Lemont, Stephen

From: Lemont, Stephen
Sent: Friday, December 04, 2015 10:05 AM
To: 'rondede1@gmail.com'
Subject: Follow-up with The Shawnee Tribe on Initial Section 106 Consultation Letter for US Army Request for Termination of NRC Materials License SUB-1435 for Jefferson Proving Ground, Southeastern Indiana 12-4-15
Attachments: Initial NHPA Sec. 106 Consultation Ltr. to Chief Ron Sparkman, The Shawnee Tribe, Re US Army Request for Termination of NRC Materials License SUB-1435 for Jefferson Proving Ground, Indiana.pdf; Enclosure 1 - Jefferson Proving Ground Site Layout Map.pdf; Enclosure 2 - Tribal Response Form.pdf

Dear Chief Sparkman,

The purpose of this email is to follow up with you and your Tribe concerning the attached letter, dated June 4, 2015, which the U.S. Nuclear Regulatory Commission (NRC) sent to you regarding the U.S. Department of the Army's (Army's) request for termination, under restricted conditions, of NRC Materials License SUB-1435 for the Depleted Uranium Impact Area (DU Impact Area) at Jefferson Proving Ground (JPG) in southeastern Indiana. Also attached are the two enclosures that accompanied the letter: Enclosure 1 – Jefferson Proving Ground Site Layout Map, and Enclosure 2 – Tribal Response Form.

As discussed in the letter, NRC staff is preparing an Environmental Impact Statement for the NRC's license termination review, in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations in 10 CFR Part 51; and is using the NEPA process to comply with Section 106 of the National Historic Preservation Act (NHPA). The letter provides background information on JPG and the DU Impact Area and on the Army's proposed conditions for license termination, and states where additional information can be obtained. However, the primary purpose of the letter is to invite you and your Tribe to participate as a consulting party under NHPA Section106 and request your input throughout our review process.

As requested in the letter, please indicate whether or not you wish to participate as a consulting party by completing and returning the attached Tribal Response Form (Enclosure 2). The NRC requests that this form be returned within 30 days of the date this email. You may also contact the undersigned, Mr. Stephen Lemont of the NRC staff, if you want to discuss concerns about the confidentiality of information that may be provided to the NRC or any other matter. The NRC's policy regarding information that may be made publicly available is summarized in the third paragraph on page 3 of the attached letter.

The NRC appreciates the opportunity to consult with you on issues regarding this project. If you have any questions or comments on the proposed project or need additional information regarding the Army's license termination request or the NRC's environmental review process, please contact Mr. Lemont using his contact information below. The NRC looks forward to hearing from you and your Tribe.

Sincerely,

Stephen Lemont

Senior Environmental Project Manager
U. S. Nuclear Regulatory Commission
Office of Nuclear Material Safety and Safeguards
Mail Stop: T-4B16
Washington, DC 20555-0001
Telephone: 301-415-6874
Fax: 301-415-0020
Email: Stephen.Lemont@nrc.gov

June 4, 2015

Mr. Ron Sparkman, Chief
The Shawnee Tribe
P.O. Box 189
29 S Hwy 69A
Miami, OK 74355

SUBJECT: INVITATION FOR SECTION 106 CONSULTATION PURSUANT TO THE NATIONAL HISTORIC PRESERVATION ACT REGARDING THE U.S. ARMY'S REQUEST FOR TERMINATION OF MATERIALS LICENSE SUB-1435 FOR THE DEPLETED URANIUM IMPACT AREA AT THE JEFFERSON PROVING GROUND IN SOUTHEASTERN INDIANA

Dear Chief Sparkman:

The U.S. Department of the Army (Army) submitted a license amendment application, dated August 28, 2013, to the U.S. Nuclear Regulatory Commission (NRC), which included a Decommissioning Plan and an Environmental Report requesting termination of NRC Materials License SUB-1435 for the Jefferson Proving Ground (JPG) under restricted conditions in accordance with Section 20.1403 of Title 10 of the *Code of Federal Regulations* (10 CFR). JPG is located in Jefferson, Jennings, and Ripley Counties in southeastern Indiana. Materials License SUB-1435 presently authorizes the Army to possess depleted uranium (DU) at JPG, kept onsite in the restricted area known as the Depleted Uranium Impact Area (DU Impact Area). The DU Impact Area is located entirely within Jefferson County. A map showing the location of JPG and the DU Impact Area is enclosed (Enclosure 1).

JPG was established in 1941 on 224 square kilometers [km^2] (55,264 acres [ac]). A firing line (shown in Enclosure 1) with 268 fixed-gun positions separated JPG into two areas: a 17.5-km^2 (4,314-ac) southern portion and a 206-km^2 (50,950-ac) northern portion. JPG was used by the Army between 1941 and 1994 for the test firing of a wide variety of conventional explosive munitions into the area north of the firing line. During that time, more than 24 million rounds were fired. Approximately 1.5 million rounds did not detonate upon impact, remaining as unexploded ordnance (UXO) on or beneath the ground surface, along with an additional 3 to 5 million rounds with live detonators, primers, or fuzes.

