

Hearing Docket

From: Sexton, Kimberly
Sent: Friday, July 09, 2010 5:00 PM
To: Isaac Harp; Julian, Emile; Tucker, Katie
Cc: Everett Ohta; Congresswoman Hirono; Representative, Cindy Evans; Docket, Hearing; Kent Herring, LTC, JA; OGCMailCenter Resource; OCAAMAIL Resource; Jim Albertini; Angela Rosa; Amelia Gora; Cory Harden; Scott, Catherine; Klukan, Brett; Barbara Moore
Subject: RE: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

Dear Mr. Harp,

In response to your questions:

- (1) No. Under the rules of 10 C.F.R. § 2.341(e), neither the filing nor the granting of a petition for review (i.e., an appeal such as yours) stays the effect of the decision or action of the presiding officer, unless the Commission orders otherwise. Therefore, the NRC staff will continue to review the Army's application to possess depleted uranium at two sites in Hawaii—Schofield Barracks on Oahu and Pohakuloa Training Area on the Big Island of Hawaii—and make its decisions to grant or deny the license according to its normal procedures.
- (2) No response necessary because the answer to question number one is no.
- (3) Although no response is necessary to this because the answer to question number one is no, the Army is required to submit separate license applications for the facilities it has identified as falling into the category of facilities possessing licensable quantities of DU: Fort Benning, Georgia; Fort Carson, Colorado; Fort Campbell, Kentucky; Fort Hood, Texas; Fort Lewis, Washington; Fort Knox, Kentucky; and Fort Riley, Kansas.

I hope this has answered your questions,

Kimberly Sexton
 Counsel for NRC Staff
 Office of the General Counsel
 Mail Stop O15-D21
 U.S. Nuclear Regulatory Commission
 Washington, D.C. 20555
 301-415-1151

**DOCKETED
 USNRC**

July 9, 2010 (5:00p.m.)

OFFICE OF SECRETARY
 RULEMAKINGS AND
 ADJUDICATIONS STAFF

From: Isaac Harp [mailto:imua-hawaii@hawaii.rr.com]
Sent: Thursday, July 08, 2010 2:16 AM
To: Julian, Emile; Tucker, Katie
Cc: Everett Ohta; Congresswoman Hirono; Representative, Cindy Evans; Docket, Hearing; Sexton, Kimberly; Kent Herring, LTC, JA; OGCMailCenter Resource; OCAAMAIL Resource; Jim Albertini; Angela Rosa; Amelia Gora; Cory Harden; Scott, Catherine; Klukan, Brett; Barbara Moore
Subject: Re: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

Aloha Emile,

Mahalo (Thank you) for trying to clarify the situation. I have a couple of other questions that you might be able to assist me with.

1) Am I correct in assuming that while my appeal remains under review by the Nuclear Regulatory Commission that the Army will not receive a Depleted Uranium Possession License for the Hawaii sites?

2) If the response to question number 1 above is YES, does this apply to all locations listed under the Army's application for an NRC Possession Only License, or does this apply to the Hawaii locations only?

3) If the response to question number 2 above is that it applies to Hawaii locations only, will the Army be required to submit a new application to the NRC for a Depleted Uranium Possession Only License for the non-Hawaii locations listed on their current application?

Mahalo Nui Loa! (Thank You Very Much!)

Isaac Harp
P.O. Box 437347
Kamuela, HI 96743

Phone (808) 345-6085
E-mail imua-hawaii@hawaii.rr.com

----- Original Message -----

From: Julian, Emile

To: Isaac Harp ; Tucker, Katie

Cc: Everett Ohta ; Congresswoman Hirono ; Representative, Cindy Evans ; Docket, Hearing ; Sexton, Kimberly ; Kent Herring, LTC, JA ; OGCMailCenter Resource ; OCAAMAIL Resource ; Jim Albertini ; Angela Rosa ; Amelia Gora ; Cory Harden ; Scott, Catherine ; Klukan, Brett ; Barbara Moore

Sent: Wednesday, July 07, 2010 10:51 AM

Subject: RE: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

Hi Mr. Harp,

Before answering your original e-mail I consulted with Commission advisors. It is difficult to advise you on the timing of a specific appeal (each appeal is to the Commission itself [the five Commissioners] sitting as an appellate body) because there are a number of factors, such as the number and complexity of issues on appeal, the number of appeals under review at any given time by the Commission as well as the Commission's total workload.

