

Hearing Docket

From: Isaac Harp [imua-hawaii@hawaii.m.com]
Sent: Wednesday, July 28, 2010 7:01 PM
To: Scott, Catherine; Klukan, Brett; Sexton, Kimberly; Julian, Emile; Tucker, Katie; Hayes, John
Cc: Terri Kekoolani; Shannon Rudolph; Barbara Moore; Cory Harden; Amelia Gora; Angela Rosa; Jim Albertini; OCAAMAIL Resource; OGCMailCenter Resource; Kent Herring, LTC, JA; Docket, Hearing; Representative, Cindy Evans; Congresswoman Hirono; Everett Ohta; Kyle Kajihiro
Subject: Re: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command
Attachments: Access Waiver TK 5-27-10.pdf; PR Schofield.pdf

Dear NRC Staff,

Regarding the information being considered in regards to my appeal of the NRC's Atomic Safety and Licensing Board's denial of my request for a hearing, please include the attached documents and the information found at this link: <http://www.truth-out.org/document-reveals-military-was-concerned-about-gulf-war-vets-exposure-depleted-uranium61781>

Thank you,

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

Cell: 808-345-6085

**DOCKETED
USNRC**

July 29, 2010 (8:00a.m.)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

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

From: Sexton, Kimberly
To: Barbara Moore ; Isaac Harp ; Julian, Emile ; Tucker, Katie ; Hayes, John
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
Sent: Monday, July 26, 2010 5:49 AM
Subject: RE: LB Memorandum and Order (Denying Requests for Hearing) (LBP-10-04) US Army Installation Command

Ms. Moore,

While I cannot answer your question about how you can make the U.S. Army change its manner of testing, I will try to recap the status of the two NRC processes at play with respect to the U.S. Army in Hawaii:

Although you were not a party to the licensing proceeding that you, Mr. Harp, and I have been discussing via e-mail, the e-mails that you have sent throughout that process were seen and considered, for whatever action was appropriate, by the licensing staff. As I related to Mr. Harp, the Atomic Safety and Licensing Board's initial decision is currently under appeal with the Commission. We do not know when a decision will be rendered.

Mr. Harp also filed a petition requesting that the NRC take enforcement action against the U.S. Army. This is 10 CFR 2.206 petition (the regulation can be found here: <http://www.nrc.gov/reading-rm/doc-collections/cfr/part002/part002-0206.html>). The NRC staff is still considering this petition and the finalized director's decision on Mr. Harp's request will address whether enforcement action will proceed.

I hope this helps,
Kimberly

From: Barbara Moore [mailto:dfly@dragonflyranch.com]

Sent: Wednesday, July 14, 2010 4:28 AM

To: Sexton, Kimberly; Isaac Harp; Julian, Emile; Tucker, Katie; Hayes, John

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

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

Aloha Kimberly,

I have appreciated your response to Isaac's concerns as his interest in having the army be accountable to accurate information are the same concerns of many of us who are at risk.

My question is, where does this go from here? None of us feel that the testing is being done properly. How can we make it so?

Sincerely,

Barbara Moore, President of the Big Island Health and Wellness Alliance

*"In the Sweetness of Friendship,
let there be Laughter
and the Sharing of Pleasures "*

Khalil Gibran

Barbara Ann Kenonilani Moore

President of Big Island Health and Wellness Alliance

soul proprietor of Dragonfly Ranch: HEALING ARTS CENTER

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(808)328-2159

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where Aloha abounds

72 degrees and sunny on Big Island's Kona Coast



On 7/13/10 2:54 AM, "Sexton, Kimberly" <Kimberly.Sexton@nrc.gov> wrote:

Mr. Harp,

I'm glad that I could be of some assistance. And because your email contains technical information that you wish the NRC to consider, I am passing it along to Mr. John Hayes, the senior project manager overseeing the NRC's review of the Army's license application.

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

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

Sent: Tuesday, July 13, 2010 5:10 AM

To: Sexton, Kimberly; 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

Aloha Kimberly,

Thank you so very much for your very thorough explanation!

Yes, the NRC hearing process is extremely difficult to understand, especially when it comes to establishing standing. I need to make a few points before ending this thread of communication.

