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February 28, 2011

U. S. Nuclear Regulatory Commission
Document Control Desk
Washington, DC 20555
ATTN: David B. Matthews, Director
Division of New Reactor Licensing

SUBJECT: COMANCHE PEAK NUCLEAR POWER PLANT, UNITS 3 AND 4
DOCKET NUMBERS 52-034 AND 52-035
RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION NO. 5400
(SECTION 13.7)

Dear Sir:

Luminant Generation Company LLC (Luminant) submits herein the response to Request for Additional Information (RAI) No. 5400 (CP RAI #199) for the Combined License Application for Comanche Peak Nuclear Power Plant Units 3 and 4. The RAI addresses the fitness for duty program.

Should you have any questions regarding this response, please contact Don Woodlan (254-897-6887, Donald.Woodlan@luminant.com) or me.

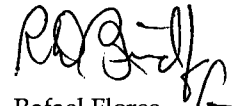
There are no commitments in this letter.

I state under penalty of perjury that the foregoing is true and correct.

Executed on February 28, 2011.

Sincerely,

Luminant Generation Company LLC


Rafael Flores

Attachment: Response to Request for Additional Information No. 5400 (CP RAI #199)

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DO90
NRO

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Luminant Records Management (.pdf files only)

RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION

Comanche Peak, Units 3 and 4

Luminant Generation Company LLC

Docket Nos. 52-034 and 52-035

RAI NO.: 5400 (CP RAI #199)

SRP SECTION: 13.07 - Fitness for Duty (Future SRP Section)

QUESTIONS for Integrated Security Coordination and Policy Branch (NSIR/DSP/ISCPB)

DATE OF RAI ISSUE: 1/25/2011

QUESTION NO.: 13.07-4

In RAI No. 4243, (Comanche Peak RAI Letter No.130) The NRC staff asked the following question:

Under 10 CFR 52.79(a)(44), the Applicant's FSAR must contain a description of the fitness for duty (FFD) program required by 10 CFR Part 26 and its implementation. How does the Applicant intend to update its FFD program for the construction phase? NEI 06-06 provides examples of the FFD program that is required and, if this guidance is endorsed by the NRC, will provide an acceptable method of complying with the NRC's regulations. If the NRC endorses NEI 06-06, how does the Applicant intend to update its FFD program for the construction phase to comply with NEI 06-06? If future revisions to NEI 06-06 are endorsed by the NRC, how does the Applicant intend to update its FFD program for the construction phase to comply with certain clarifications, additions, and exception's in these future, endorsed revisions, as necessary?

In the applicant's response, on page 13.7-1, second paragraph from the bottom, there is a statement that Subpart G is not applicable because Comanche Peak does not have a lab certified by the Department of Health and Human Services (HHS). "10 CFR Part 26, Subpart G. 'Laboratories Certified by the Department of Health and Human Services,' is not applicable because CPNPP does not have a Laboratory Certified by the Department of Health and Human Services."

The staff believes the applicant is misreading Subpart G, because Section 26.153(a) states: "Licensees and other entities who are subject to this part shall use only laboratories certified under the HHS Mandatory Testing Guidelines." The staff believes Luminant is stating that using an HHS lab is optional. HHS labs are used for "testing urine specimens for validity and the presence of drugs and drug metabolites" (Section 26.151). Please clarify the intent of your response to this RAI.

ANSWER:

CPNPP Units 3 and 4 will not have a laboratory certified by the Department of Health and Human Services (HHS) located on site, but fully intends to contract an HHS-certified laboratory located offsite to perform the FFD testing. As such, 10 CFR Part 26, Subpart F does not apply to CPNPP, but Subpart G

applies to the laboratories used by CPNPP. FSAR Section 13.7 has been revised to remove the second bullet pertaining to 10 CFR Part 26, Subpart G.

Impact on R-COLA

See attached marked-up FSAR Revision 1 pages 13.7-1 and 13.7-2.

