RAS-1586

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

Alan S. Rosenthal, Presiding Officer
Thomas D. Murphy, Special Assistant

In the Matter of	Docket No. 40-8838-MLA
U.S. ARMY	ASLBP No. 00-776-04-MLA
(Jefferson Proving Ground Site)	March 16, 2000

Answer

In accordance with 10 Code of Federal Regulations (CFR) §2.705, this answer is offered in response to the issues raised by Save the Valley (STV) in their 13 January 2000 request for a hearing regarding the Notice of Consideration of Amendment Request for the U.S. Army Jefferson Proving Ground Site (JPG) in Madison, Indiana.

Issue 1: Extent of DU Cleanup

a. In part 5.0 Completing the Decommissioning, it is stated that "...collection of DU fragments deposited in the soil surface would be a cost effective means to keep the exposure of humans and animals to residual radiation as low as reasonably achievable." However is it not clear to us that such a collection is actually the option that will be pursued.

The Army agrees that Part 5.0 of the Decommissioning Plan (Plan) discusses collection of DU as an option but does not state whether this option will be pursued or not. As noted by the NRC in their 31 January 2000 correspondence, the Plan as currently drafted discusses both

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unrestricted and restricted release scenarios as options for decommissioning and the Army must clearly specify its proposed action.

The Army was given until 16 March 2000 (45 days from the date of the NRC correspondence) to respond to this, and other questions, and provide their proposed option. However, the NRC has approved an Army request for a 60-day extension for this response, placing this submission date at 15 May 2000. This response will provide the Army's proposed option and the rationale for this proposal. At that time, the NRC staff will review the Army's proposal and determine if this proposal supports the principle of keeping exposure as low as reasonably achievable. Throughout this review process, the Army supports the involvement of STV.

b. Further, we believe that a plan should be in place to periodically reevaluate the area for further cleanup if additional DU should migrate to the surface due to freeze/thaw effects, erosion, or other means.

The Army does not feel the situation at JPG warrants future periodic surface cleanup efforts for the following reasons. The Army conducted surface cleanup activities at recurring intervals when active testing of the depleted uranium (DU) munitions was ongoing. Testing of these rounds at JPG ceased in the spring of 1994 and a final surface cleanup was completed in the spring of 1995. Therefore, we have a declining source of DU as no additional DU has been, or will ever be, introduced to the area.

The risk assessment conducted for this area was calculated based on the current source term and site-specific data from the Environmental Monitoring Program. This assessment shows potential doses to human and other ecosystem components to be immeasurably low and of

minimal consequence. Therefore the risk assessment for this area is a worst-case scenario as the source is declining.

There is also the practical aspect of trying to conduct a surface cleanup in the future due to the expected overgrowth of vegetation in the area. Past history of surface cleanup activities has shown them to be of marginal effectiveness in heavily vegetated areas.

Last, there is the safety aspect of trying to conduct a surface cleanup due to the unexploded ordnance (UXO) contamination along with the vegetation overgrowth. There is considerably more UXO than DU at JPG. An estimated 1.5 million explosive munitions fired since World War II still remain on site. Considering the risks of injury or death due to UXO-related accidents is important when making decisions concerning the remediation at JPG.

Issue 2: Future Monitoring Requirements

Part 5.0 also states that "...continued environmental monitoring of soil concentrations, groundwater, surface water, and possibly plants and animals will provide data to show the potential doses delivered to site users, people who use water downstream from the impact are, and animals living in the impact area." However, we do not find in the plan any assurance as to how often and for how long monitoring would be implemented.

The Army agrees that Part 5.0 of the Plan states that continued environmental monitoring would provide data on potential doses to site users, people who use the water downstream from the impact and animals living in the impact area without discussing frequency or length of such monitoring. As noted previously, the Army has received many questions from the NRC based on the agency's initial review of the Plan that will require revision of this Plan. As the Licensee, the Army must clearly identify its proposed plan to support a license termination, to include future

monitoring if needed. There is historical monitoring data (*i.e.*, soil, sediment, groundwater, surface water, vegetation and animal) for both JPG and Aberdeen Proving Ground, a testing facility in Maryland, 16 and 30 years respectively, to demonstrate the lack of DU migration outside of the restricted area.

The issue of environmental monitoring and to what extent, if any, this monitoring is required for the JPG site has been further complicated due to the state of flux concerning NRC guidance on this matter during the past few years. A site is suitable for release in accordance with the criteria for decommissioning in Subpart E, "Radiological Criteria for License Termination", of 10 CFR Part 20. These requirements were published as a final regulation on 21 July 1997 (62 FR 39058). In August 1998, the NRC issued a draft regulatory guide for the implementation of these requirements, "Draft Regulatory Guide DG-4006, Demonstrating Cómpliance with the Radiological Criteria for License Termination". To date, this draft regulatory guide has not been issued in final form.

The Army hopes to schedule a meeting in the near future with NRC staff, to include the NRC staff member responsible for the draft regulatory guide, to determine the specific requirements for demonstrating compliance with 10 CFR Part 20 for license termination at the JPG site.

Issue 3: Restricted Use

We agree that the DU area should be considered for restricted use only. However, we believe that more details are needed as to how this will be accomplished.

The Army agrees with STV that the DU area should be considered for restricted use only. In fact, the UXO situation at JPG drives the Army to insist on restricted future use of the DU area in order to protect against risks of injury or death due to UXO-related accidents. The Army also agrees that additional details are needed for implementation of this option. However, such details are tied to the resulting designation of re-use activities at JPG. This re-use is currently being negotiated with the U.S. Fish and Wildlife Service and the Air National Guard and will culminate in the establishment of agreements between the necessary parties to ensure essential precautions, to include legally enforceable institutional controls, are in place to protect new users and the public.

There will be opportunities for public involvement in the designation of re-use at JPG through the Department of Defense Base Reuse Process, which includes meetings of the Restoration Advisory Board (RAB) at JPG. These RAB meetings, of which the STV President is a co-chair, are held three to six times a year for the benefit of the public. Upon a decision on re-use at JPG, the details on implementing a restricted use scenario in accordance with the NRC regulations and guidance, and taking into account the UXO, will be developed.

If a decision is made to hold a hearing regarding the Notice of Consideration of Amendment Request for the U.S. Army Jefferson Proving Ground Site (JPG) in Madison, Indiana, the Army respectfully requests proceedings be deferred until such time as the Army has responded to the NRC concerns (*i.e.*, the 15 May 2000 response package), met with NRC staff and filed an amended or revised Plan. During this time, the Army would be more than willing to work with STV on their issues, with the goal of addressing these issues in the revised Plan and

avoiding the need for a hearing. If a decision is made to hold a hearing, the Army does plan to appear and present evidence on these issues.

Dated this Thursday, March 16, 2000

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Motion and Answer have been served upon the following persons by U.S. mail, first class.

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