The Army prefers to use a 5 micron filter pore size to monitor the air for DU because airborne DU particles of the size captured in a 5 micron filter are quite heavy to remain airborne for any significant distance. The appropriate filter pore size for air monitoring is .45 (45/100) micron or smaller. If the Army used the appropriate filters perhaps folks like myself wouldn't be sitting for months waiting on an appeal because standing would have been established during oral arguments.

I have come to the opinion that it appears that what we have here is a cooperative effort to provide uranium enrichment facilities a means of turning DU, a liability, into an asset that can be sold to the military. The military is taking advantage of DU to create weapons far superior to all others to carry out the undeniable United States effort towards global dominance.

I sit here asking myself, what is the point of being the dominant party on a planet that will be uninhabitable because the very weapons that assisted the dominant party has contaminated the planet for billions of years? For a country that is a mere baby compared to many others, including Hawaii, it is so sad that the baby's greed for power and control has gotten so far out of hand that the baby will do almost anything to get it's way.

I hope the day comes when all persons involved in this process from the NRC and the Army have an opportunity to visit Hawaii island, specifically the Pohakuloa military training area when the wind is blowing clouds of dust off of the training area and across our island. Perhaps then the NRC and the Army will understand our concern regarding ingesting DU particulate matter through inhalation. The world knows that DU is dangerous but the user, the US military, and regulator, the NRC seem purposefully ignorant to this fact.

Very Sincerely,

Isaac Harp

P.O. Box 437347

Kamuela, HI 96743

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

From: Sexton, Kimberly <<mailto:Kimberly.Sexton@nrc.gov>>

To: Isaac Harp <<mailto:imua-hawaii@hawaii.rr.com>> ; Julian, Emile <<mailto:Emile.Julian@nrc.gov>> ; Tucker, Katie <<mailto:Katie.Tucker@nrc.gov>>

Cc: Everett Ohta <<mailto:everetto@oha.org>> ; Congresswoman Hirono <<mailto:hi02ima@mail.house.gov>> ; Representative, Cindy Evans <<mailto:repevans@capitol.hawaii.gov>> ; Docket, Hearing <<mailto:Hearing.Docket@nrc.gov>> ; Kent Herring, LTC, JA <<mailto:kent.herring@us.army.mil>> ; OGCMailCenter Resource <<mailto:OGCMailCenter.Resource@nrc.gov>> ; OCAAMAIL Resource <<mailto:OCAAMAIL.Resource@nrc.gov>> ; Jim Albertini <<mailto:JA@interpac.net>> ; Angela Rosa <<mailto:angelarosa48@hotmail.com>> ; Amelia Gora <<mailto:hawaiianhistory@gmail.com>> ; Cory Harden <<mailto:mh@interpac.net>> ; Scott, Catherine <<mailto:Catherine.Scott@nrc.gov>> ; Klukan, Brett <<mailto:Brett.Klukan@nrc.gov>> ; Barbara Moore <<mailto:dfly@dragonflyranch.com>>

Sent: Monday, July 12, 2010 4:59 AM

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

Dear Mr. Harp,

You asked who the "presiding officer" is and to answer that, under the regulation 10 C.F.R. § 2.341 that I quoted to you in a previous email, the "presiding officer" was the Atomic Safety and Licensing Board that you appeared in front of back in January (Administrative Judges Hawkens, Baratta, and Kennedy). As I explained in a previous email, the Atomic Safety and Licensing Board is the NRC's independent trial-level

adjudicatory body. On February 24, 2010, that Board (aka, the "presiding officer") released a decision that denied your hearing request for failure to establish standing. You appealed the Board's February 24th decision. That appeal, per our regulations, is currently being considered by the Commission. The Commission is the NRC's appellate body.

As Emile Julian explained to you in his July 7th email, he cannot advise you on the timing of your appeal due to a number of different factors. Because Brett Klukan and I are the attorneys for the NRC staff and were parties to the proceeding, we are separate from the Commission. Therefore, we have the same information as the other parties have (meaning that you, me and Mr. Klukan representing the Staff, and the U.S. Army are all in the same position regarding the amount of information we have about the status of the appeal). Mr. Julian, who works for the Secretary of the Commission, informed all the parties that he does not know the timing of your appeal.

