burden per response to comply with this mandatory collection request: 2.4 hours. This submittal is reviewed to ensure that the applicable statutory, regulatory, and policy considerations are satisfied. Send comments regarding burden estimate to the Records Management Branch (T-6 EE), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by internet e-mail to rl1@nrc.gov , and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3160-0027), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.			
1. APPLICANT'S USE <input type="checkbox"/>	2. DATE OF APPLICATION November 20, 2002	3. APPLICANT'S REFERENCE	4. NRC USE <input type="checkbox"/>	5. DOCKET NUMBER 11-005082	6. LICENSE NUMBER XMAT0403		
3. APPLICANT'S NAME AND ADDRESS a. NAME SGL Carbon, LLC b. STREET ADDRESS (Facility Site) 8600 Bill Ficklen Drive c. CITY Charlotte d. STATE NC e. ZIP CODE 28256 f. TELEPHONE NUMBER (Area Code - Number - Extension) (704) 593-5173			4. SUPPLIER'S NAME AND ADDRESS (Complete if applicant is not supplier) a. NAME b. STREET ADDRESS c. CITY d. STATE e. ZIP CODE				
8. FIRST SHIPMENT SCHEDULED Please See Attachment A	9. FINAL SHIPMENT SCHEDULED Please See Attachment B	7. APPLICANT'S CONTRACTUAL DELIVERY DATE Please See Attachment C	10. PROPOSED LICENSE EXPIRATION DATE Please See Attachment D	9. U.S. DEPARTMENT OF ENERGY CONTRACT NO. (if known) N/A			
10. ULTIMATE FOREIGN CONSIGNEE a. NAME Speer Canada, Inc. b. STREET ADDRESS (Facility Site) 5 Shirley Avenue c. CITY Kitchener Ontario N2B2E6 d. COUNTRY Canada			11. ULTIMATE END USE (include plant or facility name) Extruded, die-molded and isostatically molded artificial graphite, in rod and block form, provided as feed stock for further manufacturing of various commercial items. 12. DATE REQUIRED (See Attachment E)				
12. INTERMEDIATE FOREIGN CONSIGNEE a. NAME b. STREET ADDRESS (Facility Site) c. CITY d. COUNTRY			13. INTERMEDIATE END USE Industrial and Commercial, non-nuclear (end use) 14. DATE REQUIRED				
14. INTERMEDIATE FOREIGN CONSIGNEE a. NAME b. STREET ADDRESS (Facility Site) c. CITY d. COUNTRY			15. INTERMEDIATE END USE 16. DATE REQUIRED				
18. COM CODE	17. DESCRIPTION (include chemical and physical form of nuclear material; give dollar value of nuclear equipment and components)		19. MAX. ELEMENT WEIGHT	20. MAX. WT. %	21. MAX. ISOTOPE WEIGHT	22. UNIT	
	Bulk, non fabricated artificial graphite produced by extrusion; die-molding, and isostatic molding, with a boron equivalent of less than five (5) parts per million (See Attachment F for further description)		869,000.0	N/A	N/A	Kg	
22. COUNTRY OF ORIGIN - SOURCE MATERIAL N/A		23. COUNTRY OF ORIGIN - BNM WHERE ENRICH OR PRODUCED N/A		24. COUNTRIES WHICH ATTACH SAFEGUARDS (if known) Canada			
25. ADDITIONAL INFORMATION ON CONSIGNEES, END USES, AND PRODUCT DESCRIPTION (Use separate sheet if necessary)							
26. The applicant certifies that this application is prepared in conformity with Title 10, Code of Federal Regulations; and the correct to the best of his/her knowledge.							
27. AUTHORIZED OFFICIAL a. SIGNATURE Tate M. [Signature]				b. TITLE Pres. Serv.			

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XMAT0403 Appl
ML023570046 12/24

* Application has been updated to reflect additional information received from the applicant.

Attachment A
(Item 5—First Scheduled Shipment)

SGL Carbon, LLC ("SGL") would like to resume shipping its products as soon as possible. Until recently, SGL regularly shipped products to its Canadian affiliate Speer Canada, Inc. ("Speer"). In fall 2002, SGL recognized that Nuclear Regulatory Commission (the "Commission") regulations might require it to seek a specific license to continue these exports. The company immediately stopped exporting bulk, nuclear grade graphite to Canada. Following an internal investigation, SGL made a voluntary telephone disclosure regarding its possible past noncompliance to the Commission in mid-November 2002. SGL will file a written disclosure shortly.

SGL has not resumed exporting activity since it learned of its possible noncompliance with Commission regulations. Continued stoppage could prove detrimental to SGL's business. Therefore, SGL asks that the Commission permit it to resume exporting to Canada as soon as a specific license is issued.

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Attachment B
(Item 6—Final Scheduled Shipment)

SGL does not have a final scheduled shipment date. The nature of SGL's business demands routine shipments to Speer. The company does not foresee a certain date upon which the need for regular shipments would change. Therefore, SGL asks that no final shipment date be required.

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Attachment C
(Item 7—Applicant's Contractual Delivery Date)

SGL stopped making deliveries to Canada in fall 2002, and would like to resume exporting activities as soon as possible.

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Attachment D
(Item 8—Proposed License Expiration Date)

SGL requests that the term of the specific license be indefinite. By its nature, SGL's business requires regular shipments to Speer. Title 10 of the Code of Federal Regulations, Part 110.32 permits an application for a specific license to cover multiple shipments. Thus, SGL proposes that the Commission issue this license for an indefinite period. If the Commission considers it necessary, the license could be deemed to expire upon SGL's dissolution. Alternatively, SGL asks that the license automatically renew year to year.

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Attachment E
(Item 11—Ultimate End Use)

Until recently, SGL routinely shipped extruded, die-molded and isostatically molded artificial graphite, in rod and block form to Speer. Speer utilizes the graphite as feed stock for further manufacturing of various commercial items such as the following:

Vanes, rotors, seal rings, metal sleeved rings, piston rod seals, piston rod bearings, bearings, packing rings for compressors and vacuum pumps;
Large sized blanks, crucible-type molds for near-net-shape centrifugal casting;
Ingot molds for die casting processes;
Casting molds for e.g. railway rolling stock wheel casting;
Graphite plates for cooling of complex grey iron shapes;
Large sized blanks, graphite dies and plates for continuous casting, crucibles in large sizes for melting and holding processes in continuous casting machines;
Electrodes for aqueous and organic electrosynthesis;
Anodes for corrosion protection of pipe lines;
Mechanical seals for automotive sealing;
Graphite jigs for semiconductor encapsulations, glasswork and brazing connections;
Graphite anodes and cathodes for chlorine-alkali electrolysis, decomposer graphite granules for mercury cells;
Parts of high purity graphite, used in equipments for pulling monocrystals of Silicon;
Germanium and III/IV compounds: Large sized blanks, crucibles (susceptors), heating elements, heat shields, current connecting parts, etc.;
Brush plates for the production of carbon brushes, carbon brushes for electrical machines;
Large sized blanks, graphite electrodes for Electrical Discharge Machining;
Electrodes for chemical separation processes;
Graphite anodes and cathodes for electrolysis of lithium, sodium, magnesium and fluorine;
Liners (crucibles) for electron beam evaporation;
Vessels and components made of graphite for chemical appliances;
Heating elements for manufacturing optical fibers;
Crucibles, supports for crucibles, heating elements for gas analysis;
Bearings for gauge and control systems;
Graphite blanks for manufacturing heat exchangers;
Linings, electrical heating systems, components, supports, charging rails, susceptors made of graphite for high temperature furnace construction;
Charging systems and furnace equipments made of graphite for hardening processes;
Bearings and seals for dishwasher pumps, washing machines and heating systems;
Nozzles for high voltage switchgear;
Graphite boats for liquid phase epitaxy;
Scoops for injection of glass drops, molds and various accessory parts made of graphite for container glass production; graphite parts for technical glass production;
Electrodes, heating elements for manufacturing high purity quartz glass production;
Powder and graphite rods for diamond synthesis; heating elements, support parts for production of synthetic diamonds;
Graphite discs as heat sinks for X-ray anodes;

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Operating materials for manufacturing of mechanical heart valves;
Seal rings, packing rings, steam joint rings, ball valve seals, metal sleeved rings, piston rod seals, vanes, metering rings and segments, turbine rings for mechanical seals;
Melting crucibles for non-ferrous and precious metals, rotors with shafts for homogenization of zinc melts;
Electrodes (grids) of graphite for plasma etching;
Blanks and graphite electrodes for deposition of polycrystalline silicon;
Bearings, seal rings, packing rings, vanes, rotors, housings for pumps;
Fluxing tubes, gas distribution and gas injection systems for purification of aluminum melts;
Plates and belts for run-out tables for aluminum profile extrusion;
Crucibles and boats for aluminum casting;
Electrodes for aluminum surface cleaning
Large sized blanks with a suitable coefficient of thermal expansion for SiC-coating, SiC-coated barrel, pancake and single wafer susceptors for Si-epitaxy;
Single wafer susceptors for various processes, e.g. rapid therm process (RTP), liquid phase chemical vapour deposition (LPCVD), etc.;;
Large sized blanks, sandwich dies for pressure sintering, graphite dies and rods for production of diamond tools (i.e. drill tools for off-shore industry);
Charging plates, discs, charging systems and equipments for hard metal high temperature sintering and CVD coating processes;
Boats, crucibles and other containers, liners, heaters, heating tubes for powder metallurgy;
Slicing beams made of carbon and graphite for cutting monocrystal rods; and
Sliding elements such as bearings, bushings, piston rod bearings, lubricating pins, slides.