As part of its munitions testing program, the Army also test fired DU projectiles into the 8.4-km^2 (2,080-ac) DU Impact Area, which is also located north of the firing line (see Enclosure 1). DU projectiles are used as armor-piercing, anti-tank weapons. The DU test firings, which were conducted under NRC Materials License SUB-1435, began on March 18, 1984, and concluded on May 2, 1994. Approximately 100,000 kilograms [kg] (220,462 pounds [lb]) of DU projectiles were fired at soft targets and mostly remained intact. Approximately 73,500 kg (162,040 lb) of DU remain in the DU Impact Area as DU projectiles, projectile fragments, and degradation products. Also, the Army suspects that a "very high" density of high-explosive UXO (85 UXO/acre) is present in the DU Impact Area.

JPG was closed in September 1995 under the Defense Authorization Amendments and Base Realignment and Closure Act of 1988. Under a 2000 Memorandum of Agreement (MOA) between the Army, the U.S. Fish and Wildlife Service (USFWS), and U.S. Air Force, the Army retains ownership of all real property north of the firing line. Also under the MOA, the USFWS operates the Big Oaks National Wildlife Refuge (BONWR) on approximately 214 km^2 (53,000 ac) in the northern part of JPG (including the DU Impact Area and the other areas north of the firing line) and the Indiana Air National Guard operates a bombing practice range on 4.2 km^2 (1,038 ac) within the BONWR, both under 25-year leases with 10-year renewal options.

In its August 28, 2013, license termination request, the Army proposes to decommission the DU Impact Area under restricted conditions, leaving the DU and UXO in place, while continuing to maintain institutional controls in the area north of the firing line at JPG. Institutional controls include physical access restrictions to prevent unauthorized entry (e.g., perimeter chain-link fence with pad locked chain-link fence gates and security warning signs); legal controls (e.g., the Army as an agency of the Federal Government and an enduring entity retains property ownership of JPG north of the firing line); and administrative controls (e.g., restricted and limited public access and hunting prohibitions). The Army concluded that removal of DU would be hazardous and prohibitively expensive based on the need for UXO clearance, radiological soil treatment, and offsite transportation and disposal of the DU and DU-contaminated soil as low-level radioactive waste. Therefore, the Army does not plan to conduct any land-disturbing activities within the DU Impact Area.

The *Atomic Energy Act* of 1954, as amended (AEA), authorizes the NRC to issue, renew, and terminate licenses for the possession and use of source material and byproduct material. The AEA authorizes the NRC to license facilities that meet NRC regulatory requirements designed to protect public health and safety and the environment from radiological hazards. In addition to the AEA, the NRC's decommissioning and environmental protection regulations derive their authority from *Energy Reorganization Act* of 1974, as amended, and *National Environmental Policy Act* of 1969, as amended (NEPA).

The NRC staff's detailed review of the Army's license termination request is in process, and consists of both an environmental review and a safety review. As part of the environmental review, the NRC staff is preparing an environmental impact statement (EIS) in accordance with the NRC's regulations in 10 CFR Part 51. These regulations implement the requirements of NEPA, which requires Federal agencies, as part of their decision-making process, to consider the environmental impacts of their major Federal actions. The NRC staff prepares an EIS to assess the potential environmental impacts of major Federal actions that may significantly affect the quality of the human environment. The Army's proposal for decommissioning the DU Impact Area, as described above, is the "proposed action" that the NRC staff is evaluating in the EIS.

In accordance with 36 CFR Part 800.8 (Coordination with the National Environmental Policy Act), the EIS will also evaluate the potential for impacts to historic properties. The NRC staff is using the NEPA process to comply with its obligation under Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. In so doing, the NRC staff is collecting information to facilitate the identification of historic properties, including those that may be of religious and cultural significance to Native American Tribes. Accordingly, the NRC staff is identifying parties who may wish to consult with the NRC on the potential effects of the proposed action on historic properties.

Through this letter, the NRC staff invites you to participate as a consulting party under Section 106 of the NHPA and welcomes your input throughout our review process. As a consulting party, you would assist in the identification and evaluation of historic properties that may be affected by the proposed action to terminate the Army's license for the DU Impact Area at JPG under restricted conditions and in the development of alternatives and proposed measures that might avoid, minimize, or mitigate any adverse effects on historic properties. To support this review, the NRC is initially requesting any information you may have regarding historic sites or cultural resources within and surrounding the DU Impact Area that may be affected by the proposed action. You may also provide information on properties of religious or cultural significance that may be eligible for listing in the National Register of Historic Places under the NHPA to support the NRC's Section 106 determinations. Please note that, as stated above, the Army does not propose to conduct any land-disturbing activities as part of its decommissioning activities and its license termination. Please also note that conducting site surveys within the DU Impact Area and elsewhere within JPG north of the firing line would not be feasible due to the presence of high levels of UXO and DU and the resultant access restrictions in these areas.