I know that this is a lot of information and that the NRC's hearing process can sometimes be difficult to understand. The NRC's public webpage has a number of resources for helping members of the public better understand our procedures. Here are some links that might assist you:

About the NRC's Adjudications (Hearings): <http://www.nrc.gov/about-nrc/regulatory/adjudicatory.html> <<http://www.nrc.gov/about-nrc/regulatory/adjudicatory.html>>

The NRC's Hearing Process: <http://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing-pro.html> <<http://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing-pro.html>>

Commission Adjudicatory Responsibilities: <http://www.nrc.gov/about-nrc/regulatory/adjudicatory/commission-respons.html> <<http://www.nrc.gov/about-nrc/regulatory/adjudicatory/commission-respons.html>>

Atomic Safety and Licensing Board Panel: <http://www.nrc.gov/about-nrc/organization/aslbpfuncdesc.html> <<http://www.nrc.gov/about-nrc/organization/aslbpfuncdesc.html>>

Atomic Safety and Licensing Board Responsibilities: <http://www.nrc.gov/about-nrc/regulatory/adjudicatory/aslbp-respons.html> <<http://www.nrc.gov/about-nrc/regulatory/adjudicatory/aslbp-respons.html>>

Brochure About the Atomic Safety and Licensing Board Panel: <http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0249/r3/br0249r3.pdf> <<http://www.nrc.gov/reading-rm/doc-collections/nuregs/brochures/br0249/r3/br0249r3.pdf>>

I hope that I have better explained our process.

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

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

Sent: Sunday, July 11, 2010 2:17 AM

To: Sexton, Kimberly; 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

Aloha Kimberly:

Mahalo for your responses.

Could you please tell me who the presiding officer is, and how long it normally takes for the presiding officer to review and make a decision on an application to possess depleted uranium contamination such as that scatter across Hawaii?

Would you be able to inform me on the status of my appeal?

Thank you,

Isaac Harp

P.O. Box 437347

Kamuela, HI 96743

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

From: Sexton, Kimberly <<mailto:Kimberly.Sexton@nrc.gov>>

To: Isaac Harp <<mailto:imua-hawaii@hawaii.rr.com>> ; Julian, Emile <<mailto:Emile.Julian@nrc.gov>> ; Tucker, Katie <<mailto:Katie.Tucker@nrc.gov>>

Cc: Everett Ohta <<mailto:everetto@oha.org>> ; Congresswoman Hirono <<mailto:hi02ima@mail.house.gov>> ; Representative, Cindy Evans <<mailto:repevans@capitol.hawaii.gov>> ; Docket, Hearing <<mailto:Hearing.Docket@nrc.gov>> ; Kent Herring, LTC, JA <<mailto:kent.herring@us.army.mil>> ; OGCMailCenter Resource <<mailto:OGCMailCenter.Resource@nrc.gov>> ; OCAAMAIL Resource <<mailto:OCAAMAIL.Resource@nrc.gov>> ; Jim Albertini <<mailto:JA@interpac.net>> ; Angela Rosa <<mailto:angelarosa48@hotmail.com>> ; Amelia Gora <<mailto:hawaiianhistory@gmail.com>> ; Cory Harden <<mailto:mh@interpac.net>> ; Scott, Catherine <<mailto:Catherine.Scott@nrc.gov>> ; Klukan, Brett <<mailto:Brett.Klukan@nrc.gov>> ; Barbara Moore <<mailto:dfly@dragonflyranch.com>>

Sent: Friday, July 09, 2010 10:59 AM

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

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 <<mailto:Emile.Julian@nrc.gov>>

