

March 25, 2013

Mr. Larry Salada
U.S. Fish and Wildlife Service
Eastside Federal Complex
911 N.E. 11th Avenue
Portland, OR 97232-4181

SUBJECT: LICENSING OF THE U.S. ARMY FOR POSSESSION OF DEPLETED
URANIUM FROM SPENT SPOTTING ROUNDS AT THE SCHOFIELD
BARRACKS AND POHAKULOA TRAINING AREA IN HAWAII

Dear Mr. Salada:

On November 6, 2008, the U.S. Army submitted an application to the U.S. Nuclear Regulatory Commission (NRC) requesting authorization for the Army to possess depleted uranium (DU) at its Hawaiian installations (Agencywide Documents Access and Management System (ADAMS) Accession Number ML090070095). By letter dated March 14, 2011, NRC requested information from the U.S. Fish and Wildlife Service (USFWS) regarding the presence of endangered or threatened species or critical habitat on the Schofield Barracks and Pohakuloa training Area (PTA) ranges (ML110670384). The USFWS responded on December 1, 2011 and January 12, 2012, by providing species lists for the areas (ML120300067).

On May 15, 2012, NRC requested USFWS concurrence on our determination that the proposed action, i.e., authorization to possess DU already present on firing ranges at the Army's installations in Hawaii, would have no effect on endangered species or critical habitat within the area of influence (ML121240737). In an e-mail dated May 18, 2012, the USFW suggested that NRC stipulate in its proposed license that the Army be required to consult with the USFWS before doing anything that may impact a critical habitat or a threatened or endangered species. The USFWS also suggested that, alternatively, the NRC request that the Army commit to address any future actions related to DU that may affect listed resources with the USFWS.

In a subsequent e-mail dated May 31, 2012, the USFWS stated that it did not have any issues with NRC issuing the license, as long as the Army continues (as it has in the past) to consult with the USFWS whenever its actions related to DU may affect threatened or endangered species or critical habitat (ML12165A432).

The NRC staff responded by e-mail, also dated May 31, 2012, that it would include in the license the suggested license condition that the Army consult with the USFWS whenever it undertook any action that would potentially impact a critical habitat at Schofield Barracks and the PTA. Accordingly, a license condition was included in the draft license that was provided to the Army on June 28, 2012, the included condition requiring the Army consult with the USFWS. (ML12179A32).

On September 10, 2012, the Army provided its response to the draft license (ML12265A173). In its September 12, 2012, written response, and again, during a meeting held with between the staff and the Army on December 12, 2012, the Army requested that this license condition be withdrawn. In support of its request, the Army indicated that the license condition was

redundant and unnecessary, as other statutes (e.g., the Endangered Species Act (ESA)) controlled its interactions with the USFWS and were sufficient to ensure that the Army would consult with the USFWS. In a subsequent written response, dated February 6, 2013, the Army stated that it would "continue its direct consultation with the USFWS as appropriate to any activity on these Army lands" (i.e., the Schofield Barracks and PTA) (ML13046A176).

The NRC staff has reviewed the Army's written responses and statements made during the December 12, 2012, meeting and has concluded that the Army has committed to comply with all appropriate requirements under the ESA. Therefore, the NRC staff has determined that the previously-discussed license condition at issue is not necessary and, as such, the condition will not be included in the final possession-only license covering the Army's Hawaiian installations.

The USFWS email dated May 31, 2012, did state, as noted earlier, that the USFWS would like confirmation that the Army would consult with the USFWS in future actions related to listed resources. The Army has stated, in turn, that it would consult with the USFWS, as documented in its letter to NRC dated February 6, 2013 (ML13046A176).

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any questions, please contact me at 301-415-6749 or at Dominick.Orlando@nrc.gov.

Sincerely,

/RA/

Dominick A. Orlando, Senior Project Manager
Special Projects Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management and
Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 040-09083

cc:

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