



**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

March 15, 2016

Melvena Heisch
Deputy State Historic Preservation Officer
Oklahoma Historical Society
Oklahoma History Center
800 Nazih Zuhdi Drive
Oklahoma City, OK 73105-7917

SUBJECT: CONSULTATION FOR SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT FOR U.S. ARMY'S LICENSE AMENDMENT REQUEST TO POSSESS DEPLETED URANIUM FROM THE DAVY CROCKETT M101 SPOTTING ROUNDS AT VARIOUS INSTALLATIONS, INCLUDING FORT SILL, OK

Dear Ms. Heisch:

On October 21, 2015, the U.S. Nuclear Regulatory Commission (NRC) requested the views of the State of Oklahoma's State Historic Preservation Officer (SHPO), pursuant to Section 106 of the National Historic Preservation Act (NHPA) regarding historic properties that may be affected by the issuance of a license amendment to the U.S. Army Installation Management Command (Army) for the possession of depleted uranium (DU) from M101 spotting rounds from the Davy Crockett Weapon System on sites (active ranges) located at various Army installations, including Fort Sill, OK [Agencywide Documents and Management System (ADAMS) Accession No. ML15288A465 (Pkg.); ML15289A266 (Ltr.)].

On November 13, 2015, you responded (ML15337A427) to the NRC's request recommending that the NRC contact the Army's Fort Sill Environmental Quality Division regarding historic properties that may be located within the project area and Tribes for consultation. You also stated that the Oklahoma Historical Society (OHS) will provide its comments to whichever agency is determined to be the lead Federal agency pursuant to 36 CFR Part 800, "Protection of Historic Properties." Thank you for your recommendation and comment regarding this action. The purpose of this letter is to respond to your comment; to inform you of the NRC's finding on this action; and to bring to your attention a recent Advisory Council on Historic Preservation (ACHP) communication on this Section 106 consultation for this action.

The NRC would like to clarify that this action is not a joint Federal action with the Army or other agency. The proposed action consists of the NRC's licensing of the DU for possession only on the sites located at various Army installations, to include the site at Fort Sill, OK. It is important to recognize that permission to use or manage these sites as part of active ranges is not part of this action. The Army has obligations under the NHPA for the use and management of its ranges, including those ranges with sites that contain DU from testing of Davy Crockett M101

spotting rounds. Furthermore, each installation is required by Army Regulation¹ to have an Integrated Cultural Resource Management Plan (ICRMP) that addresses all activities at that installation, including the use and management of its ranges. The management of historic properties, if present, would be included in each installation's ICRMP. The Army consults with both ACHP and the relevant SHPO(s), as well as any interested Tribes when making decisions on management of historical and cultural resources. Additional details regarding how the Army manages its historic and cultural resources at each of ranges at the Army installations that have sites with Davy Crockett DU M101 spotting rounds can be found in the Army's environmental evaluation (ML15160A509), which the Army submitted with its amendment application.

The Army is requesting authorization to possess the DU from the Davy Crockett M101 spotting rounds that have been present on these installations for approximately 60 years. The license amendment, if issued, would not allow the Army to use the DU for any purpose other than activities necessary for the possession and management of DU from the Davy Crockett M101 spotting rounds and fragments as a result of previous use of DU at the installations, nor would it place additional DU on the installations. The license amendment would prohibit the Army from performing decommissioning or ground disturbing activities to collect or remove DU fragments or contaminated soil that is identified during routine range activities without prior authorization from the NRC, except disposal of DU fragments incidentally identified during routine range activities that does not require any ground disturbance. Rather than authorizing any physical activity such as the decommissioning of this installation, the license amendment, if approved, would bring the possession of this material at these installations under NRC regulatory oversight. Additionally, the NRC has determined that a categorical exclusion (CATX) applies to the proposed action. The applicable CATX is located at 10 CFR 51.22(c)(14)(xv)—amendment of materials licenses issued pursuant to 10 CFR Part 40 authorizing “[p]ossession, manufacturing, processing, shipment, testing, or other uses of depleted uranium military munitions.” Therefore, the NRC staff finds that no additional consultation is required for this project because the undertaking is not the type of activity that has the potential to cause effects on historic properties.

Regarding the ACHP's recent communication on this action, I would like to bring to your attention that the ACHP was contacted by the California (CA) SHPO concerning this Section 106 consultation with regard to whether the proposed license amendment has the potential to effect historic properties at the Fort Hunter Liggett, CA range. Because the proposed action involves multiple installations located in different States, the ACHP, on December 28, 2015 (ML15362A558), reached out to the Executive Director of the National Conference of State Historic Preservation Officers (NCSHPO), stating that it agrees with the NRC that this action does not have the potential to affect historic properties and that the NRC may invoke 36 CFR 800.3(a)(1) of ACHP's Section 106 regulations. The ACHP asked the NCSHPO to share this information with the applicable SHPOs and to provide them the opportunity to voice any concerns or questions through the NCSHPO to the ACHP before the ACHP provides its recommendation to the CA SHPO. The ACHP informed the NRC that the NCSHPO reached out to the applicable SHPOs for this purpose on January 15, 2016.

¹ Existing Army Regulation (AR) 200-1, Environmental Protection and Enhancement [available here: http://www.apd.army.mil/pdf/files/r200_1.pdf] applies. Chapter 6 of which contains detailed requirements to ensure the Army's compliance with the NHPA and other cultural resources statutes and regulations. Paragraph 6-4(a)(1) of AR 200-1 provides that installations will develop ICRMPs as a planning tool. The use of ICRMPs for all DoD components is mandated by Department of Defense Instruction (DoDI) 4715.16, Cultural Resources Management [available here: <http://www.dtic.mil/whs/directives/corres/pdf/471516p.pdf>]

M. Heisch

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In accordance with 10 CFR 2.390 of the NRC's "Agency Rules of Practice and Procedure," a copy of this letter and other documents associated with this letter are 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>.

I hope that NRC has addressed your comment regarding the proposed license amendment for the possession of DU from the Davy Crockett M101 spotting rounds at Fort Sill, OK. Our goal is to ensure that licensed activities involving radioactive material are conducted safely and securely and to ensure compliance with all applicable statutes, including those pertaining to the cultural and historic properties on the applicant's facilities.

If you have any additional comments or concerns, please contact Ms. Amy Snyder by telephone at 301-415-6822, or by email at Amy.Snyder@nrc.gov.

Sincerely,

/RA/

Michael A. Norato, Ph.D., Chief
Materials Decommissioning Branch
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Material Safety
and Safeguards

Docket No. 040-09083
License No. SUC-1593

Letters sent to:
State Historic Preservation Officers
(See next page)

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Sincerely,

/RA/

Michael A. Norato, Ph.D., Chief
Materials Decommissioning Branch
Division of Decommissioning, Uranium Recovery,
and Waste Programs
Office of Nuclear Material Safety
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Docket No. 040-09083
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ML16032A531 (pkg.); ML16032A544 (ltr.)

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DATE	2/1/16	2/12/16	2/12/16	2/29/16	3/15/16

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State Historic Preservation Officers
License Amendment SUC-1593

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