To: Isaac Harp <<mailto:imua-hawaii@hawaii.rr.com>> ; Tucker,

Katie <<mailto:Katie.Tucker@nrc.gov>>

Cc: Everett Ohta <<mailto:everetto@oha.org>> ; Congresswoman Hirono <<mailto:hi02ima@mail.house.gov>> ; Representative, Cindy Evans <<mailto:repevans@capitol.hawaii.gov>> ; Docket, Hearing <<mailto:Hearing.Docket@nrc.gov>> ; Sexton, Kimberly <<mailto:Kimberly.Sexton@nrc.gov>> ; Kent Herring, LTC, JA <<mailto:kent.herring@us.army.mil>> ; OGCMailCenter Resource <<mailto:OGCMailCenter.Resource@nrc.gov>> ; OCAAMAIL Resource <<mailto:OCAAMAIL.Resource@nrc.gov>> ; Jim Albertini <<mailto:JA@interpac.net>> ; Angela Rosa <<mailto:angelarosa48@hotmail.com>> ; Amelia Gora <<mailto:hawaiianhistory@gmail.com>> ; Cory Harden <<mailto:mh@interpac.net>> ; Scott, Catherine <<mailto:Catherine.Scott@nrc.gov>> ; Klukan, Brett <<mailto:Brett.Klukan@nrc.gov>> ; Barbara Moore <<mailto:dfly@dragonflyranch.com>>

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

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

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

From: Julian, Emile <<mailto:Emile.Julian@nrc.gov>>

To: Tucker, Katie <<mailto:Katie.Tucker@nrc.gov>> ; Isaac Harp <<mailto:imua-hawaii@hawaii.rr.com>>

Cc: Everett Ohta <<mailto:everetto@oha.org>> ; Congresswoman Hirono <<mailto:hi02ima@mail.house.gov>> ; Representative, Cindy

Evans <<mailto:repevans@capitol.hawaii.gov>> ; Docket, Hearing
<<mailto:Hearing.Docket@nrc.gov>> ; Sexton, Kimberly
<<mailto:Kimberly.Sexton@nrc.gov>> ; Kent Herring, LTC, JA
<<mailto:kent.herring@us.army.mil>> ; OGCMailCenter Resource
<<mailto:OGCMailCenter.Resource@nrc.gov>> ; OCAAMAIL Resource
<<mailto:OCAAMAIL.Resource@nrc.gov>> ; Jim Albertini
<<mailto:JA@interpac.net>> ; Angela Rosa
<<mailto:angelarosa48@hotmail.com>> ; Amelia Gora
<<mailto:hawaiianhistory@gmail.com>> ; Cory Harden
<<mailto:mh@interpac.net>> ; Scott, Catherine
<<mailto:Catherine.Scott@nrc.gov>> ; Klukan, Brett
<<mailto:Brett.Klukan@nrc.gov>> ; Barbara Moore
<<mailto:dfly@dragonflyranch.com>>

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; Hawkens, 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 <<mailto:imua-hawaii@hawaii.rr.com>>

To: Docket, Hearing <<mailto:Hearing.Docket@nrc.gov>> ; Amelia Gora <<mailto:hawaiianhistory@gmail.com>> ; Angela Rosa <<mailto:angelarosa48@hotmail.com>> ; Baratta, Anthony <<mailto:Anthony.Baratta@nrc.gov>> ; Barbara Moore <<mailto:dfly@dragonflyranch.com>> ; Klukan, Brett <<mailto:Brett.Klukan@nrc.gov>> ; Scott, Catherine <<mailto:Catherine.Scott@nrc.gov>> ; Cory Harden <<mailto:mh@interpac.net>> ; Hawkens, Roy <<mailto:Roy.Hawkens@nrc.gov>> ; Jim Albertini <<mailto:JA@interpac.net>> ; Tucker, Katie <<mailto:Katie.Tucker@nrc.gov>> ; Kent Herring, LTC, JA <<mailto:kent.herring@us.army.mil>> ; Sexton, Kimberly <<mailto:Kimberly.Sexton@nrc.gov>> ; Luwella K. Leonardi <<mailto:phonicsworks@gmail.com>> ; Kennedy, Michael <<mailto:Michael.Kennedy@nrc.gov>> ; OCAAMAIL Resource <<mailto:OCAAMAIL.Resource@nrc.gov>> ; OGCMailCenter Resource <<mailto:OGCMailCenter.Resource@nrc.gov>>

