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CP-200900654  
Log # TXX-09068

Ref. 10CFR50.4

May 26, 2009

U. S. Nuclear Regulatory Commission  
ATTN: Document Control Desk  
Washington, DC 20555

**SUBJECT:** Comanche Peak Steam Electric Station  
Docket Nos. 50-445 and 50-446  
Denial Of Finding In NRC Integrated Inspection  
Report 05000445/446 2009002

**REFERENCE:** NRC Integrated Inspection Report 2009002 Dated April 24, 2009

Dear Sir or Madam:

NRC Inspection Report 200902 for Comanche Peak Units 1 and 2 issued on April 24, 2009, summarized the results of the Integrated Inspection for the first quarter of 2009. Per 10CFR50.4, and in accordance with the guidance in the Enforcement Policy, Luminant Generation Company LLC (Luminant Power) hereby disputes one of the findings identified in the report along with its cross-cutting aspect. A detailed assessment of this finding is presented in the attachment.

A "Green" Finding containing a cross-cutting element of human performance was identified in the report for failure to follow the guidance in a station housekeeping procedure. The inspectors concluded that, although not a violation of NRC requirements, the failure to remove scrap material from the Unit 1 diesel generator building roof following maintenance activities was a performance deficiency resulting in the finding.

Luminant Power disagrees that this condition constitutes a performance deficiency and does not believe that a finding occurred. Luminant Power does not believe this condition should be characterized as a finding because a failure to meet a "self-imposed standard" did not occur and therefore a performance deficiency did not exist.

However, Luminant Power agrees that the condition did not meet our expectations, and the scrap material was immediately removed. This issue is being addressed in accordance with the Comanche Peak Corrective Action Program. As discussed in the attachment, Luminant Power does not agree that this condition constitutes a performance deficiency and does not believe that a finding occurred. Therefore, Luminant Power respectfully requests that the NRC withdraw this finding and the associated cross-cutting aspect.

This communication contains no new licensing basis commitments regarding Comanche Peak Units 1 and 2.

Should you have any questions, please contact Tim Hope at (254) 897-6370.

Sincerely,

Luminant Generation Company LLC

Rafael Flores

By:   
M. L. Lucas  
Site Vice President

Attachments - 1. Denial of Finding in NRC Inspection Report 05000445/446 2009002

c - E. E. Collins, Region IV  
B. K. Singal, NRR  
Resident Inspectors, Comanche Peak

Attachment 1 to TXX-09068  
Denial of Finding in NRC Inspection Report 05000445/446 2009002

**FIN 05000445/2009002-01**

Excerpt from pages 9 and 10 of NRC Inspection Report 2009002:

Introduction. The inspectors identified a finding for the failure to follow housekeeping procedural guidance in Procedure STA-607, "Housekeeping Control," Revision 19. Specifically, the licensee failed to remove scrap sheet steel from the Unit 1 diesel generator building roof following maintenance. As a result, the material could have affected the offsite power supply to safety-related electrical busses if high winds carried it on to nearby transmission lines.

Description. On December 8, 2008, while touring the rooftops of safety-related buildings, the inspectors observed multiple pieces of thin scrap sheet metal, approximately five feet long and one foot wide, lying under and next to the Unit 1, Train B diesel generator muffler. The inspectors determined that the material was light enough to be blown off of the building in high winds, and if it was blown off, that it was large enough to adversely affect the nearby transmission lines that are the preferred offsite power supply to the Unit 2 safety-related electrical busses and the alternate offsite power supply to the Unit 1 safety-related busses. Upon notification by the inspectors, the licensee promptly removed the scrap material and documented the condition in Smart Form SMF-2008-004000-00.

During the followup to this issue, the inspector discovered that the thin scrap sheet metal had been removed from the interior of the muffler and left on the rooftop during the Unit 1 refueling outage. The work was completed on October 10, 2008. Procedure STA-607, "Housekeeping Control," Revision 19, Step 6.3.7 requires, in part, that that scrap material shall be removed as necessary to avoid accumulations which would degrade the housekeeping zone. The licensee designates the safety-related building rooftops as non-quality related areas, so the procedure is a guideline for those areas.