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Attachment F
(Item 17—Description)

Extruded Graphite: This graphite is available as round and rectangular blocks, with relatively fine grain size, and has good mechanical, electrical and thermal properties, with a preferential grain orientation and low ash content. Density, mechanical strength and oxidation resistance can be improved by means of further impregnation.

Die-Molded Graphite: A vibration molded fine grain graphite has an exceptionally homogenous structure, almost isotropic properties and low ash content. It can be manufactured in large sizes. Further processing, for example impregnation, is possible.

Isostatically-Molded Graphite: Isostatically pressed graphite is an especially fine grain, dense, isotropic graphite, which can be produced in larger dimensions.

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November 21, 2002



SGL CARBON GROUP

RE: Specific License Applications for SGL Carbon, LLC

XMATO 403
XMATO 404

Director for Nonproliferation, Exports, and Multilateral Relations
Office of International Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20037

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Dear Sir/Madam:

I enclose two completed applications for specific licenses authorizing SGL Carbon, LLC to export nuclear grade graphite pursuant to 10 C.F.R. §110.25. These applications cover: (1) exports to SGL's affiliate in Canada; and (2) exports to other locations. Two checks in the amount of \$5800.00 each representing the application fees are also enclosed. I would appreciate your assistance in processing these applications as quickly as possible. To facilitate your review of our applications, this letter provides some additional information about SGL, its products and operations that the application form did not request.

SGL is a member of the SGL Carbon Group, the world's largest manufacturer of carbon, graphite and composite materials for industrial and aerospace applications. The Group has 40 locations worldwide, with its headquarters in Wiesbaden, Germany. SGL Carbon, LLC is headquartered in Charlotte, North Carolina, with manufacturing plants in Morganton, North Carolina, Saint Marys, Pennsylvania, Ozark, Arkansas, and Hickman, Kentucky. The company and its affiliates employ over 1,200 workers in North America. The Group is organized into four business units: the Carbon and Graphite Business Unit, the Graphite Specialties Business Unit, the Corrosion Protection Business Unit, and SGL Technologies. The activities of the Graphite Specialties Business Unit are most relevant to this application.

The Graphite Specialties Business Unit (GSBU) in North America imports, makes, and exports a variety of products comprised of carbon, graphite, metalized graphite, treated graphite, and coated graphite. The GSBU deals in very high purity graphite. Utilizing the method prescribed by the American Society for Testing and Materials in standard C1233-93, the boron equivalent content of all untreated graphite products of this unit is less than five parts per million. Except for graphite powders, these graphites also have a density greater than 1.5g/cm³. Thus, all untreated, solid graphite products sold by the GSBU are nuclear grade graphite. Each of the business lines within the GSBU exports products, most of which are completely fabricated for ultimate end-use and therefore may be exported under a general license. Certain products, however, could fall into categories that require a specific license under the Nuclear Regulatory Commission regulations. These products are either bulk graphite, or partially finished products which could be considered either bulk or fabricated products under the regulations.

SGL CARBON, LLC

8600 Bill Ficklen Drive
Charlotte, NC 28269
Mailing Address:
P.O. Box 563960
Charlotte, NC 28256-3960
Phone (704) 593-5100
Fax (704) 593-5117

RAL 258126v2

○ XMAT0403
XMAT0404

The GSBU uses three basic methods to form graphite products: extrusion, conventional molding and isostatic molding. Isostatically molded graphites are all produced in Germany by an SGL affiliate and are then exported in containers to SGL in bulk to hold at its facility in St. Marys, Pennsylvania. The "iso" graphites are then either fabricated at St. Marys into end products or exported. One of the enclosed licenses covers exports to Speer Canada, Inc., an SGL affiliate in Canada. The other license application covers exports to customers and SGL affiliates in countries other than Canada, including countries of the European Communities, Mexico, certain countries of South America, and others. The initial export from Germany of iso graphites is authorized by a German and a European Communities license.

Speer Canada, Inc. depends on nuclear grade graphite imported from SGL and other members of the Group for its economic survival. Speer Canada does not have the capacity to make enough graphite for all of its customers. It is also preparing an application for an export license from Canada to authorize its export of nuclear grade graphite products.

In the past, although SGL recognized that the NRC regulations existed and attempted to conform its exports to their requirements, it had difficulty interpreting them. Because of this difficulty, the company may have made shipments without a required specific license. When this possible noncompliance surfaced this fall, SGL stopped exporting all types of nuclear grade graphite and conducted an internal investigation. SGL has since made a voluntary telephone self-disclosure to the Commission's Office of International Programs, and will shortly submit a written disclosure. It has resumed exporting fabricated end products not intended for nuclear-related purposes.

In the meantime, SGL's exporting of bulk, nuclear grade graphite and some partially fabricated nuclear grade graphite remains at a halt. Obviously, SGL's business has suffered since it ceased exporting these graphite products. Each day that this inactivity continues proves more detrimental to SGL's ability to do business, and maintain its workforce at the current level. Therefore, we request that you review these applications as soon as possible. We further ask that both specific licenses be issued in a timely manner; however, the issuance of either license will benefit SGL. Thus, if the Canadian license can be issued sooner than the license for other locations, SGL would appreciate your prosecuting that matter.

As you consider these applications, SGL would like to clarify its responses to certain Items. Because of the structure of the Group and nature of its business activities, SGL does not foresee a certain date upon which its need for regular shipments would change. Thus, SGL's license applications do not specify a first or last shipment date, nor a contractual delivery date (See Items 5-7 on the applications).

The applications also request that the specific license be issued indefinitely (See Item 8). If the Commission considers it necessary, the license could be deemed to expire upon SGL's dissolution. Alternatively, SGL asks that the license renew automatically year to year.

We appreciate your attention to these applications, and we look forward to resuming our exporting activities. SGL is happy to provide any additional information that will inform your decision. Please feel free to contact our attorney, E. Thomas Watson, Esq., of Parker Poe Adams

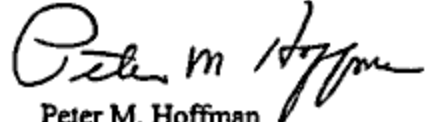
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U.S. Nuclear Regulatory Commission
November 27, 2002
Page 3

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& Bernstein, 401 S. Tryon, Suite 3000, Charlotte, NC 28202, (704) 335-9037, with any comments you have.