Cc: Julian, Emile <<mailto:Emile.Julian@nrc.gov>>

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

Kamuela, HI 96743

Phone (808) 345-6085

e-mail: imua-hawaii@hawaii.rr.com <<mailto:imua-hawaii@hawaii.rr.com>>

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

From: Docket, Hearing <<mailto:Hearing.Docket@nrc.gov>>

To: Amelia Gora <<mailto:hawaiianhistory@gmail.com>> ; Angela Rosa <<mailto:angelarosa48@hotmail.com>> ; Baratta, Anthony <<mailto:Anthony.Baratta@nrc.gov>> ; Barbara Moore <<mailto:dfly@dragonflyranch.com>> ; Klukan, Brett <<mailto:Brett.Klukan@nrc.gov>> ; Scott, Catherine <<mailto:Catherine.Scott@nrc.gov>> ; Cory Harden <<mailto:mh@interpac.net>> ; Hawkens, Roy <<mailto:Roy.Hawkens@nrc.gov>> ; Docket, Hearing <<mailto:Hearing.Docket@nrc.gov>> ; Isaac D. Harp <<mailto:Imua-hawaii@hawaii.rr.com>> ; Jim Albertini <<mailto:JA@interpac.net>> ; Tucker, Katie <<mailto:Katie.Tucker@nrc.gov>> ; Kent Herring, LTC, JA <<mailto:kent.herring@us.army.mil>> ; Sexton, Kimberly <<mailto:Kimberly.Sexton@nrc.gov>> ; Luwella K. Leonardi

<mailto:phonicsworks@gmail.com> ; Kennedy, Michael
<mailto:Michael.Kennedy@nrc.gov> ; OCAAMAIL Resource
<mailto:OCAAMAIL.Resource@nrc.gov> ; OGCMailCenter Resource
<mailto:OGCMailCenter.Resource@nrc.gov>

Cc: Julian, Emile <mailto:Emile.Julian@nrc.gov>

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

RELEASE OF LIABILITY FOR ACCESS TO SCHOFIELD BARRACKS WEST RANGE

This document does not constitute authorization to visit the West Range at Schofield Barracks, Oahu Island. Such authorization must be obtained from the Directorate of Public Works Environmental Division (DPW-ENV) and the Commander, United States Army Hawaii.

I have requested the Department of the Army and the Directorate of Public Works Environmental Division (DPW-ENV) to allow me to enter West Range at Schofield Barracks.

I agree and acknowledge that MY SAFETY IS MY RESPONSIBILITY and no one else's.

I fully understand, and by my signature acknowledge that I understand, West Range at Schofield Barracks is currently constructing the Battle Area Complex (BAX) which includes clean up of unexploded ordnance (UXO) including potential chemical warfare munitions (CWM) and depleted uranium (DU). West Range has been used by the United States as an impact area from the early 1900s and continues to be used as a small arms firing range with a small residual impact area for artillery and heavy artillery. I understand that the ENTIRE RESERVATION IS DANGEROUS AND UNSAFE due to the presence of surface and subsurface UNEXPLODED ORDNANCE and DEPLETED URANIUM; that there may be hazardous conditions and ordnance on and under the surface of the Reservation; and that unexploded ordnance may explode nearby causing seriously bodily harm, injury and death and that depleted uranium particles can be ingested from the soil or inhaled by airborne dust that may cause adverse health effects.

I fully understand, and by my signature acknowledge that I understand, that the roads and trails on the Range on are extremely rough and rugged. I fully understand, and by my signature acknowledge that I understand, that if I utilize any of these roads or trails, I MAY BE INJURED. Knowing that the Reservation is dangerous and unsafe and that pervasive presence of unexploded explosives presents to me A RISK OF SERIOUS BODILY HARM OR DEATH, I nevertheless desire to go to the Reservation. I voluntarily ASSUME THE RISK OF INJURY OR LOSS created by the presence of explosives and other hazardous conditions, which exist on the Range. I, for my heirs, beneficiaries, executors, administrators, RELEASE AND AGREE TO INDEMNIFY AND HOLD HARMLESS AND AGREE NOT TO SUE OR FILE ANY CLAIM(S) AGAINST the United States of America, the Department of the Army, the State of Hawaii and any and all of its officers, agents, and employees, for death or injury to me or damage to or destruction of any of my property resulting from the explosives or hazardous conditions, or acceptance of transportation on or in West Range at Schofield Barracks.

