

February 10, 2015

LTG David D. Halverson, Commanding General  
U.S. Army Installation Management Command  
Building 2261  
2405 Gun Shed Road  
Fort Sam Houston, TX 78234-1223

SUBJECT: PROGRESS OF LICENSING ACTIONS CONCERNING SITES THAT POSSESS  
DEPLETED URANIUM FROM THE DAVY CROCKETT M101 SPOTTING  
ROUND (DOCKET NUMBER 040-09083)

Dear General Halverson:

The U.S. Nuclear Regulatory Commission (NRC) recognizes the successful licensing of the U.S. Army's (Army's) installations at Schofield Barracks, HI and Pohakuloa Training Area, HI under source materials license SUC-1593 that occurred on October 23, 2013. This license allows the Army Installation Management Command to possess depleted uranium (DU) from the Davy Crockett M101 spotting round (Agency Document Access and Management System (ADAMS) Accession No. ML13259A062). This accomplishment took approximately two years to achieve and involved commitment and dedication on the part of both the NRC and the Army. Through this process, the NRC worked to ensure that the licensing process was flexible to accommodate the Army's important national defense mission while at the same time ensuring that the licensing actions adequately protect public health and safety and the environment.

A key element to this approach is the use of license conditions, as opposed to issuing confirmatory orders to the Army. The NRC is concerned about the amount of time that has passed since the NRC and the Army first began discussion on the need to license the Army's additional installations possessing DU from the Davy Crockett M101 spotting round and the Army's failure to satisfy its license condition obligations. It has been over a year since the license was issued, and the Army has not been timely in addressing the NRC staff's concerns associated with many of the Army's license condition submittals. Examples that support the NRC's concerns are provided below.

On December 16, 2013, the Army submitted its air sampling plan report in accordance with license condition 22 of source materials license SUC-1593 (ADAMS Accession No. ML14002A385). In a letter to the Army dated March 11, 2014 (ADAMS Accession No. ML14050A268), the NRC informed the Army that it did not approve the Army's proposed air sampling plan, identified technical issues, and requested that the Army address them. The Army has not submitted anything to the NRC since March 2014 to address these issues associated with license condition 22.

On May 29, 2014, the Army submitted its final vegetation sampling plan report, dated March 2014, in accordance with license condition 23 of source materials license SUC-1593 (ADAMS Accession No. ML14157A245). In a letter dated, August 26, 2014, the NRC concluded that the final report did not adequately address the ambiguities that the NRC identified in its letter to the Army dated April 9, 2014 (ADAMS Accession No. ML14083A464) regarding the Army's previous

submittal of this report. The Army has not submitted anything to the NRC since its August 2014 submittal to address these issues associated with License Condition 23.

Almost a year ago, the Army and the NRC met at the Pentagon to begin site-specific discussions to address how the Army would amend its license to add the remaining 15 installations possessing DU from the Davy Crockett weapons system, as identified in license condition 12 of source materials license SUC-1593. On September 25, 2014, the NRC and the Army met to continue this discussion. At this meeting, the Army agreed to use a programmatic approach for future licensing actions and agreed that more than one NRC-Army pre-license amendment application submission meeting would be beneficial (ADAMS Accession No. ML14289A226). By email dated October 10, 2014, (ADAMS Accession No. ML14293A129) the Army reiterated its intent to use the programmatic approach. Then in its November 28, 2014 letter to the NRC (ADAMS Accession No. ML15013A135), the Army committed to provide its license amendment application to address license condition 12 by April 17, 2015. However, the Army's letter was silent as to whether it would use the programmatic approach.

In response to the staff's inquiry about the use of the programmatic approach and scheduling NRC-Army pre-license amendment application submission meetings, the Army indicated that it intends to use the programmatic approach but deferred to schedule such a meeting until the Army was "... much closer to finishing writing the amendment application" (ADAMS Accession No. ML15006A270). The NRC believes that early communication in this regard has been shown to lead to more effective and efficient licensing reviews. The NRC staff expressed its concerns regarding delaying the pre-application submission meetings in that it might lead to further delays and potential rework on the part of the Army. This is particularly concerning to the NRC staff because, given the Army's recent request described below, the NRC staff believes that the Army may not fully understand the programmatic approach. Finally, the Army agreed to meet after the staff explained that the amendment application does not have to be complete before pre-submittal meetings are conducted. The staff explained that pre-submittal meetings under these circumstances can focus on specific topics or parts of the Army's amendment application on which the Army has questions regarding the process or level of detail expected under the programmatic licensing approach. The first pre-application submission meeting is scheduled for February 19, 2015 to discuss environmental monitoring issues.

On November 7, 2014, the Army submitted an evaluation of air sampling data from Schofield Barracks and requested that the NRC concur with its evaluation and grant a license amendment that lifts the prohibition on firing high explosives into the radiation controlled area. The Army stated that, upon NRC concurrence, the Army would modify the materials license. In a separate letter (ADAMS Accession No. ML14353A412), the NRC responded stating that the NRC does not concur with the Army's request. The NRC identified three issues with the Army's submittal and indicated that it appears that the Army may have a lack of understanding of the NRC's licensing process and the NRC's technical concerns with its proposed air sampling plan. The NRC requested that the Army clarify its intentions regarding how it plans to proceed with its air sampling plan to address license condition 22. In addition, the NRC suggested that a separate meeting on air sampling may be beneficial.

In conclusion, the NRC is quite concerned with the Army's progress in satisfying license conditions, given the amount of time that has elapsed since discussions began regarding the need to license Army installations possessing DU from the Davy Crockett M101 spotting round. The NRC expects that the Army will meet its commitment to submit its amendment application

to add the remaining 15 sites to its license by April 17, 2015. This action is important to ensuring public health and safety and protection of the environment at these sites. Based on the Army's past performance in addressing license conditions, as highlighted above, and on the rationale for pre-amendment application meetings as explained to the Army on September 25, 2014 (ADAMS Accession No. ML14289A226), the NRC believes that more than one pre-amendment application meeting is necessary. The NRC believes that if the Army has questions about the programmatic approach that it would be prudent for the Army to coordinate with the staff as soon as possible to request that additional meetings be scheduled in advance of April 17, 2015. As stated previously, a key element to the licensing approach for this license is the use of license conditions, as opposed to issuing orders to the Army. For this strategy to continue to be successful, we need resolution on licensing issues in a timely manner. I would be happy to meet with you and your staff, if that would facilitate that outcome.

In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," 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 concerning the NRC staff comments, please contact the NRC's Project Manager for Source Materials License, SUC-1593, Amy Snyder. She can be reached at (301) 415-6822 or by e-mail at [Amy.Snyder@nrc.gov](mailto:Amy.Snyder@nrc.gov).

Sincerely,

**/RA/**

Larry W. Camper, Director  
Division of Decommissioning, Uranium Recovery,  
and Waste Programs  
Office of Nuclear Material Safety  
and Safeguards

Docket Number: 040-09083  
License Number: SUC-1593

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If you have any questions concerning the NRC staff comments, please contact the NRC's Project Manager for Source Materials License, SUC-1593, Amy Snyder. She can be reached at (301) 415-6822 or by e-mail at [Amy.Snyder@nrc.gov](mailto:Amy.Snyder@nrc.gov).

Sincerely,

**/RA/**

Larry W. Camper, Director  
Division of Decommissioning, Uranium Recovery,  
and Waste Programs  
Office of Nuclear Material Safety  
and Safeguards

Docket Number: 040-09083

License Number: SUC-1593

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