Impact on S-COLA

None; the response is site-specific.

Impact on DCD

None.

**Comanche Peak Nuclear Power Plant, Units 3 & 4
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13.7 FITNESS FOR DUTY

This section of the referenced DCD is incorporated by reference with the following departures and/or supplements.

STD COL 13.7(1) Replace the contents of DCD Section 13.7 with the following.

The Fitness for eDuty (FFD) pProgram is implemented and maintained in multiple two phases dependent on the activities, duties, or access afforded to certain individuals at the construction site. In general, two different FFD programs will be implemented: ~~the~~a construction phase FFD program and ~~the~~an operations g-phase FFD program. The construction and operation FFD phases programs are ~~illustrated~~implemented as indicated in Table 13.4-201.

RCOL2_ NONE-1

The construction phase FFD program is consistent with NEI 06-06 (Reference 13.7-201). ~~The operating phase fitness for duty program will comply with in 10-CFR-26-NEI-06-06 applies to persons constructing or directing the construction of safety- and security-related structures systems, or components performed onsite where the new reactor will be installed and operated. Management and oversight personnel, as further described in NEI 06-06, and security personnel prior to the receipt of special nuclear material in the form of fuel assemblies (with certain exceptions) will be subject to the operation FFD program that meets the requirements of 10 CFR Part 26, Subparts A through H, N and O. Following the receipt of special nuclear material onsite in the form of fuel assemblies, security personnel as described in 10 CFR 26.4(a)(5) will meet the requirements of the operations FFD program. The construction FFD program for those subject to Subpart K (as described by NEI 06-06 and 10 CFR Part 26) will be reviewed and revised as necessary should substantial revisions occur to either NEI 06-06 following NRC endorsement or the requirements of 10 CFR Part 26.~~

The operations FFD program is consistent with all subparts of 10 CFR Part 26, except Subpart K. There is no intention to deviate or take exception to the requirements of 10 CFR Part 26.

CP COL 13.7(1) The following site-specific information is provided:

- 10 CFR Part 26, Subpart F, Licensee Testing Facilities is not applicable because CPNPP does not have a Licensee Testing Facility.
- 40 CFR Part 26, Subpart G, "Laboratories Certified by the Department of Health and Human Services," is not applicable because CPNPP does not have a Laboratory Certified by the Department of Health and Human Services.
- The existing Luminant FFD program (Reference 13.7-202) will be revised to include a section for Units 3 and 4. This new section will address the specific items identified in NEI 06-06, i.e., add

RCOL2_13.0 7-5

RCOL2_ NONE-1

RCOL2_13.0 7-4

RCOL2_13.0 7-5

**Comanche Peak Nuclear Power Plant, Units 3 & 4
COL Application
Part 2, FSAR**

definitions and references regarding Construction Site and Construction Workers, Excluded Workers, etc. During the construction phase for CPNPP Units 3 and 4, the unique aspects of construction FFD will be separated from the operations portion of the FFD program. One example is the construction site random testing pool, which will be separated from the random testing pool for the operating units (i.e., provided in a separate section within the program) due to the differing requirements. CPNPP Units 3 and 4 will not have a laboratory certified by the Department of Health and Human Services (HHS) located on site, but fully intends to contract an HHS-certified laboratory located offsite to perform the FFD testing. As such, 10 CFR Part 26, Subpart F, "Licensee Testing Facilities," does not apply but Subpart G, "Laboratories Certified by the Department of Health and Human Services," is applicable to the laboratories used by CPNPP. It is anticipated that all of the processes for collection, review and record keeping for Units 3 and 4 will be consistent with the existing program for Units 1 and 2.

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RCOL2_13.0
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13.7.1 Combined License Information

Replace the content of DCD Subsection 13.7.1 with the following.