In consideration of allowing me the access which I have requested I do, for my heirs, beneficiaries, executors, administrators, RELEASE AND FOREVER DISCHARGE the United States of America, the Department of the Army, the State of Hawaii and any and all of its officers, agents, and employees, whether acting in their official capacity or otherwise from any and all claim(s), demand(s), action(s), or cause(s) of action on account of my death or on account of any loss or injury to me or my property which may occur from ANY cause during my access to West Range at Schofield Barracks or incident thereto.

This release of liability is effective for the access period commencing 5/27/10 and ending 5/27/10.

NAME (PRINT) TERUILEE KEKOOLOANI, U.T.
SIGNATURE *Teruilee Kekoolani*

DATE 5/27/10

WITNESS (PRINT) Peter Yuh Jr.
SIGNATURE *Peter Yuh Jr.*

DATE 27 May 10

For Immediate Release

May 28, 2010

Contact: Summer Mullins, 808-753-4221 / culturalpractice@gmail.com

Hawaiian Community Angered by Desecration of Burials at Schofield Barracks

Lihu'e, O'ahu. Representatives from several organizations concerned over the U.S. Army's recent disturbance of 'iwi kupuna (ancestral remains) visited the site on Schofield Barracks where a cultural complex was disturbed by Stryker-related construction. They were told by Laurie Lucking, cultural resource manager for U.S. Army Garrison-Hawaii, that the area where the 'iwi kupuna was unearthed would be 'closed forever.' But military construction and training continue to destroy many other cultural sites in a large expanse of land sacred to native Hawaiians.

Leimaile Quitevis, former cultural monitor who documented many of the sites in Lihu'e and a member of the O'ahu Island Burial Council comments on the significance of the cultural site complex. "Hundreds of archaeological site features have been identified in the immediate vicinity of Stryker Brigade construction. In addition, more than 300 surface artifacts were collected by Army representatives. The massive amount of cultural properties located in this area help to paint the picture of the pre-contact land use of Lihu'e. The significance and importance of this landscape to Kanaka Maoli is limitless. Lihu'e was once the ruling center of O'ahu, hosting famous rulers and infamous battles. This history is important when evaluating and assessing the historic properties that have been identified. These sites are not isolated 'archaeological sites.' They are features, pieces of a puzzle, and parts of a whole. These sites are part of a complex that laments and praises the history and culture of our ancestors. Several bone fragments have been documented throughout the project area. None of these bones have ever been positively identified by a qualified osteologist. In addition clusters of artifacts are treated as isolated finds rather than actual sites. To date this project has damaged numerous petroglyphs, desecrated a minimum of two individual's graves and breached the site protective measures of Hale'au'au Heiau."

"The Army failed to do adequate cultural site investigations and consultations before drawing up and proceeding with its Stryker brigade plans," said Summer Mullins a representative from Kipuka, one of the three native Hawaiian groups involved in the 2004 litigation against Stryker expansion. This was the first time that she and many others were given access to the area once recognized as the seat of government for O'ahu ali'i. In the past, groups had made several requests for access that were ignored or denied by the Army.

She added, "This desecration was completely avoidable. It was not an 'inadvertent discovery,' as the Army claims. They need to be held responsible for their actions. The Army failed to listen to the strong concerns raised by cultural monitors and community members years ago about the cultural importance of the Lihu'e area. Our wahi pana and wahi kapu are not appropriate training areas."

"When our Kanaka Maoli people say do not disturb an area but their advice is not heeded, this does not constitute 'proactive dialogue.' Desecration was predictable. We are faced with the problem that the Army occupies a vast area that physically retains important cultural sites and burial grounds. No matter what, access to these sites must be guaranteed to our Kanaka Maoli people. It is their traditional right to visit, care for and continue passing on history to the next generation," said Terri Keko'olani of the American Friends Service Committee.

Representatives were angered by the Army's initial claim that they were protecting the discovery, as their actions painted a completely different picture. "The assertion that 'all work was immediately halted' is false. The contract archaeologist for Garcia and Associates (GANDA) ordered digging and grading to continue after the first 'iwi was found, a violation of Federal and State laws that call for all activity to cease. Earth moving activity stopped only after more bones were exposed," added Leimaile Quitevis.