Please indicate whether or not you wish to participate as a consulting party by completing the enclosed Tribal Response Form (Enclosure 2). The NRC requests that the enclosed form be returned within 30 days of your receipt of this letter. You may also contact us if you want to discuss concerns about the confidentiality of information that may be provided to the NRC.

Please note that according to NRC policy, correspondence provided to the NRC, including that provided by email, may be made publicly available. Therefore, the NRC recommends that your Tribe avoid including any information in its submissions that Tribal officials do not want to be publicly disclosed (e.g., personal email addresses or other personal contact information). If Tribal officials do not wish for their personal contact information to be made public, please use an alternate email address or other alternate contact information when corresponding with the NRC.

The NRC appreciates the opportunity to consult with you on issues regarding this project. For the purposes of meeting with Tribal leaders, the Director of the Division of Fuel Cycle Safety, Safeguards and Environmental Review, Deputy Division Director, or Environmental Review Branch Chief will represent the NRC.

For additional information regarding the proposed action, the Army's license amendment application and Decommissioning Plan and Environmental Report are publicly available from the NRC's Agencywide Documents Access and Management System (ADAMS), which can be accessed online at http://www.nrc.gov/reading-rm/adams.html. The ADAMS Accession Number for the Army's documents is ML13247A549. The MOA discussed above is included as Appendix B in the Army's Decommissioning Plan.

If you have any questions or comments on the proposed project or need additional information regarding the Army's license termination request or the NRC's environmental review process, please contact Mr. Stephen Lemont of my staff at 301-415-6874, or via email at Stephen.Lemont@nrc.gov.