On November 10, 2008, during the time the thin scrap sheet metal remained on the roof, a tornado watch was declared for Somervell County. The licensee entered Procedure ABN-907, "Acts of Nature", Revision 11, Section 5. The procedure directs, under Shift Manager discretion for personnel safety, a site walkdown to identify and remove potential debris that could become airborne during severe weather. The inspectors could not determine whether a site walkdown had been performed. However, discussions with licensee personnel revealed that the building roofs would not normally be part of this walkdown. Other than a bi-annual buildings and structure inspection, the licensee does not perform any other formal walkdowns on the rooftop.

The licensee investigated the cause of the finding and determined that the work group that performed the work on the muffler expected a different onsite group to remove the thin scrap sheet metal from the rooftop. However, the communication was ineffective so that the scrap metal was not removed. This was a significant contributor to the finding.

Analysis. The inspectors screened the issue to determine if a performance deficiency existed. NRC Inspection Manual Chapter 0612, "Power Reactor Inspection Reports," Appendix B, "Issue Screening," states, in part, that a performance deficiency can exist if: (1) a licensee fails to meet a self-imposed standard and (2) the cause was reasonably within the licensee's ability to foresee and correct and should have been prevented. Procedure STA-607, "Housekeeping Control," Step 2.0 requires, in part, that the housekeeping procedure should be used as a guideline for non-quality related areas and Step 6.3.7 requires, in part, that that scrap material shall be removed as necessary to avoid accumulations which would degrade the housekeeping zone. The licensee indicated that it was management's expectation that Procedure STA-607 be followed and that the scrap material should have been promptly removed from the roof upon completion of the maintenance activity. When the inspectors informed the licensee about the debris on the roof, licensee personnel complied with management's expectation and standard

for housekeeping and, without delay, removed the material. The inspectors determined that the cause of the issue was reasonably within the licensee's ability to foresee and correct and should have been prevented. Therefore, the inspectors concluded that the failure to remove scrap material from the diesel generator building roof following maintenance activities which could adversely affect offsite power during high winds was a performance deficiency.

The inspectors evaluated the safety significance of the finding. The finding was more than minor because it was associated with the initiating events cornerstone attribute of protection against external factors and affected the cornerstone objective, in that, it increased the likelihood of an event that would upset plant stability and challenge critical safety functions during shutdown as well as power operations. Using NRC Inspection Manual Chapter 0609, Attachment 4, "Phase 1- Initial Characterization and Screening of Findings," the finding screened as very low safety significance because the condition did not contribute to both the likelihood of a reactor trip and the likelihood that mitigation equipment would not be available. The cause of this finding was related to the Human Performance crosscutting component of work control, in that, the licensee failed to appropriately coordinate work activities [H3.b].

Enforcement. The inspectors evaluated the finding for enforcement. The inspectors determined that enforcement action does not apply because the diesel generator building rooftops areas are non-quality related and the scrap metal would affect nonsafety-related offsite power supply to the safety-related busses. The licensee documented the finding in the corrective action program as Smart Form SMF-2008-004000-00. The issue is being characterized as a finding: FIN 05000445/2009002-01, "Failure to Remove Debris from Rooftop Causes Potential Missile Hazard."

## **Luminant Power Response**

### Background

Luminant Power's cause analysis determined that this condition was caused by a failure to use Procedure STA-607, "Housekeeping Control," Step 2.0 which states, in part, that the procedure should be used as a guideline for non-quality related areas and Step 6.3.7 requires, in part, that scrap material shall be removed as necessary to avoid accumulations which would degrade the housekeeping zone.

The Unit 1 EDG building roof at Comanche Peak is designated as a non-quality related area; therefore, the procedure is to be used as a guideline for those areas. Luminant Power's management expectation is that the guidance of STA-607 should have been followed. However, due to ineffective communications, the guidance of STA-607 was not followed and several pieces of thin scrap sheet steel approximately five feet long and one foot wide were not removed from the Unit 1 EDG building roof following the 13<sup>th</sup> refueling outage on Unit 1. When notified by the NRC of this condition, Luminant Power immediately removed the scrap material. This issue is being addressed in accordance with the Comanche Peak Corrective Action Program.