According to Tom Lenchanko, spokesperson for lineal descendants of the area, "The families object to any process where our human remains are damaged, with no sensitivity to the lands of our Lo Ali'i - Lihu'e, Wahiawa and Helemano encompassing over 35,000 acres that is Kukaniloko. This is our national treasure. Our kupuna are all over that 'aina, and the military is blatantly disrespecting our ancestral burial sites."

"This is Hawaiian land, we all know that the US military has no moral or legal authority over our lands or resources," said Andre Perez of Hui Pu. "Relocating the bones of our ancestors for warfare training is unacceptable. It is the military who needs to relocate."

Noelani DeVincent, kumu hula and member of the Wahiawa Hawaiian Civic Club was heartbroken to see this sacred place ripped apart, "It was a really emotional experience to see such a huge wrong being done towards our people. It is our kuleana to right this wrong, but how can we trust the Army will take care of this place?"

Leimaile Quitevis added "Our kupuna are calling us to look to the lands of Lihu'e. We must kukulu kumuhana (pull our strengths) and work together to defend the bones of our ancestors and the rich history of this 'aina."

Other participants in the cultural access include Kai Markell and Kamoia Quitevis of the Office of Hawaiian Affairs, William Aila of Hui Malama i Na Kupuna, Melva Aila of Hui Malama o Makua, and Kyle Kajihiro of the American Friends Service Committee.



Photo by Kai Markell at Lihu'e complex, Schofield Barracks. Many significant cultural sites are being destroyed by current Stryker-related construction.



Photo by Kai Markell at Lihu'e complex, Schofield Barracks. Concerned Native Hawaiians and community members inspect damage to cultural sites caused by Stryker-related construction.



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Document Reveals Military Was Concerned About Gulf War Vets' Exposure to Depleted Uranium

Wednesday 28 July 2010

by: *Mike Ludwig, truthout | Report*

For years, the government has denied that depleted uranium (DU), a radioactive toxic waste left over from nuclear fission and added to munitions used in the Persian Gulf and Iraq wars, poisoned Iraqi civilians and veterans.

But a little-known 1993 Defense Department document written by then-Brigadier Gen. Eric Shinseki, now the secretary for the Department of Veterans Affairs (VA), shows that the Pentagon was concerned about DU contamination and the agency had ordered medical testing on all personnel that were exposed to the toxic substance.

Shinseki's memo, under the subject line, "Review of Draft to Congress - Health and Environmental Consequences of Depleted Uranium in the U.S. Army -- Action Memorandum," makes some small revisions to the details of these three orders from the DoD:

1. Provide adequate training for personnel who may come in contact with DU contaminated equipment.
2. Complete medical testing of all personnel exposed to DU in the Persian Gulf War.

deprived hundreds of thousands of veterans from receiving medical care to treat cancer and other diseases that result from exposure to DU.

The Armed Forces Health Surveillance Center recently reported that ten years of data confirm that service members tend to have higher rates of certain cancers compared to civilians, according to the Army Times. While researchers suspected that service members are diagnosed with cancer more often and at a younger age because they have guaranteed access to health care and mandatory exams, the data does not explain the disparities in diagnosis among branches of the military. For example, the rate of lung cancer among sailors is twice that of other branches, while Marines have much lower cancer rates across the board.

On Tuesday, the VA's ongoing failure to treat and diagnose Gulf War related illnesses came up during a House Veterans Affairs subcommittee hearing where a veterans advocacy group urged Shinseki to undertake comprehensive research on the correlation between chronic illness and exposure to DU in munitions during the Gulf War.

Armed with Shinseki's August 19, 1993 memo, Veterans for Common Sense (VCS), said the VA, and Shinseki in particular, have "a rare opportunity for a second chance."

"In military terms, VCS asks VA for a ceasefire," said Paul Sullivan, the executive director for VCS. "VCS urges VA leadership to stop and listen to our veterans before time runs out, as VA is killing veterans slowly with bureaucratic delays and mismanaged research that prevent us from receiving treatments or benefits in a timely manner."