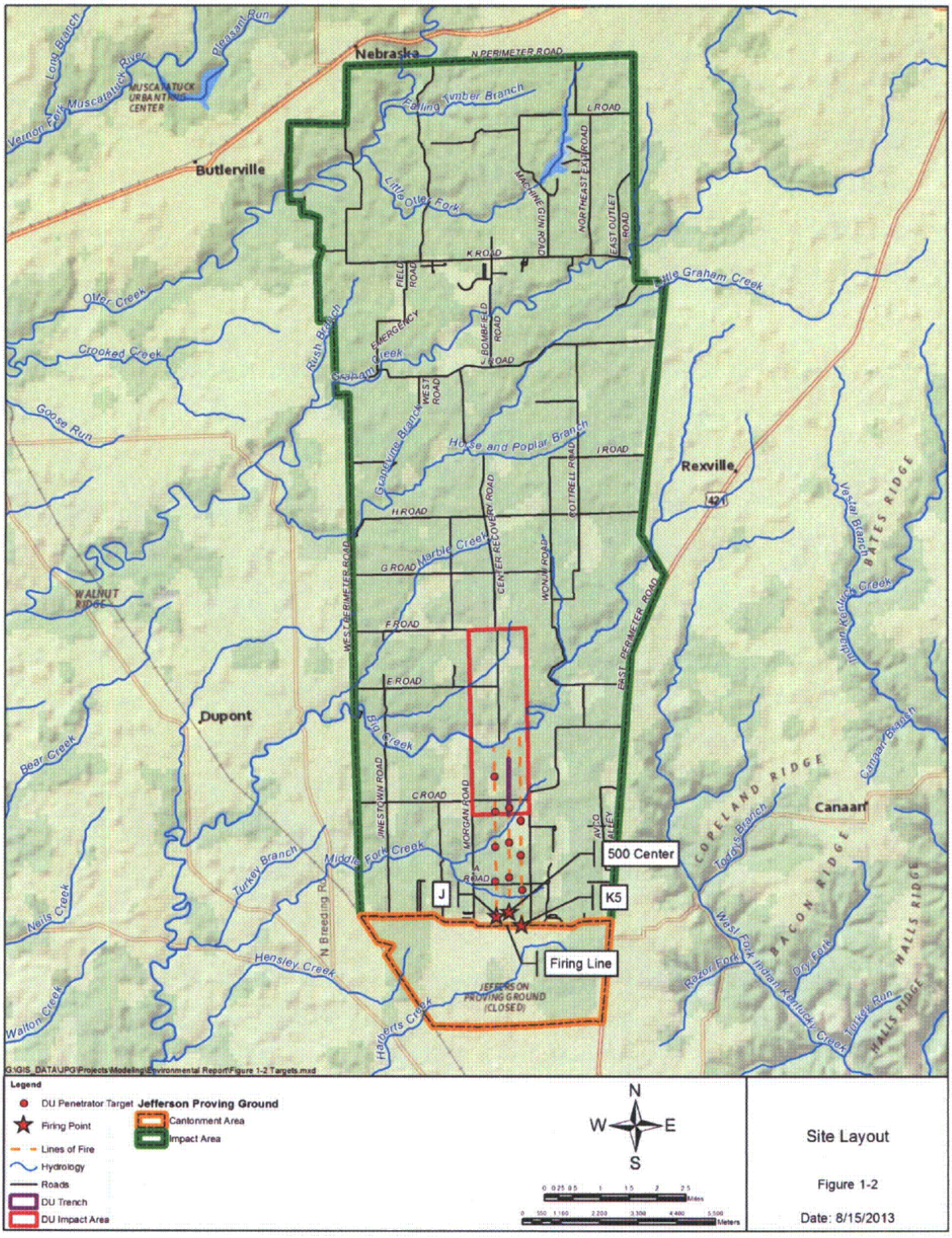
Sincerely,

/RA/

Marissa G. Bailey, Director
Division of Fuel Cycle Safety, Safeguards,
and Environmental Review
Office of Nuclear Materials Safety
and Safeguards

Docket No.: 40-8838
License No.: SUB-1435

Enclosures:
1. Map of JPG and DU Impact Area
2. Tribal Response Form


Nebraska
N PERIMETER ROAD
Butlerville
Rexville
Dupont
Canaan
500 Center
Firing Line
J
K5
WEST PERIMETER ROAD
EAST PERIMETER ROAD
CENTER RECOVERY ROAD
MORGAN ROAD
JINESTOWN ROAD
BOMBFIELD ROAD
MACHINE GUN ROAD
NORTHEAST EXT ROAD
EAST OUTLET ROAD
WEST ROAD
EMERGENCY ROAD
FIELD ROAD
COTTRELL ROAD
WONS ROAD
AVCO ALLEY
K ROAD
L ROAD
I ROAD
H ROAD
G ROAD
F ROAD
E ROAD
C ROAD
A ROAD
Falling Timber Branch
Little Otter Fork
Little Graham Creek
Otter Creek
Crooked Creek
Rush Branch
Graham Creek
Goose Run
Grandview Branch
House and Poplar Branch
Marble Creek
Bull Creek
Middle Fork Creek
Turkey Branch
Neils Creek
Hensley Creek
Walton Creek
Roberts Creek
Bear Creek
Long Branch
Pleasant Run
Vernon Fork Muscatatuck River
Indian Kentucky Creek
Canaan Branch
Todds Branch
Dry Fork
Razor Fork
Turkey Run
West Fork Indian Kentucky Creek
WALNUT RIDGE
BATES RIDGE
COPELAND RIDGE
BACON RIDGE
HALLS RIDGE
MUSCATATUCK URBAN TRAINING CENTER
JEFFERSON PROVING GROUND (CLOSED)
N Breeding Rd
421
G:\GIS_DATA\JPG\Projects\Modeling\Environmental Report\Figure 1-2 Targets.mxd
Legend
DU Penetrator Target
Firing Point
Lines of Fire
Hydrology
Roads
DU Trench
DU Impact Area
Jefferson Proving Ground
Cantonment Area
Impact Area
N
W
E
S
0 0.25 0.5 1 1.5 2 2.5 Miles
0 550 1,100 2,200 3,300 4,400 5,500 Meters
Site Layout
Figure 1-2
Date: 8/15/2013

U.S.NRC
UNITED STATES NUCLEAR REGULATORY COMMISSION
Protecting People and the Environment

Tribal Response Form – Cultural Resource Considerations

Project Name: Proposed Termination under Restricted Conditions of NRC Materials License SUB-1435 for the Depleted Uranium Impact Area at Jefferson Proving Ground in Southeastern Indiana

Tribal Department you represent:

☐ **Cultural Resources** ☐ **Other**_____

Response to this request for consultation:

☐ **Thank you for the project information; however, the Tribe does not wish to consult on this proposed project.**

☐ **The Tribe does not have a comment or concern at this time, although we request to be updated regarding this project.**

☐ **The Tribe wishes to consult on this project. Please contact the Tribe to further discuss our interests.**

_____ _____
Signature of individual completing form **Date**

_____ _____
Name and Title **Name of Tribe**

If interested in consultation or being updated regarding this project, please indicate below who should be contacted.

Name (please print): _____

Phone Number*: _____

E-mail address*: _____

Fax Number*: _____

If interested in being updated about this project, your preferred method of notification would be:

☐ **Letter** ☐ **E-mail** ☐ **Phone**

***May be subject to public disclosure**

Return to:
U. S. Nuclear Regulatory Commission
ATTN: Stephen Lemont
Mail Stop: TWFN 4 B 16
Washington, DC 20555-0001