I wish I could be more certain in my response, but the fact is that any time provided could change due to the factors I mentioned or unforeseen events that could require Commission's attention.

Your patience is certainly appreciated.

Emile

From: Isaac Harp [<mailto:imua-hawaii@hawaii.rr.com>]

Sent: Wednesday, July 07, 2010 1:47 AM

To: Julian, Emile; Tucker, Katie

Cc: Everett Ohta; Congresswoman Hirono; Representative, Cindy Evans; Docket, Hearing; Sexton, Kimberly; Kent Herring, LTC, JA; OGCMailCenter Resource; OCAAMAIL Resource; Jim Albertini; Angela Rosa; Amelia Gora; Cory Harden; Scott, Catherine; Klukan, Brett; Barbara Moore

Subject: Re: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

Aloha Emile,

It's been 4-months since I submitted my appeal so could you possibly share with me what the usual duration is on appeals to rulings made by the Atomic Licensing and Safety Board Judges? 4-months seems like an extraordinarily long appeal review process.

Mahalo,

Isaac Harp
P.O. Box 437347
Kamuela, HI 96743

Phone (808) 345-6085
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----- Original Message -----

From: Julian, Emile
To: Tucker, Katie ; Isaac Harp
Cc: Everett Ohta ; Congresswoman Hirono ; Representative, Cindy Evans ; Docket, Hearing ; Sexton, Kimberly ; Kent Herring, LTC, JA ; OGCMailCenter Resource ; OCAAMAIL Resource ; Jim Albertini ; Angela Rosa ; Amelia Gora ; Cory Harden ; Scott, Catherine ; Klukan, Brett ; Barbara Moore
Sent: Tuesday, July 06, 2010 7:35 AM
Subject: RE: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

Katie,

Thanks for your response to Mr. Harp. His appeal is currently under Commission consideration.

Emile

From: Tucker, Katie
Sent: Tuesday, July 06, 2010 10:38 AM
To: Isaac Harp
Cc: Everett Ohta; Congresswoman Hirono; Representative, Cindy Evans; Docket, Hearing; Sexton, Kimberly; Kent Herring, LTC, JA; OGCMailCenter Resource; OCAAMAIL Resource; Jim Albertini; Angela Rosa; Amelia Gora; Cory Harden; Scott, Catherine; Klukan, Brett; Barbara Moore; Julian, Emile
Subject: RE: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

Mr. Harp,

Your appeal is pending before the Commission, and not the Licensing Board. As such, the Board is unable to provide you with an update on the status of that appeal. Your current request is, I believe, better directed to SECY or OGC.

Thank you,

Katie Tucker

*Katherine Tucker, Esq.
Law Clerk, Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
11545 Rockville Pike, Mail Stop T3-E2a
Rockville, MD 20852
(301)415-5833*

From: Isaac Harp [<mailto:imua-hawaii@hawaii.rr.com>]
Sent: Monday, July 05, 2010 5:18 PM
To: Kennedy, Michael; Hawken, Roy; Baratta, Anthony; Isaac Harp
Cc: Everett Ohta; Congresswoman Hirono; Representative, Cindy Evans; Docket, Hearing; Sexton, Kimberly; Kent Herring, LTC, JA; Tucker, Katie; OGCMailCenter Resource; OCAAMAIL Resource; Jim Albertini; Angela Rosa; Amelia Gora; Cory Harden; Scott, Catherine; Klukan, Brett; Barbara Moore; Julian, Emile
Subject: Re: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

Aloha Your Honors Hawkins, Kennedy, and Baratta:

I am seeking an update on the status of my appeal below.