Sullivan, himself a Gulf War veteran, told the subcommittee that the VA has refused to listen to scientists and veterans who are concerned

Of the 697,000 men and woman who served in Gulf War operations Desert Storm and Desert Shield between 1990 and 1991, about 250,000 suffer from symptoms collectively known as "Gulf War Veterans' Illnesses." The symptoms include fatigue, weakness, gastrointestinal problems, cognitive dysfunction, sleep disturbances, persistent headaches, skin rashes, respiratory conditions and mood changes, according to the VA.

The VCS also petitioned Shinseki to investigate the 2009 termination of a \$75 million research project on Gulf War illnesses at the University of Texas medical center. Last year the VCS filed a Freedom of Information Act (FOIA) request for records of the "internal sabotage" of Gulf War Veterans Illnesses research and the intentional delaying of research and treatment, according to Sullivan. The VA has yet to release any documents about the impeded research, and VCS filed a FOIA appeal on June 29.

Sullivan said the VCS simply wants the government to support independent testing on veterans exposed to DU, but the Department of Defense prefers a "don't look, don't find policy."

"As a Gulf War veteran, I have watched too many of my friends die without answers, without treatment, and without benefits," Sullivan said. "In a few cases, veterans completed suicide due to Gulf War illness and the frustration of dealing with VA."

Sullivan testified as disturbing reports have emerged in recent months from Fallujah, Iraq, about the skyrocketing rates of birth defects and cancer, which are being blamed on DU-laced bombs and munitions used by US and British forces during a brutal coalition assault on the city in 2004. Iraqi human rights officials are reportedly planning to file a lawsuit.

... is a dense metal added to munitions and bombs to protect tanks and armor, and the military seems to chose unrestricted use of the radioactive substance over its soldiers' safety. Sullivan told Truthout that original medical tests ordered in a 1993 memo, which also called for personnel to be trained in dealing with contaminated equipment, were canceled after a training video scared soldiers.

"It was pulled after [the training video] was seen by some soldiers who became upset when they saw soldiers in moon suits holding Geiger counters, and the military realized that the training could present a problem in the battlefield where soldiers need to disregard exposure issues while trying to kill the enemy," Sullivan said.

Sullivan said that the DU "follow-up" program the VA consistently references was inadequate as it consisted of sporadic studies on only a small fraction of estimated 400,000 veterans exposed to the radioactive heavy metal.

"The VA does not listen to expert scientists. The VA does not even listen to Congress," Sullivan said in his testimony. "Two decades of inaction have already passed. Gulf War veterans urgently want to avoid the four decades of endless suffering endured by our Vietnam War veterans exposed to Agent Orange."

Sullivan said it took 40 years and an act of Congress to fund and sanction independent studies that proved the VA was responsible for providing benefits to soldier suffering from Agent Orange-related diseases.

The VA now recognizes that exposure to Agent Orange, an herbicide sprayed across Vietnam to kill foliage and expose guerrilla fighters, has plagued veterans with several deadly diseases and disorders.

Last week, the VA announced \$2.8 million worth of research on Gulf War Veterans' Illnesses, a sum Sullivan called "paltry." A VA press release announcing the research does not mention DU. The release references a recent Institute of Medicine report that identified the quarter million veterans affected by various symptoms associated with Gulf War illness, which "cannot be ascribed to any psychiatric disorder and likely result from genetic and environmental factors, although the data are not strong enough to draw conclusions about specific causes."

Popular medical science holds that kidney damage is the primary health problem associated with exposure to high amounts of DU. The heavy metal is 60 percent as radioactive as natural uranium, and is also linked to lung cancer in some cases and leukemia in even fewer cases, according to the World Health Organization (WHO).

Some critics have claimed that the WHO and governments have suppressed links between DU and cancer.

The debate over the use of DU in conventional warfare will rage on as the Fallujah fallout continues, but according to Sullivan, there is only one way for thousands of Gulf War veterans at home to know the truth and receive the relief they deserve.

"After 20 years of waiting, we refuse to wait on more empty promises from VA. The first step is for Secretary Shinseki and Chief of Staff Gingrich to immediately clean house of VA bureaucrats who have so utterly and miserably failed our veterans for too long," said Sullivan, vowing to petition Congress if the VA refuses to respond. "Our waiting must end now."



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Mike Ludwig is an intern at Truthout.

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