



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

March 9, 2016

Lady Chairman Amber C. Toppah
Kiowa Tribe of Oklahoma
100 Kiowa Way
Carnegie, OK 73015

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 Chairman Toppah:

I am writing to follow up on a recent communication pertaining to a National Historic Preservation Act (NHPA) consultation request 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 active ranges at various Army installations, including 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 historic properties. By letter dated October 21, 2015 [Agencywide Documents and Management System (ADAMS) Accession No. ML15288A466 (Pkg.); ML15289A283 (Ltr.)] and through follow-up phone calls on November 17, 2015 and January 15, 2016, the U.S. Nuclear Regulatory Commission (NRC) requested that the Kiowa Tribe of Oklahoma, within 30 days, identify any concerns about historic properties that may be impacted by this licensing action proposed for Fort Sill, OK. As we have not received a response, the NRC is writing to inform the Kiowa Tribe of Oklahoma of the NRC's NHPA Section 106 finding for 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 Army is requesting authorization to possess the DU from the Davy Crockett M101 spotting rounds that has 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 the material and fragments resulting from previous use 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. 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.

With respect to the ACHP’s recent communication on this action, the ACHP was contacted by the California (CA) SHPO concerning this Section 106 consultation regarding 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 that this action does not have the potential to effect 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.

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>.

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., Acting Deputy Director
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:
Tribal Historic Preservation Officers
(See next page)

cc: Sandra Talley, NRC

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OFC	DUWP	DUWP	DUWP	OGC (NLO)	DUWP	DUWP
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DATE	02/02/16	2/02/16	2/12/16	2/29/16	3/7/16	3/9/16

OFFICIAL RECORD COPY

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