Thank you,

Isaac Harp
P.O. Box 437347
Kamuela, HI 96743

Phone: (808) 345-6085

E-mail: imua-hawaii@hawaii.rr.com

----- Original Message -----

From: Isaac Harp

To: Docket, Hearing ; Amelia Gora ; Angela Rosa ; Baratta, Anthony ; Barbara Moore ; Klukan, Brett ; Scott, Catherine ; Cory Harden ; Hawkins, Roy ; Jim Albertini ; Tucker, Katie ; Kent Herring, LTC, JA ; Sexton, Kimberly ; Luwella K. Leonardi ; Kennedy, Michael ; OCAAMAIL Resource ; OGCMailCenter Resource

Cc: Julian, Emile

Sent: Thursday, March 04, 2010 1:01 PM

Subject: Re: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

By this e-mail I am filing a Notice of Appeal in the matter of the Atomic Energy Safety and Licensing Board Memorandum and Order (Denying Requests for Hearing) (LBP-10-04), US Army Installation Command (Schofield Barracks, Oahu, Hawaii, and Pohakuloa Training Area, Island of Hawaii, Hawaii), Docket No. 40-9083, served February 24, 2010.

Please find attached:

- 1) HARP Appeal Supporting Brief,
- 2) Appendix U.S. P.L/ 103-150, and
- 3) Appendix DOJ.

Thank you,

Isaac Harp
P.O. Box 437347
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Phone (808) 345-6085
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----- Original Message -----

From: Docket, Hearing

To: Amelia Gora ; Angela Rosa ; Baratta, Anthony ; Barbara Moore ; Klukan, Brett ; Scott, Catherine ; Cory Harden ; Hawkins, Roy ; Docket, Hearing ; Isaac D. Harp ; Jim Albertini ; Tucker, Katie ; Kent Herring, LTC, JA ; Sexton, Kimberly ; Luwella K. Leonardi ; Kennedy, Michael ; OCAAMAIL Resource ; OGCMailCenter Resource

Cc: Julian, Emile

Sent: Wednesday, February 24, 2010 9:17 AM

Subject: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

Attached is a Licensing Board Memorandum and Order (Denying Requests for Hearing) (LBP-10-04), US Army Installation Command (Schofield Barracks, Oahu, Hawaii, and Pohakuloa Training Area, Island of Hawaii, Hawaii), Docket No. 40-9083, served February 24, 2010.



Nancy Greathead
Rulemakings and Adjudications Staff
Office of the Secretary

Received: from HQCLSTR02.nrc.gov ([148.184.44.80]) by TWMS01.nrc.gov
([148.184.200.145]) with mapi; Fri, 9 Jul 2010 16:59:33 -0400
Content-Type: application/ms-tnef; name="winmail.dat"
Content-Transfer-Encoding: binary
From: "Sexton, Kimberly" <Kimberly.Sexton@nrc.gov>
To: Isaac Harp <imua-hawaii@hawaii.rr.com>, "Julian, Emile"
<Emile.Julian@nrc.gov>, "Tucker, Katie" <Katie.Tucker@nrc.gov>
CC: Everett Ohta <everetto@oha.org>, Congresswoman Hirono
<hi02ima@mail.house.gov>, "Representative, Cindy Evans"
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Harden" <mh@interpac.net>, "Scott, Catherine" <Catherine.Scott@nrc.gov>,
"Klukan, Brett" <Brett.Klukan@nrc.gov>, Barbara Moore
<dfly@dragonflyranch.com>
Date: Fri, 9 Jul 2010 16:59:32 -0400
Subject: RE: LB Memorandum and Order (Denying Requests for Hearing)
(LBP-10-04) US Army Installation Command
Thread-Topic: LB Memorandum and Order (Denying Requests for Hearing)
(LBP-10-04) US Army Installation Command
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