STD COL 13.7(1) **13.7(1) Operating and construction plant fitness-for-duty programs**
CP COL 13.7(1) *This COL item is addressed in Section 13.7.*

RCOL2_13.0
7-5

13.7.2 References

Add the following reference after the last reference in DCD Subsection 13.7.2.

13.7-201 Nuclear Energy Institute, (NEI), NEI-06-06, "Fitness for Duty Program Guidance for New Nuclear Power Plant Construction Sites," NEI 06-06, Revision 5, February ~~August~~ 2009, (ML091730415).

RCOL2_
NONE-1

RCOL2_
NONE-1

13.7-202 Comanche Peak Nuclear Power Plant Procedure STA-910, "Fitness for Duty Program," Revision II, December 2009.

RESPONSE TO REQUEST FOR ADDITIONAL INFORMATION

Comanche Peak, Units 3 and 4

Luminant Generation Company LLC

Docket Nos. 52-034 and 52-035

RAI NO.: 5400 (CP RAI #199)

SRP SECTION: 13.07 - Fitness for Duty (Future SRP Section)

QUESTIONS for Integrated Security Coordination and Policy Branch (NSIR/DSP/ISCPB)

DATE OF RAI ISSUE: 1/25/2011

QUESTION NO.: 13.07-5

In RAI No. 4243, (Comanche Peak RAI Letter Number 130) The NRC staff asked the following question:

Under 10 CFR 52.79(a)(44), the Applicant's FSAR must contain a description of the fitness for duty (FFD) program required by 10 CFR Part 26 and its implementation. How does the Applicant intend to update its FFD program for the construction phase? NEI 06-06 provides examples of the FFD program that is required and, if this guidance is endorsed by the NRC, will provide an acceptable method of complying with the NRC's regulations. If the NRC endorses NEI 06-06, how does the Applicant intend to update its FFD program for the construction phase to comply with NEI 06-06? If future revisions to NEI 06-06 are endorsed by the NRC, how does the Applicant intend to update its FFD program for the construction phase to comply with certain clarifications, additions, and exception's in these future, endorsed revisions, as necessary?

The applicant's response refers to "Impact of R-COLA" and states, "See marked-up FSAR Revision 1 pages 13.7-1 and 13.7-2." In this replaced section, the applicant writes:

The existing Luminant FFD program (Reference 13.7-202) will be revised to apply to all four units and to address the specific items identified in NEI 06-06, i.e., add definitions and references regarding Construction Site and Construction Workers, Excluded Workers, etc. It is anticipated that all of the processes for collection, review and record keeping will be consistent with the existing program.

To the staff, the first sentence seems contradictory. The first part of the sentence states the existing Luminant FFD program, which is an operations program, will apply to all four units. The second part of the sentence states the existing Luminant FFD program which is an operations program, will address specific items identified NEI 06-06, which provides program guidance for construction at a nuclear power plant. The operations program for the two existing reactors cannot follow construction program guidance. Are the two reactors that will be constructed follow the existing operations program, or NEI 06-06?

ANSWER:

Luminant intends to expand the FFD Program for the operating units to include CPNPP Units 3 and 4 to form a single FFD implementation program for all four units. During the construction phase for CPNPP Units 3 and 4, the unique aspects of construction FFD will be separated from the operations portion of the FFD program. One example is the construction site random testing pool, which will be separated from the random testing pool for the operating units (i.e., provided in a separate section within the program) due to the differing requirements. Luminant intends to use the same contracts, personnel and facilities for specimen collection, for testing via an HHS-certified laboratory, and for the MRO and reviewing official activities for all four units. FSAR Section 13.7, third bullet, has been revised to clarify that the operating units and the new units will be part of a single FFD implementation program, but will include separate portions to address the unique aspects of the construction and operations FFD guidance.

Impact on R-COLA

See attached marked-up FSAR Revision 1 pages 13.7-1 and 13.7-2.

Impact on S-COLA

None; the response is site specific.

Impact on DCD

None.

