

August 29, 2013

Lieutenant General Michael Ferriter  
Commanding General  
U.S. Army Installation Management Command  
2405 Gun Shed Road  
Joint Base San Antonio  
Fort Sam Houston, TX 78234-1223  
Attention: IMCG

SUBJECT: U.S.ARMY REQUEST FOR AN EXEMPTION FROM LICENSING FOR  
DEPLETED URANIUM FROM DAVY CROCKETT M101 SPOTTING ROUNDS  
(Docket 040-09083)

Dear General Ferriter:

Thank you for your letter, dated July 23, 2013, (U.S. Nuclear Regulatory Commission (NRC) Agencywide Document Access and Management System (ADAMS Accession Number ML13221A181)), in which you expressed your satisfaction that the NRC and U.S. Army (Army) were on track to complete the licensing of the Army's Hawaiian installations. I am also pleased that our staffs have been able to work successfully to address the issues associated with the licensing of the depleted uranium on the Army's installations and I look forward to issuing the license in a timely manner. To this end, I expect that the revisions to the Radiation Safety Plan (RSP) that were included in our letter to Dr. Robert Cherry, Installation Management Command, Radiation Safety Staff Officer (ML13218A229), will be incorporated in the RSP and that the RSP will be returned to NRC for our review, and if adequate, our approval, in the near future. I am also confident that our staffs will remain focused on this goal and staff attention will not be diverted to other issues that may delay this effort.

Your letter also requested the NRC's formal denial of your request for an exemption under 10 CFR 40.14(a) from the licensing requirements for depleted uranium on Army installations and an explanation of the rationale for the denial. During a technical meeting between NRC and Army staff on December 12, 2012, we provided the Army with our evaluation of your request for an exemption and informed the Army staff that, based on our evaluation of your rationale, an exemption was not warranted. This discussion, and our evaluation, was documented in the summary of the meeting that was developed by NRC staff (ML12354A165). Please be advised that neither the Atomic Energy Act nor the NRC's regulations require that a more formal document be issued in denying an exemption.

10 CFR 40.14(a) provides that the Commission may grant an exemption from the requirements of the regulations as it determines is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. As discussed during the meeting, the NRC staff has determined that, while the computer program used to model depleted uranium exposure on the ranges during most of the routine activities was adequate, the program did not model depleted uranium movement during ground disturbing activities and, some environmental monitoring would be necessary. As such, the Army has not demonstrated that the depleted uranium will not be released from the ranges in excess of NRC criteria at 10 CFR Part 20.

In addition, the exemption, were it to be granted, would be applicable to all depleted uranium from the Davy Crockett weapon on all 17 installations identified by the Army. The Army has informed NRC that the total number of spent rounds on the Army installations that were identified during your Archive Search Report project may be almost 30,000 spent rounds, with one installation containing over 9,000 spent rounds on multiple ranges. Please note that 30,000 spent rounds would contain in excess of 5,000 kilograms of depleted uranium, well in excess of the possession limits required in NRC regulations. Granting an exemption from licensing would result in none of the ranges on Army installations being posted as containing radioactive material, no radiation safety or depleted uranium awareness training would need to occur, range reclamation and maintenance activities could occur without consideration of the radiological hazard and no evaluation of the potential for the depleted uranium to be transported off the ranges would be undertaken. This is inconsistent with NRC regulatory requirements associated with the possession of source material in excess of either the unimportant quantity or small quantity limits in 10 CFR Part 40.

Based on these potential consequences, the Commission cannot conclude that exempting the depleted uranium from the Davy Crockett weapon from licensing would either not endanger life or property or be in the public interest. Therefore, the Army's exemption request is hereby denied.

In closing, let me reiterate my confidence that our staffs will complete the licensing of the Hawaiian sites in a timely manner, without any unnecessary delays or distractions. Both the Army and the NRC have important missions and responsibilities in protecting our Nation, our citizens, and the environment. We look forward to building on our success in licensing the Hawaiian installations as we proceed to incorporate the remaining installations on the license.

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 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 Dominick Orlando at 301-415-6749 or at [Dominick.Orlando@nrc.gov](mailto:Dominick.Orlando@nrc.gov).

Sincerely,

**/RA/**

Larry W. Camper, Director  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

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Sincerely,  
/RA/

Larry W. Camper, Director  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

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**ML13226A143**

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<b>DATE</b>	8/14/13	8/15/13	8/ 23 /13	8/26/13	8/26/13	8/29/13

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