Sincerely,



Peter M. Hoffman
President

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NRC FORM 7 <small>(4-2002)</small>		U.S. NUCLEAR REGULATORY COMMISSION		APPROVED BY OMB: NO. 3150-0027		EXPIRES: 04/30/2003	
APPLICATION FOR LICENSE TO EXPORT NUCLEAR MATERIAL AND EQUIPMENT (See Instructions on Reverse)				Estimated burden per response to comply with this mandatory collection request: 2.4 hours. This submittal is reviewed to ensure that the applicable statutory, regulatory, and policy considerations are satisfied. Send comments regarding burden estimate to the Records Management Branch (T-8 EC), U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by Internet e-mail to bjs1@nrc.gov, and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-10202, (3150-0027), Office of Management and Budget, Washington, DC 20503. If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.			
1. APPLICANT'S USE <input type="checkbox"/>	2. DATE OF APPLICATION November 20, 2002	3. APPLICANT'S REFERENCE		2. NRC USE <input type="checkbox"/>	DOCKET NUMBER ML005384	LICENSE NUMBER XMAT0404	
3. APPLICANT'S NAME AND ADDRESS				4. SUPPLIER'S NAME AND ADDRESS			
a. NAME SGL Carbon, LLC				(Complete if applicant is not supplier)			
b. STREET ADDRESS (Facility Site)				a. NAME			
8600 Bill Ficklen Drive							
c. CITY		d. STATE	e. ZIP CODE	b. STREET ADDRESS			
Charlotte		NC	28256				
f. TELEPHONE NUMBER (Area Code - Number - Extension)				c. CITY		d. STATE	e. ZIP CODE
(704) 593-5173							
8. FIRST SHIPMENT SCHEDULED	9. FINAL SHIPMENT SCHEDULED	7. APPLICANT'S CONTRACTUAL DELIVERY DATE		8. PROPOSED LICENSE EXPIRATION DATE	9. U.S. DEPARTMENT OF ENERGY CONTRACT NO. (if known)		
Please See Attachment A	Please See Attachment E	Please See Attachment C		Please See Attachment D	N/A		
10. ULTIMATE FOREIGN CONSIGNEE				11. ULTIMATE END USE			
a. NAME				(include plant or facility name) USE CODE:			
Please See Attachment E				Extruded, die-molded and isostatically molded artificial graphite, in rod and block form, provided as feed stock for further manufacturing of various commercial items			
b. STREET ADDRESS (Facility Site)				11a. DATE REQUIRED (See Attachment F)			
				items			
c. CITY		d. COUNTRY		12. INTERMEDIATE END USE			
				USE CODE: Non-nuclear end use			
12. INTERMEDIATE FOREIGN CONSIGNEE				13. INTERMEDIATE END USE			
a. NAME				13a. DATE REQUIRED			
b. STREET ADDRESS (Facility Site)				14. INTERMEDIATE END USE			
				USE CODE:			
c. CITY		d. COUNTRY		15. INTERMEDIATE END USE			
				USE CODE:			
14. INTERMEDIATE FOREIGN CONSIGNEE				15a. DATE REQUIRED			
a. NAME							
b. STREET ADDRESS (Facility Site)							
c. CITY		d. COUNTRY					
16. COM CODE	17. DESCRIPTION			18. MAX. ELEMENT WEIGHT	19. MAX. WT. %	20. MAX. ISOTOPE WEIGHT	21. UNIT
	(include chemical and physical form of nuclear material; give dollar value of nuclear equipment and components)						
	Bulk, non fabricated artificial graphite produced by extrusion, die-molding and isostatic molding with a boron equivalent of less than five (5) parts per million (See Attachment G for further description)			11,617,833L	N/A	N/A	Kg
22. COUNTRY OF ORIGIN - SOURCE MATERIAL		23. COUNTRY OF ORIGIN - ENM WHERE ENRICH OR PRODUCED		24. COUNTRIES WHICH ATTACH SAFEGUARDS (if known)		25. ADDITIONAL INFORMATION ON CONSIGNEES, END USES, AND PRODUCT DESCRIPTION (Use separate sheet if necessary)	
N/A		N/A		Please See Attachment E			
25. The applicant certifies that this application is prepared in conformity with Title 10, Code of Federal Regulations; and that all correct to the best of his/her knowledge.							
27. AUTHORIZED OFFICIAL				28. TITLE			
a. SIGNATURE Peter M. Hoffman				b. TITLE President			

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XMAT0404 Appl
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* Application updated to reflect additional information received from the applicants
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XMAT0404

Attachment A
(Item 5—First Scheduled Shipment)

SGL Carbon, LLC ("SGL") would like to resume shipping its products as soon as possible. Until recently, SGL regularly shipped products to its affiliates in Europe, and directly to end users in other countries. In fall 2002, SGL recognized that Nuclear Regulatory Commission (the "Commission") regulations might require it to seek a specific license to continue these exports. SGL immediately stopped exporting bulk, nuclear grade graphite. Following an internal investigation, SGL made a telephone disclosure regarding its possible past noncompliance to the Commission in mid-November 2002. SGL will file a written disclosure shortly.

SGL has not resumed exporting activity since it learned of its possible noncompliance with Commission regulations. Continued stoppage could prove detrimental to SGL's business. Therefore, SGL asks that the Commission permit it to resume exporting to its European affiliates set forth on the attached organization chart, and the countries listed in Attachment E as soon as a specific license is issued.

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Attachment B
(Item 6—Final Scheduled Shipment)

SGL does not have a final scheduled shipment date. The nature of SGL's business demands routine shipments to various locations. The company does not foresee a certain date upon which the need for regular shipments would change. Therefore, SGL asks that no final shipment date be required.

Attachment C
(Item 7—Applicant's Contractual Delivery Date)

SGL stopped exporting in fall 2002, and would like to resume these activities as soon as possible.

Attachment D
(Item 8—Proposed License Expiration Date)

SGL requests that the term of the specific license be indefinite. By its nature, SGL's business requires regular shipments to various locations. Title 10 of the Code of Federal Regulations, Part 110.32 permits an application for a specific license to cover multiple shipments. Thus, SGL proposes that the Commission issue this license for an indefinite period. If the Commission considers it necessary, the license could be deemed to expire upon SGL's dissolution. Alternatively, SGL asks that the license automatically renew year to year.

Attachment E
(Item 10—Ultimate Foreign Consignee)

SGL proposes that this license permit it to export nuclear grade graphite to the following countries:

1. The countries of the European Communities:

Austria*	Italy*
Belgium*	Luxembourg*
Denmark*	The Netherlands*
Finland*	Portugal*
France*	Spain*
Germany*	Sweden*
Greece*	United Kingdom*
Ireland*	

2. Mexico and certain countries of South America:

✓ Mexico	✓ French Guyana
✓ Argentina*	✓ Guyana
✓ Bolivia	✓ Paraguay
✓ Brazil*	✓ Peru
✓ Chile*	✓ Suriname
✓ Colombia	✓ Uruguay
✓ Ecuador	✓ Venezuela

3. Other Countries

✓ Australia*	✓ New Zealand*
✓ China	✓ Norway*
✓ Czech Republic*	✓ South Africa*
✓ India	✓ Singapore
✓ Japan*	✓ Taiwan
✓ Republic of Korea*	✓ Thailand
✓ Malaysia	

* This country is a member of the Nuclear Suppliers Group.
CLT 657975v1

Attachment F
(Item 11—Ultimate End Use)

Until recently, SGL routinely shipped extruded, die-molded and isostatically molded artificial graphite, in rod and block form to Europe and other locations. The foreign consignees utilize the graphite as feed stock for further manufacturing of various commercial items such as the following:

Vanes, rotors, seal rings, metal sleeved rings, piston rod seals, piston rod bearings, bearings, packing rings for compressors and vacuum pumps;
Large sized blanks, crucible-type molds for near-net-shape centrifugal casting;
Ingot molds for die casting processes;
Casting molds for e.g. railway rolling stock wheel casting;
Graphite plates for cooling of complex grey iron shapes;
Large sized blanks, graphite dies and plates for continuous casting, crucibles in large sizes for melting and holding processes in continuous casting machines;
Electrodes for aqueous and organic electrosynthesis;
Anodes for corrosion protection of pipe lines;
Mechanical seals for automotive sealing;
Graphite jigs for semiconductor encapsulations, glasswork and brazing connections;
Graphite anodes and cathodes for chlorine-alkali electrolysis, decomposer graphite granules for mercury cells;
Parts of high purity graphite, used in equipments for pulling monocrystals of Silicon;
Germanium and III/IV compounds: Large sized blanks, crucibles (susceptors), heating elements, heat shields, current connecting parts, etc.;
Brush plates for the production of carbon brushes, carbon brushes for electrical machines;
Large sized blanks, graphite electrodes for Electrical Discharge Machining;
Electrodes for chemical separation processes;
Graphite anodes and cathodes for electrolysis of lithium, sodium, magnesium and fluorine;
Liners (crucibles) for electron beam evaporation;
Vessels and components made of graphite for chemical appliances;
Heating elements for manufacturing optical fibers;
Crucibles, supports for crucibles, heating elements for gas analysis;
Bearings for gauge and control systems;
Graphite blanks for manufacturing heat exchangers;
Linings, electrical heating systems, components, supports, charging rails, susceptors made of graphite for high temperature furnace construction;
Charging systems and furnace equipments made of graphite for hardening processes;
Bearings and seals for dishwasher pumps, washing machines and heating systems;
Nozzles for high voltage switchgear;
Graphite boats for liquid phase epitaxy;
Scoops for injection of glass drops, molds and various accessory parts made of graphite for container glass production; graphite parts for technical glass production;
Electrodes, heating elements for manufacturing high purity quartz glass production;
Powder and graphite rods for diamond synthesis; heating elements, support parts for production of synthetic diamonds;

Graphite discs as heat sinks for X-ray anodes;
Operating materials for manufacturing of mechanical heart valves;
Seal rings, packing rings, steam joint rings, ball valve seals, metal sleeved rings, piston rod seals, vanes, metering rings and segments, turbine rings for mechanical seals;
Melting crucibles for non-ferrous and precious metals, rotors with shafts for homogenization of zinc melts;
Electrodes (grids) of graphite for plasma etching;
Blanks and graphite electrodes for deposition of polycrystalline silicon;
Bearings, seal rings, packing rings, vanes, rotors, housings for pumps;
Fluxing tubes, gas distribution and gas injection systems for purification of aluminum melts;
Plates and belts for run-out tables for aluminum profile extrusion;
Crucibles and boats for aluminum casting;
Electrodes for aluminum surface cleaning
Large sized blanks with a suitable coefficient of thermal expansion for SiC-coating, SiC-coated barrel, pancake and single wafer susceptors for Si-epitaxy;
Single wafer susceptors for various processes, e.g. rapid therm process (RTP), liquid phase chemical vapour deposition (LPCVD), etc.;;
Large sized blanks, sandwich dies for pressure sintering, graphite dies and rods for production of diamond tools (i.e. drill tools for off-shore industry);
Charging plates, discs, charging systems and equipments for hard metal high temperature sintering and CVD coating processes;
Boats, crucibles and other containers, liners, heaters, heating tubes for powder metallurgy;
Slicing beams made of carbon and graphite for cutting monocrystal rods; and
Sliding elements such as bearings, bushings, piston rod bearings, lubricating pins, slides.