### Regulatory Analysis

NRC Inspection Manual Chapter 0612, "Power Reactor Inspection Reports," Appendix B, "Issue Screening," states that a performance deficiency can exist if: (1) a licensee fails to meet a self-imposed standard and (2) the cause was reasonably within the licensee's ability to foresee and correct and should have been prevented.

NRC Inspection Manual Chapter 0612, "Power Reactor Inspection Reports," defines a performance deficiency as "An issue that is the result of a licensee not meeting a requirement or standard where the cause was reasonably within the licensee's ability to foresee and correct, and that should have been prevented. A performance deficiency can exist if a licensee fails to meet a self-imposed standard or a standard required by regulation."

Luminant Power agrees with the NRC that management expectations were not met by the failure to use STA-607 as a guideline and that the cause was reasonably within our ability to foresee and correct and should have been prevented. However, Luminant Power does not believe that this condition should be a finding because a failure to meet a "self-imposed standard" as used within the definition of a performance deficiency did not occur. Therefore, a performance deficiency did not exist.

During the time period that the debris existed on Unit 1 EDG building roof, no high wind events occurred that could have caused the debris to be blown off the roof. Even if a high wind event would have occurred, the debris was tightly stacked under the silencer such that it would not have been affected by high winds. Therefore, Luminant Power believes that this finding is minor because there was no increase in the likelihood of an event that would upset plant stability and challenge critical safety functions during shutdown as well as power operations.

Although a formal NRC definition of "self-imposed standard" does not exist, Luminant Power believes that when the definition of "performance deficiency" was developed, it was intended that a failure to meet a "self-imposed standard" be something clearly more than not meeting management expectations for use of a procedure as a guideline. This is supported by the following examples:

1) NRC Inspection Manual Chapter 0308, "Significance Determination Process Basis Document," Attachment 3, Page 9, states *"Based on the above logic, the definition of a performance deficiency requires the staff to make a reasonable determination that the licensee intended to meet some requirement or standard and they did not, having had the opportunity to foresee, identify, or correct the performance deficiency that led to not meeting the requirement or standard. Such a requirement or standard need not be directly imposed by the NRC. Licensee good operating practices are expected as a means to ensure safety and minimize risk, and may be implemented as initiatives that go beyond regulatory requirements (e.g., management of shutdown safety by following industry-developed guidelines)."*

2) In response to the question "How does a performance deficiency (as defined in the ROP) relate to license renewal conditions and commitments? Does the ROP minor criterion apply?" in the Frequently Asked Questions (FAQ) regarding License Renewal Inspection Procedure 71003 posted on the NRC's website (<http://www.nrc.gov/reactors/operating/licensing/renewal/introduction/inspections/faq-ip71003.html#15>), the NRC states that *"A performance deficiency may exist if a licensee fails to meet a self-imposed standard [such as a licensee commitment] or a standard required by regulation."*

## Conclusion

In summary, Luminant Power agrees that management expectations were not met by the failure to use STA-607 as a guideline and that the cause was reasonably within Luminant Power's ability to foresee and correct and should have been prevented. However, Luminant Power does not believe that this condition should be a finding because a failure to meet a "self-imposed standard" did not occur and therefore a performance deficiency did not exist.

Luminant Power believes that expanding the definition of a performance deficiency to include not meeting management expectations for use of a procedure as a guideline is outside of the intent and scope of the Reactor Oversight Program.

Luminant Power believes that the Reactor Oversight Program is an effective process to monitor and document nuclear power plant performance and provides a useful representation for public review. However, it is critical that findings be appropriately characterized so that the public is provided an accurate view of licensee performance, and the failure to do so may potentially skew performance data and may lead to a public misconception of actual nuclear power plant safety performance.

Luminant Power respectfully requests that the NRC withdraw this finding and the associated cross-cutting aspect.