



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY INSTALLATION MANAGEMENT COMMAND
2405 GUN SHED ROAD
FORT SAM HOUSTON, TEXAS 78234-1223

December 5, 2011

Mr. Keith I. McConnell, Deputy Director
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management and Environmental Protection
Office of Federal and State Materials and Environmental Management Programs
U.S. Nuclear Regulatory Commission
Washington, DC 20555

**SUBJECT: REQUEST FOR CLARIFICATION OF THE SCOPE OF ACTIVITIES AT THE
SCHOFIELD BARRACKS BATTLE AREA COMPLEX**

Dear Mr. McConnell:

I am responding to your letter dated November 4, 2011, subject: Request for Clarification of the Scope of Activities at the Schofield Barracks Battle Area Complex. In summary, Lieutenant Colonel (LTC) Kent Herring's statements at the Atomic Safety and Licensing Board (ASLB) hearing on January 13, 2010, are consistent both with the events that occurred before that hearing and statements Army personnel made to the Nuclear Regulatory Commission (NRC) at the later meetings on October 29, 2010, and May 10, 2011. LTC Herring was counsel for the Army at the oral argument before the ASLB. The following paragraphs specifically address the Army statements referenced in your letter noted above.

As you requested, the Army has reviewed the statements made in the three meetings identified in your letter and, taken in context, these statements are internally consistent and were made with the intent to clarify the extent and nature of construction and soil activities at the Schofield Barracks Battle Area Complex (BAX) in Hawaii. In the following analysis, as listed and quoted in your letter dated November 4, 2011, I make reference to the specific transcript pages/lines of the ASLB oral argument on January 13, 2010, archived within the NRC's Agency-wide Document Access and Management System ML100190826.

- Page 131, lines 6–11: In the proper context, LTC Herring's statement is consistent with later Army responses on the same issue. Specifically, the petitioners alleged that the Army was transporting depleted uranium (DU) contaminated soil from Schofield Barracks into Waianae in truck loads (page 60, line 12 through page 61, line 21). LTC Herring responded by stating that the Army was not removing and transporting DU-contaminated soil as the petitioners alleged. The truck loads of Schofield Barracks soil the petitioners had seen in Waianae came from elsewhere on Schofield Barracks. LTC Herring clearly explains this fact by example on page 131, line 16 through page 132, line 2, immediately following the quote provided in your letter. LTC Herring also states on page 192, lines 14–17, "[Ms. Leonardi] states that the Army is purposely dumping DU

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soil in the community but has no basis or fact for that statement. In fact, that is not occurring.”

- Page 122, lines 4–7: LTC Herring is referring to the *proposed* work at the Schofield BAX construction site. This is the same work that Army personnel presented and discussed at the October 29, 2010 meeting. Dr. Cherry, our Radiation Safety Staff Officer, had asked Mr. Honerlah of the U.S. Army Corps of Engineers, Baltimore District to discuss this work with the NRC to ensure that your agency was fully aware of it and did not object to the work. As you are also aware, we discovered at that meeting that the NRC had major concerns with the proposed work. In light of your concerns, the Army initiated a pause on all BAX construction work, although it should be noted that only a small part of the BAX construction site is within the DU-affected area. The Army did not resume construction work at the site until the NRC granted permission for it to continue within the scope of an NRC license issued to an Army contractor. All activities at the construction site since then have been performed in accordance with conditions of the contractor’s NRC license. The work to which LTC Herring refers in the quote in your letter took place after the date of the ASLB hearing.
- Page 132, lines 12–20: LTC Herring is discussing sampling that our contractor performed in 2008 to obtain data for a Baseline Human Health Risk Assessment (BHHRA) of the Schofield Barracks DU-affected area. The NRC was fully aware of this project and, indeed, attended the media event in Hawaii when the Army released the BHHRA report to the public. The Army later disposed of the DU fragments (and DU-contaminated soil) referred to in this quote as “currently stored” on Schofield Barracks in accordance with the Joint Munitions Command low-level radioactive waste (LLRW) disposal program. The DU fragments and contaminated soil were contained in 21 barrels. Seven barrels were disposed at the US Ecology RCRA (permitted) site in Idaho. The remaining fourteen barrels were disposed at the US Ecology (licensed) site at Richland, Washington.
- Page 132, line 21 – page 133, line 8: When LTC Herring made these statements, the Army and its contractor were not performing “testing” and soil sampling in the DU-affected area at Schofield Barracks. As he mentions later in the paragraph, the only soil containing DU that was being removed in January 2010 was that which was discovered immediately surrounding DU fragments. The NRC was on notice of this practice of retrieving and holding such fragments and surrounding soil for ultimate disposal in accordance with the Joint Munitions Command LLRW disposal program. These DU fragments were retrieved to meet the “as low as reasonably achievable” general standard stated in 10 CFR 20.1101. As for the proposed DU removal work to which LTC Herring refers, due to the objections the NRC raised at the October 29, 2010 meeting, that work did not occur until our contractor activated its NRC license after the January 2010 meeting and the date of the quote provided in your letter.

Based upon our review of the statements quoted in your letter, I request that you reassess your position that “based on the information developed at the May 10, 2011, and October 29, 2010, meetings, it appears that the scope of activities actually conducted at Schofield Barracks in support of BAX construction, including soil removal and testing, prior to the January 13, 2010, oral argument may be far broader than that described by counsel for the Army at the oral argument.” A review of the complete transcript and documents on record at the NRC will show that the statements of LTC Herring at the ASLB hearing and the statements at the meetings on October 29, 2010, and May 10, 2011 are consistent. LTC Herring was mainly addressing the Petitioner’s allegations to clarify Army actions prior to January 2010, and informing the NRC of proposed future Army activities. The later statements in October 2010 and May 2011 concern some of the activities that were being considered at the earlier time.

If you have any questions about the Army actions at Schofield Barracks and the sequence of events concerning the DU at that location, I would be happy to bring an Army team to the NRC to discuss these matters and further clarify the record of these events with additional information and explanation. It is my strong belief that the Army has been transparent and forthcoming at all times, in particular during the proceedings referenced in your letter and as documented in this reply. It is our view that what appeared to you on first impression to be discrepancies are likely due to a contextual misunderstanding of statements and the specific activities at the BAX construction site.

My point of contact for this reply to your letter is Dr. Robert Cherry at (210) 466-0368 or by email at robert.cherry@us.army.mil.

Sincerely,



Gregory T. Baldwin
Colonel, U.S. Army
Staff Judge Advocate
Installation Management Command