The Commission should note that, pursuant to SGL's new compliance policy, the company's customers will complete an annual certification. This certification will specify the uses to which each customer puts nuclear grade graphite purchased from SGL, and that the customer does not use the graphite for nuclear related purposes. In addition, the customer's certification will specify that the customer has established a tracking system through which SGL can monitor the graphite's use.

Attachment G
(Item 17—Description)

Extruded Graphite: This graphite is available as round and rectangular blocks, with relatively fine grain size, and has good mechanical, electrical and thermal properties, with a preferential grain orientation and low ash content. Density, mechanical strength and oxidation resistance can be improved by means of further impregnation.

Die-Molded Graphite: A vibration molded fine grain graphite has an exceptionally homogenous structure, almost isotropic properties and low ash content. It can be manufactured in large sizes. Further processing, for example impregnation, is possible.

Isostatically-Molded Graphite: Isostatically pressed graphite is an especially fine grain, dense, isotropic graphite, which can be produced in larger dimensions.

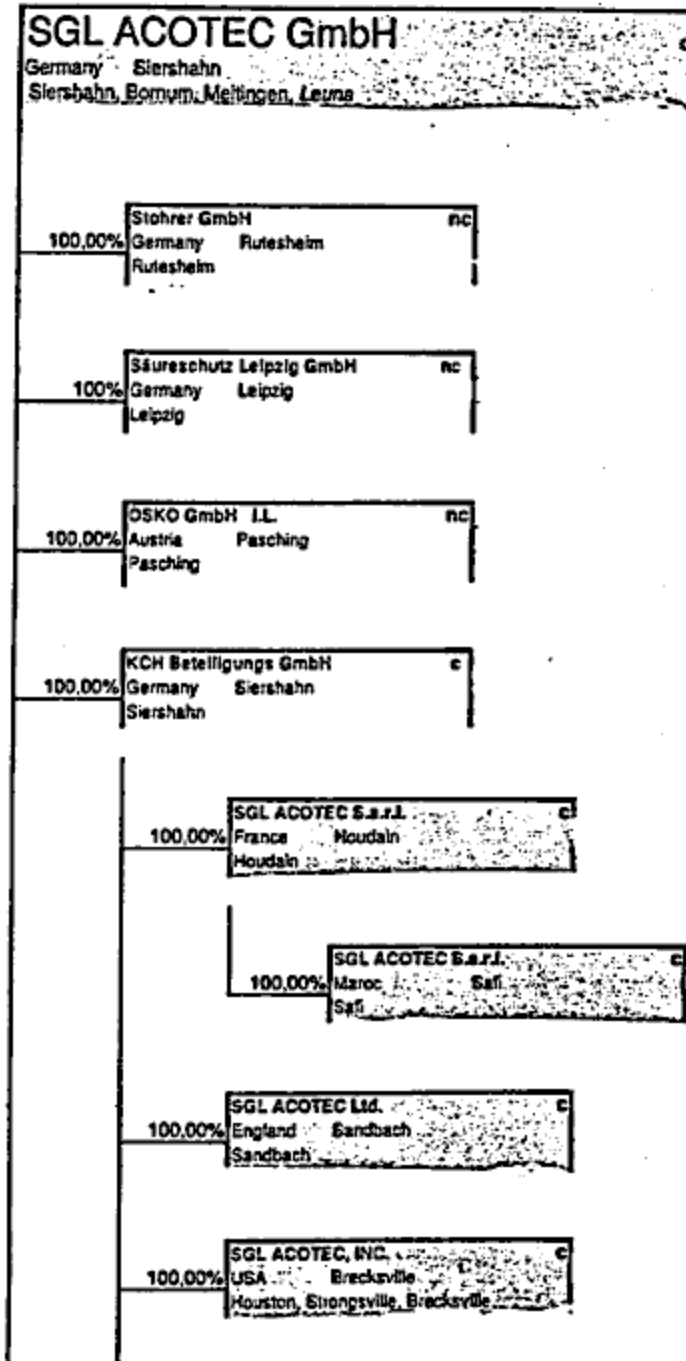
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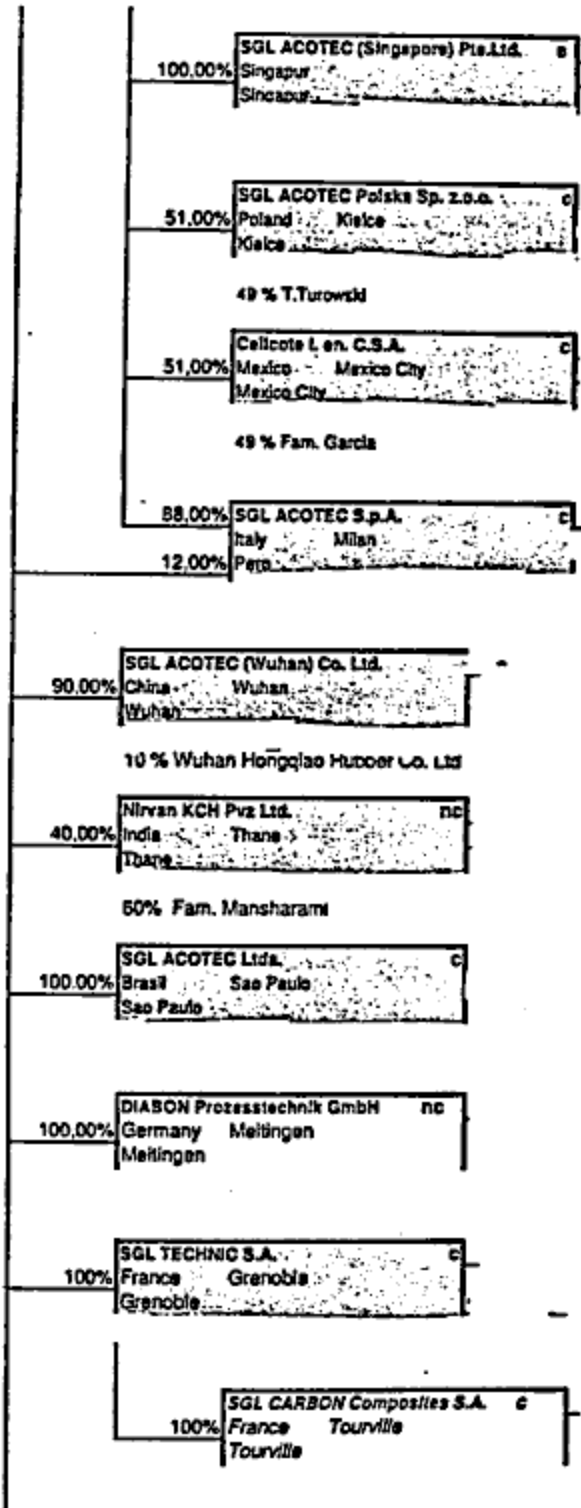
SGL CARBON GROUP

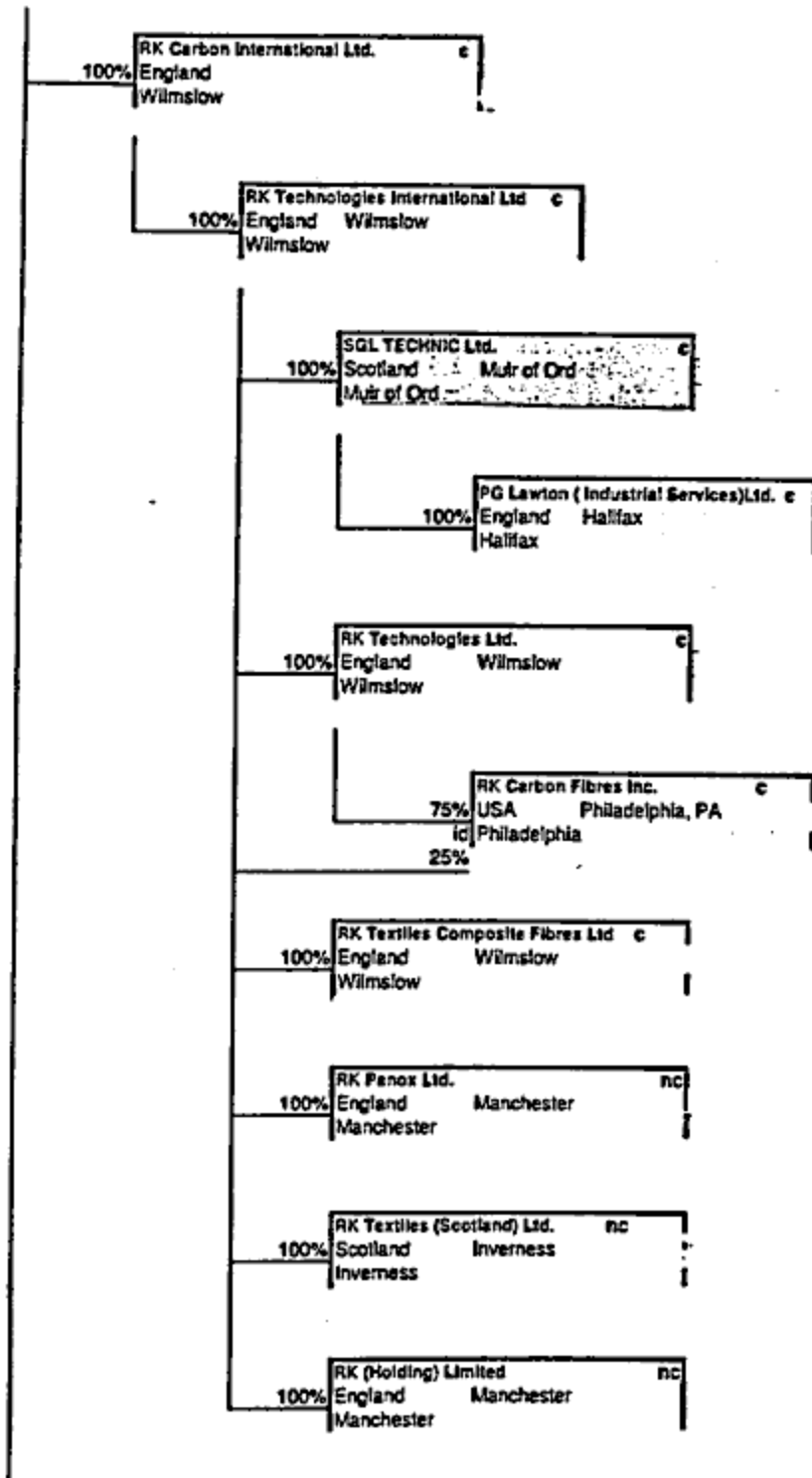
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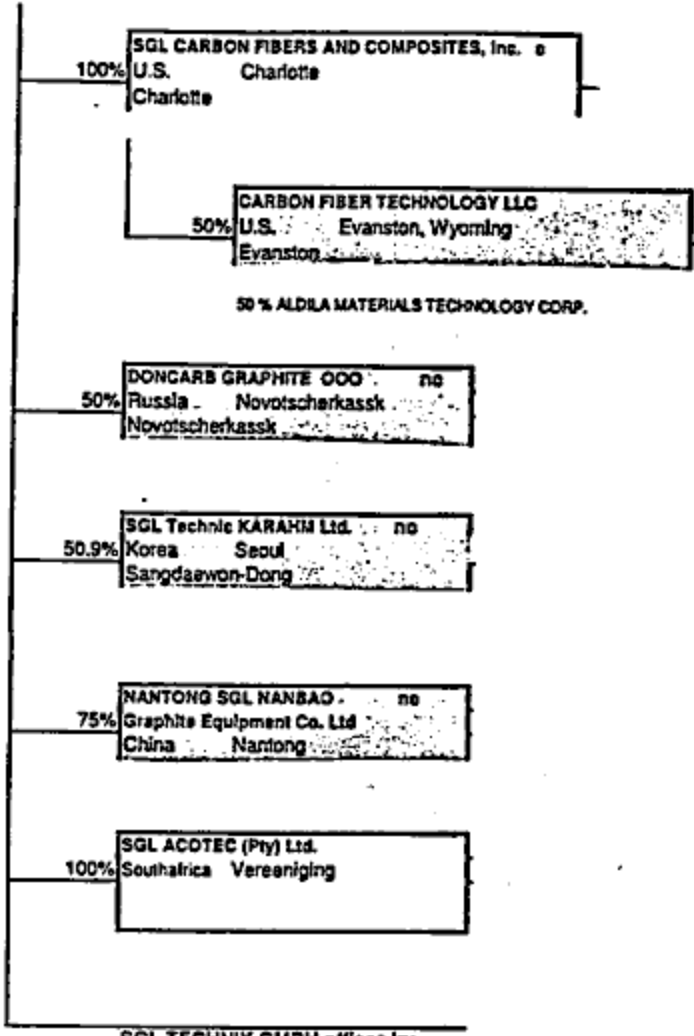
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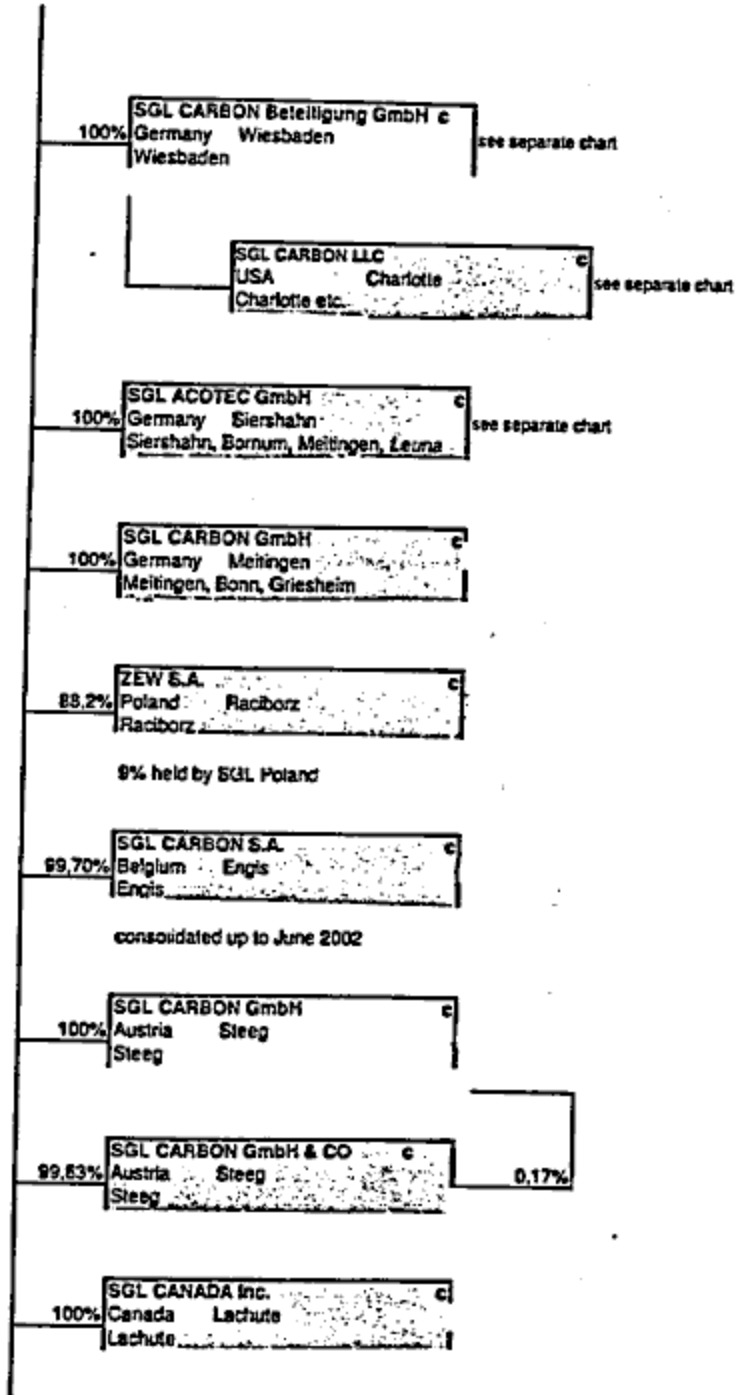


SGL TECHNIK GMBH offices in:
 Shanghai

SGL CARBON GROUP

as of: Jan 1st, 2002
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SGL CARBON Aktiengesellschaft
 Germany Wiesbaden
 Wiesbaden



100%	SGL CARBON S.A. France Chedde Chedde	c)
*) consolidated up to June 2002; since July 2002 nonconsolidated		
100%	SGL PanTrac GmbH Germany Berlin Berlin	c)
64%	Gelter-Ringsdorf S.A. Spain Madrid Madrid	nc)
100%	SGL CARBON s.r.o. Czechia Stary Piznec-Sedlec Stary Piznec-Sedlec	nc)
100%	SGL CARBON Finance Ireland Dublin Dublin	c)
100%	SGL CARBON Ltd. England Alcester Alcester	c)
100%	SGL CARBON Pty. Ltd. South Africa Vereeniging Johannesburg	nc)
100%	SGL CARBON Japan Ltd. Japan Tokyo Tokyo	nc)
70%	SGL CARBON Korea Ltd. Korea Seoul Seoul	nc)

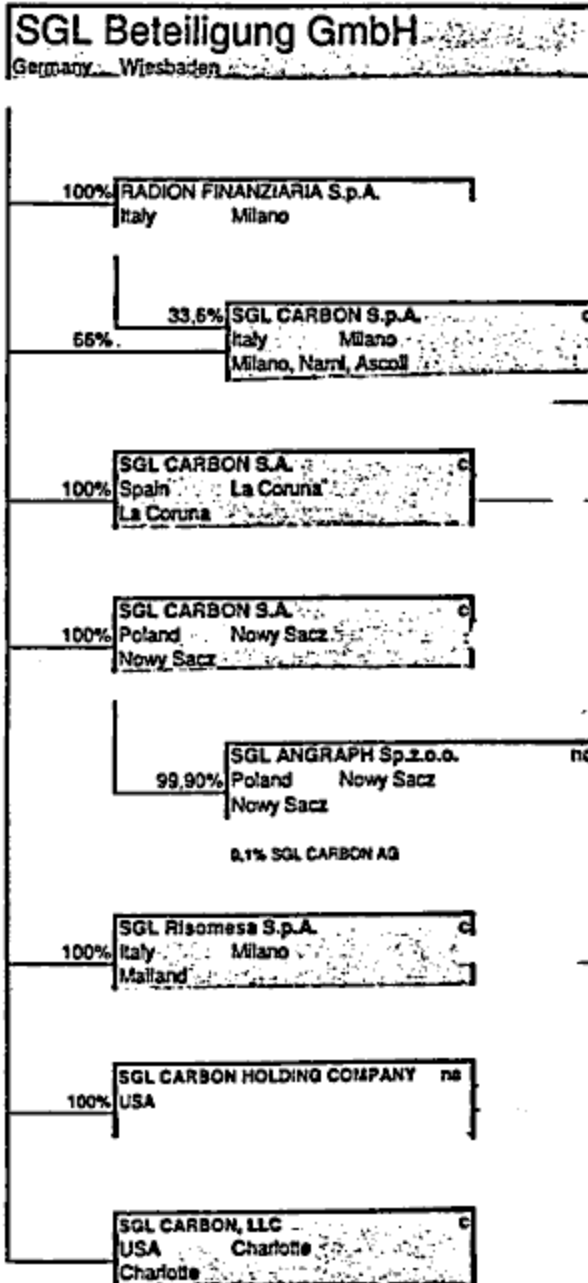
100%	SGL CARBON do Brasil Ltda. nc Brazil Diadema Diadema
	Unice: Venezuela -
100%	SGL CARBON ASIA-PACIFIC EDN.BHD nc Malaysia Kuala Lumpur Kuala Lumpur
	SGL CARBON ASIA-PACIFIC office in: Taipei SGL CARBON ASIA-PACIFIC office in: India SGL CARBON ASIA-PACIFIC office in: Shanghai
100%	SGL CARBON Edn. Bhd. nc Malaysia Kuala Lumpur Kuala Lumpur
100%	SGL CARBON Hong Kong Ltd. nc China Hong Kong Hong Kong
51%	SGL TOKAI CARBON Ltd. nc China Shanghai Shanghai
100%	SGL Graphite Specialties (Far East) Ltd. nc China Shanghai Shanghai
100%	SGL Information Services GmbH c Germany Augsburg Augsburg
100%	SGL TECHNOLOGIES GmbH c Germany Mellinge Mellinge
100%	SGL Brakes GmbH c Germany Mellinge Mellinge

SGL CARBON AG offices in:

Moscow
Amman

SGL CARBON GROUP

as of: Jan 1st, 2002



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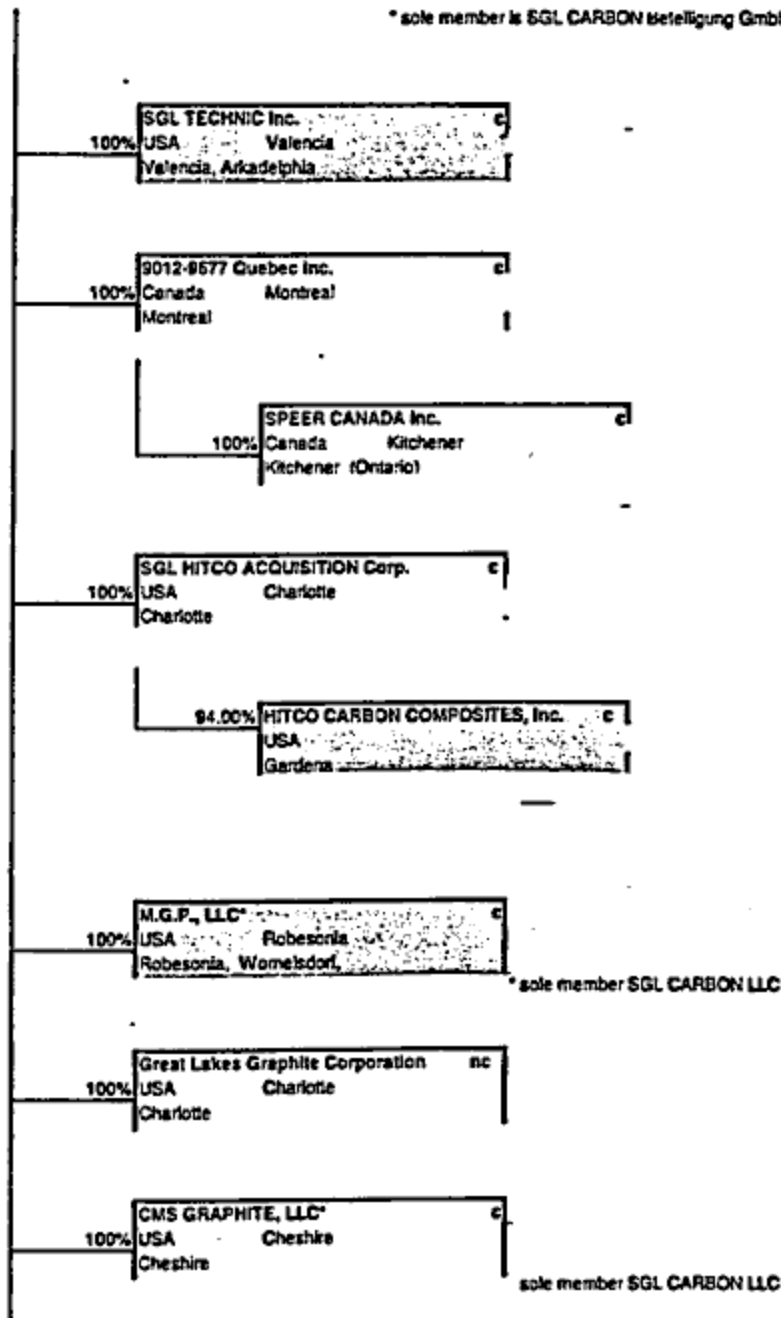
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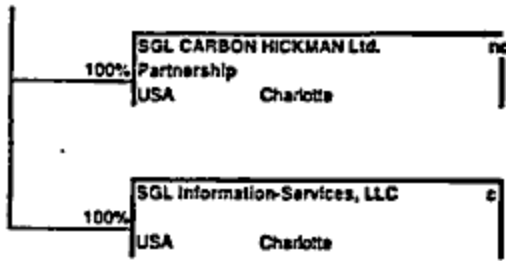
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SGL CARBON, LLC*
USA Charlotte
Charlotte, Morganton, Niagara Falls, Hickman, Ozark, St. Marys,
Dallas, Hillsboro

* sole member is SGL CARBON Metallurg GmbH





Gen. Partner:
Ltd. Partner:

SGL CARBON LLC
Great Lakes Graphite Corp.

November 21, 2002



SGL CARBON GROUP

RE: Specific License Applications for SGL Carbon, LLC

XMATO403
XMATO404

Director for Nonproliferation, Exports, and Multilateral Relations
Office of International Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20037

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Dear Sir/Madam:

I enclose two completed applications for specific licenses authorizing SGL Carbon, LLC to export nuclear grade graphite pursuant to 10 C.F.R. §110.25. These applications cover: (1) exports to SGL's affiliate in Canada; and (2) exports to other locations. Two checks in the amount of \$5800.00 each representing the application fees are also enclosed. I would appreciate your assistance in processing these applications as quickly as possible. To facilitate your review of our applications, this letter provides some additional information about SGL, its products and operations that the application form did not request.

SGL is a member of the SGL Carbon Group, the world's largest manufacturer of carbon, graphite and composite materials for industrial and aerospace applications. The Group has 40 locations worldwide, with its headquarters in Wiesbaden, Germany. SGL Carbon, LLC is headquartered in Charlotte, North Carolina, with manufacturing plants in Morganton, North Carolina, Saint Marys, Pennsylvania, Ozark, Arkansas, and Hickman, Kentucky. The company and its affiliates employ over 1,200 workers in North America. The Group is organized into four business units: the Carbon and Graphite Business Unit, the Graphite Specialties Business Unit, the Corrosion Protection Business Unit, and SGL Technologies. The activities of the Graphite Specialties Business Unit are most relevant to this application.

The Graphite Specialties Business Unit (GSBU) in North America imports, makes, and exports a variety of products comprised of carbon, graphite, metalized graphite, treated graphite, and coated graphite. The GSBU deals in very high purity graphite. Utilizing the method prescribed by the American Society for Testing and Materials in standard C1233-93, the boron equivalent content of all untreated graphite products of this unit is less than five parts per million. Except for graphite powders, these graphites also have a density greater than 1.5g/cm³. Thus, all untreated, solid graphite products sold by the GSBU are nuclear grade graphite. Each of the business lines within the GSBU exports products, most of which are completely fabricated for ultimate end-use and therefore may be exported under a general license. Certain products, however, could fall into categories that require a specific license under the Nuclear Regulatory Commission regulations. These products are either bulk graphite, or partially finished products which could be considered either bulk or fabricated products under the regulations.

SGL CARBON, LLC

8600 Bill Fielden Drive
Charlotte, NC 28269
Mailing Address:
P.O. Box 563960
Charlotte, NC 28256-3960
Phone (704) 593-5100
Fax (704) 593-5117

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The GSBU uses three basic methods to form graphite products: extrusion, conventional molding and isostatic molding. Isostatically molded graphites are all produced in Germany by an SGL affiliate and are then exported in containers to SGL in bulk to hold at its facility in St. Marys, Pennsylvania. The "iso" graphites are then either fabricated at St. Marys into end products or exported. One of the enclosed licenses covers exports to Speer Canada, Inc., an SGL affiliate in Canada. The other license application covers exports to customers and SGL affiliates in countries other than Canada, including countries of the European Communities, Mexico, certain countries of South America, and others. The initial export from Germany of iso graphites is authorized by a German and a European Communities license.

Speer Canada, Inc. depends on nuclear grade graphite imported from SGL and other members of the Group for its economic survival. Speer Canada does not have the capacity to make enough graphite for all of its customers. It is also preparing an application for an export license from Canada to authorize its export of nuclear grade graphite products.

In the past, although SGL recognized that the NRC regulations existed and attempted to conform its exports to their requirements, it had difficulty interpreting them. Because of this difficulty, the company may have made shipments without a required specific license. When this possible noncompliance surfaced this fall, SGL stopped exporting all types of nuclear grade graphite and conducted an internal investigation. SGL has since made a voluntary telephone self-disclosure to the Commission's Office of International Programs, and will shortly submit a written disclosure. It has resumed exporting fabricated end products not intended for nuclear-related purposes.

In the meantime, SGL's exporting of bulk, nuclear grade graphite and some partially fabricated nuclear grade graphite remains at a halt. Obviously, SGL's business has suffered since it ceased exporting these graphite products. Each day that this inactivity continues proves more detrimental to SGL's ability to do business, and maintain its workforce at the current level. Therefore, we request that you review these applications as soon as possible. We further ask that both specific licenses be issued in a timely manner; however, the issuance of either license will benefit SGL. Thus, if the Canadian license can be issued sooner than the license for other locations, SGL would appreciate your prosecuting that matter.

As you consider these applications, SGL would like to clarify its responses to certain Items. Because of the structure of the Group and nature of its business activities, SGL does not foresee a certain date upon which its need for regular shipments would change. Thus, SGL's license applications do not specify a first or last shipment date, nor a contractual delivery date (See Items 5-7 on the applications).

The applications also request that the specific license be issued indefinitely (See Item 8). If the Commission considers it necessary, the license could be deemed to expire upon SGL's dissolution. Alternatively, SGL asks that the license renew automatically year to year.

We appreciate your attention to these applications, and we look forward to resuming exporting activities. SGL is happy to provide any additional information that will inform your decision. Please feel free to contact our attorney, E. Thomas Watson, Esq., of Parker Poe Adams

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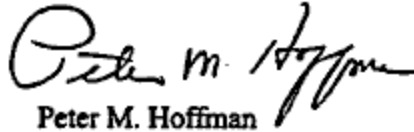
U.S. Nuclear Regulatory Commission
November 27, 2002
Page 3

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XMAT0403
XMAT0404

& Bernstein, 401 S. Tryon, Suite 3000, Charlotte, NC 28202, (704) 335-9037, with any comments you have.

Sincerely,



Peter M. Hoffman
President

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JOHN E. PETERSON
5TH DISTRICT, PENNSYLVANIA
(202) 225-6121
(202) 225-6796-FAX

COMMITTEES:
APPROPRIATIONS
RESOURCES

Congress of the United States
House of Representatives
Washington, DC 20515-3805
January 30, 2003

Mr. Dennis K. Rathbun
Director
Office of Congressional Affairs
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Rathbun:

I am writing on behalf of SGL Carbon, LLC. SGL maintains a manufacturing facility in St. Mary's, Pennsylvania, which is located in my congressional district.

I have been contacted by Ms. Kathy Prosser, Senior Paralegal of SGL, for assistance in expediting approval of a license application to export nuclear grade graphite to Canada. On November 27, 2002, SGL submitted to the NRC two such export license applications. One application was for a license to export to its affiliate company, Speer Canada, Inc., located in Ontario, Canada. The other was for a license to export to customers in other countries throughout the world. The reason for the separate submissions, according to Ms. Prosser, was the critical need to keep the processing time for the Canadian license to a minimum.

As an interim measure, Speer Canada has been obtaining bulk graphite from European affiliates via ocean transport. However, due to weather conditions and the freezing of the St. Lawrence Seaway, ocean transport is no longer a viable method of delivery and Speer's only alternative is airfreight from Europe to Canada. According to Ms. Prosser the effect on SGL and its affiliates is now reaching catastrophic proportion and every day of delay in their ability to supply Speer Canada with graphite manufactured by SGL in St. Mary's is causing lost sales, increased costs, and reduced production.

SGL appreciates the NRC's responsiveness to their request that the Canada export license be processed as quickly as possible, and believes that NRC has been diligent in following up on the processing of both applications. However, given the critical need for the approval of the Canadian application, they are asking that NRC consider submitting the Canadian application to the Commissioners for approval now, rather than waiting for confirmations on the other application and then submitting the applications simultaneously. I can appreciate that the administrative reason for submitting the applications together at one time, but am respectfully asking that you consider SGL's request.

Enclosed please find a copy of the recent correspondence that I have received pertaining to the case. I would very much appreciate your review of this matter. Kindly respond with a report of your findings to my State College District Office at 1524 West College Avenue, Suite 208, State College, Pennsylvania, 16801, telephone (814) 238-1776.

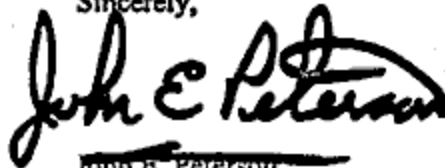
ITTIUSVILLE
127 WEST SPRING STREET, SUITE C
ITTIUSVILLE, PA 16254
(814) 827-3865
(814) 827-7307 (FAX)

STATE COLLEGE
1524 WEST COLLEGE AVENUE
STATE COLLEGE, PA 16801
(814) 238-1776
(814) 238-1918 (FAX)

Mr. Dennis K. Rathbun
January 30, 2003
Page 2

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink that reads "John E. Peterson". The signature is written in a cursive style with a large, sweeping flourish at the end.

John E. Peterson
Member of Congress

JEP:CB
Enclosure



SGL CARBON GROUP

Via Telefax (814-238-1918)

January 29, 2003

The Honorable John Peterson
U.S. House of Representatives

Re: Export License Application of SGL Carbon, LLC ("SGL")
Product: Nuclear Grade Graphite
Export Destination: Canada
Nuclear Regulatory Commission Docket #11005385
License Number: XMAT0403

Dear Mr. Peterson:

We request your assistance in expediting presentation of the above license application to, and review of such license application by, the Commissioners of the Nuclear Regulatory Commission.

As background, nuclear grade graphite is identified on the Commerce Control List under ECCN 0C005 - Graphite, nuclear-grade, having a purity level of less than 6 parts per million "boron equivalent" and with a density greater than 1.5 g/cm³. Export licensing of nuclear grade graphite is controlled by the Nuclear Regulatory Commission under 10 C.F.R. 110.25.

On approximately November 27, 2002, SGL submitted to the Nuclear Regulatory Commission two export license applications. One application was for a license to export nuclear grade graphite to its affiliate company, Speer Canada, Inc., located in Kitchener, Ontario, Canada ("Speer"). The other application was for a license to export nuclear grade graphite to customers located in other countries throughout the world. The reason for submission of two separate applications, rather than combining Canada and all other countries on the same request, was our critical need to keep the processing time for the Canadian license to a minimum. We felt that combining all countries on one application would delay issuance of the Canadian license. Speer is reliant upon our ability to supply it with the bulk graphite necessary for the supply of finished products to its customers. In addition, optimum utilization of the resources at our St. Marys' manufacturing facility is seriously affected by our inability to supply our product to our Canadian affiliate.

SGL CARBON, LLC

8600 Bill Fiddlen Drive
Charlotte, NC 28269
Mailing Address:
P.O. Box 563960
Charlotte, NC 28256-3960
Phone: (704) 593-5100
Fax: (704) 593-5117

As explained to Chris Brennan in your Pennsylvania district office, although the graphite manufactured by SGL at its St. Marys, Pennsylvania facility meets the technical specifications of nuclear grade graphite as defined under export control regulations, we are seeking the license to export to our Canadian affiliate for use in the manufacture of various commercial, non-nuclear related items. Enclosed, for your information, is Attachment E from the license application that provides a list of some of the commercial items for which SGL's graphite is used.

It is our understanding that the licensing process through the NRC proceeds first with referral of the application to the U.S. Department of State for confirmation that the appropriate assurances from the government of the intended country of destination have been received and for further referral to the Department of Defense for additional review and prerequisite approvals from a defense standpoint. We have been advised by the NRC that the license application for exports to Canada has now been processed and all confirmations and prerequisite Department of State and Department of Defense approvals have been received by the NRC. The final step necessary for issuance of the export license is a final review by the Commissioners and, if approved, issuance of the license.

The NRC advised us that they anticipated receiving from the Department of State on Tuesday, January 28, additional confirmations and approvals for export to countries in the European Union, as well as certain others listed in the second application. It is our understanding that the NRC, for the sake of administrative ease, intended to submit the Canadian application to the Commissioners for approval simultaneously with a partial submission of the second application for those other countries. We have received information from the Department of State that the review by the Department of Defense for such countries has not yet been completed and, therefore, we do not know when those confirmations and approvals will be returned to the NRC for further processing of the second license application.

Prior to this point in time, SGL has been patiently monitoring the standard processing procedures of this license application and appreciates the NRC's responsiveness to our request that the Canada export license be processed as quickly as possible. We believe that the NRC has diligently followed up on the processing of both license applications and has been most cooperative about processing of the second, multiple country application in stages as confirmations and approvals for the various countries were received from the Department of State.

As an interim measure, Speer Canada has been obtaining bulk graphite from our European affiliates. Although ocean transport from Europe was not an efficient or cost effective method for long term supply needs, it was generally manageable on a short term basis. Recently, due to weather conditions resulting in the freezing of the St. Lawrence Seaway, ocean transport is no longer a viable method of delivery and Speer's only alternative is air freight from Europe to Canada. The effect on SGL and its affiliates is now

reaching catastrophic proportion and every day of delay in our ability to supply Speer Canada with graphite manufactured by SGL in St. Marys, PA is causing lost sales, increased costs, and reduced production.

We seek your assistance in communicating to the NRC the impact that delays in issuance of the Canada export license are causing to our business and our urgent need to immediately present the Canada export license application to the Commissioners of the NRC for final approval and license issuance.

Thank you for your help in these matters. If you need any further information, please do not hesitate to contact me at 704-593-5173.

Very truly yours,



Katherine R. Prosser
Senior Paralegal

**United States Department of State****Bureau of Nonproliferation**
Washington, D.C. 20520-6817

January 23, 2003

Ms. Janice Dunn Lee
Director, International Programs
United States Nuclear Regulatory Commission
Rockville, Maryland

Dear Ms. Lee:

I refer to the letter from your office, dated December 26, 2002 requesting the views of the Executive Branch as to whether issuance of an export license in accordance with the application hereinafter described meets the applicable criteria of the Atomic Energy Act of 1954, as amended:

NRC No. XMAT0403 – SGL Carbon, LLC has applied for authorization to export to Canada up to 870,000 kilograms of bulk nuclear grade graphite for production of various non-nuclear commercial articles by Speer Canada, an SGL affiliate.

It is the judgment of the Executive Branch that the proposed export will not be inimical to the common defense and security of the United States, and is consistent with the provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978. The Executive Branch also concurs in the NRC proposal to limit the license to a validity of five years.

As a party to the NPT, Canada has committed itself to maintain IAEA safeguards on all of its peaceful nuclear activities and has pledged not to produce or otherwise acquire any nuclear explosive device, therefore satisfying criteria (1) and (2) of Section 109b of the Atomic Energy Act, as amended, for exports of nuclear components, substances and items. The remaining criterion, agreement not to retransfer any of the U.S.-supplied nuclear components, substances or items including bulk nuclear grade graphite without prior U.S. consent, has been satisfied by the receipt of generic assurance letters dated July 7, 1978 and December 15, 1978, from the Embassy of Canada, the subject of our letter to your office dated February 5, 1979.

On the basis of the foregoing, the Executive Branch recommends that the license be issued.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex R. Burkart".

Alex R. Burkart
Acting Director
Nuclear Energy Affairs



United States Department of State

Washington, D.C. 20520

February 12, 2003

Ms. Janice Dunn Lee
 Director, International Programs
 United States Nuclear Regulatory Commission
 Rockville, Maryland

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Dear Ms. Lee:

I refer to the letter from your office of December 26, 2002, requesting the views of the Executive Branch as to whether issuance of an export license in accordance with the application hereinafter described meets the applicable criteria of the Atomic Energy Act of 1954, as amended:

NRC No. XMAT0404 – SGL Carbon, LLC has applied for authorization to export to various countries up to 11,617,833 kilograms of bulk nuclear grade graphite for an indefinite period for production of various non-nuclear industrial and commercial articles.

It is the judgment of the Executive Branch that the proposed exports will not be inimical to the common defense and security of the United States, and is consistent with the provisions of the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978, provided that exports are authorized only to the countries/destinations included in the application that are listed in 10 CFR Part 110.26 as having provided the U.S. Government generic assurances with respect to reexport of U.S.- supplied nuclear components, substances and items, including bulk nuclear graded graphite. These countries/destinations are--members of the European Union, Czech Republic, Japan, New Zealand, Republic of Korea and Taiwan. The Executive Branch also concurs in the NRC proposal to limit the license to a validity of five years.

The above-listed countries/destinations have committed themselves to maintain IAEA safeguards on all of their peaceful nuclear activities and have pledged not to produce or otherwise acquire any nuclear explosive device, therefore satisfying criteria (1) and (2) of Section 109b of the Atomic Energy Act, as amended, for exports of nuclear components, substances and items. With regard to the EU-member nuclear weapon states, France and United Kingdom, Section III(2) of the NPT does not require that IAEA safeguards apply to nuclear-weapon states, and therefore Criterion (1) of section 109 b of the Atomic Energy Act, as amended, is met. The 1996 and 1979 Euratom assurances for all EU Member States include generic no nuclear explosive use assurances thereby satisfying criterion (2) for France and the UK.

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The remaining criterion, agreement not to retransfer any of the U.S.-supplied nuclear components, substances or items including bulk nuclear grade graphite without prior U.S. consent, has been satisfied by the generic assurance letters from Euratom and the other above-listed countries/destinations, copies of which have been previously provided to your office.

On the basis of the foregoing, the Executive Branch recommends that the license be issued, subject to the provisos stipulated above. The Executive Branch concurs in the NRC's view that exports to the other countries on applicant's list could be approved, once the government-to-government assurances required by section 109(b) of the Atomic Energy Act, as amended, are obtained. However, in these cases the Executive Branch will require more specific information from the applicant with respect to past and anticipated future exports before the assurances can be requested.

Sincerely,



Alex R. Burkart
Acting Director
Nuclear Energy Affairs