**Comanche Peak Nuclear Power Plant, Units 3 & 4
COL Application
Part 2, FSAR**

13.7 FITNESS FOR DUTY

This section of the referenced DCD is incorporated by reference with the following departures and/or supplements.

STD COL 13.7(1) Replace the contents of DCD Section 13.7 with the following.

The Fitness for Duty (FFD) Program is implemented and maintained in multiple phases dependent on the activities, duties, or access afforded to certain individuals at the construction site. In general, two different FFD programs will be implemented: the construction phase FFD program and the operations phase FFD program. The construction and operation FFD phases programs are illustrated implemented as indicated in Table 13.4-201.

RCOL2_
NONE-1

The construction phase FFD program is consistent with NEI 06-06 (Reference 13.7-201). The operating phase fitness for duty program will comply with in 10-CFR-26-NEI-06-06 applies to persons constructing or directing the construction of safety- and security-related structures systems, or components performed onsite where the new reactor will be installed and operated. Management and oversight personnel, as further described in NEI 06-06, and security personnel prior to the receipt of special nuclear material in the form of fuel assemblies (with certain exceptions) will be subject to the operation FFD program that meets the requirements of 10 CFR Part 26, Subparts A through H, N and O. Following the receipt of special nuclear material onsite in the form of fuel assemblies, security personnel as described in 10 CFR 26.4(a)(5) will meet the requirements of the operations FFD program. The construction FFD program for those subject to Subpart K (as described by NEI 06-06 and 10 CFR Part 26) will be reviewed and revised as necessary should substantial revisions occur to either NEI 06-06 following NRC endorsement or the requirements of 10 CFR Part 26.

The operations FFD program is consistent with all subparts of 10 CFR Part 26, except Subpart K. There is no intention to deviate or take exception to the requirements of 10 CFR Part 26.

CP COL 13.7(1) The following site-specific information is provided:

- 10 CFR Part 26, Subpart F, Licensee Testing Facilities is not applicable because CPNPP does not have a Licensee Testing Facility.
- 10 CFR Part 26, Subpart G, "Laboratories Certified by the Department of Health and Human Services," is not applicable because CPNPP does not have a Laboratory Certified by the Department of Health and Human Services.
- The existing Luminant FFD program (Reference 13.7-202) will be revised to include a section for Units 3 and 4. This new section will address the specific items identified in NEI 06-06, i.e., add

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RCOL2_
NONE-1

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RCOL2_13.0
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Comanche Peak Nuclear Power Plant, Units 3 & 4
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definitions and references regarding Construction Site and Construction Workers, Excluded Workers, etc. During the construction phase for CPNPP Units 3 and 4, the unique aspects of construction FFD will be separated from the operations portion of the FFD program. One example is the construction site random testing pool, which will be separated from the random testing pool for the operating units (i.e., provided in a separate section within the program) due to the differing requirements. CPNPP Units 3 and 4 will not have a laboratory certified by the Department of Health and Human Services (HHS) located on site, but fully intends to contract an HHS-certified laboratory located offsite to perform the FFD testing. As such, 10 CFR Part 26, Subpart F, "Licensee Testing Facilities," does not apply but Subpart G, "Laboratories Certified by the Department of Health and Human Services," is applicable to the laboratories used by CPNPP. It is anticipated that all of the processes for collection, review and record keeping for Units 3 and 4 will be consistent with the existing program for Units 1 and 2.

RCOL2_13.0
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RCOL2_13.0
7-4

13.7.1 Combined License Information

Replace the content of DCD Subsection 13.7.1 with the following.

STD COL 13.7(1) **13.7(1) Operating and construction plant fitness-for-duty programs**
CP COL 13.7(1) *This COL item is addressed in Section 13.7.*

RCOL2_13.0
7-5

13.7.2 References

Add the following reference after the last reference in DCD Subsection 13.7.2.

13.7-201 Nuclear Energy Institute, (NEI), NEI-06-06, "Fitness for Duty Program Guidance for New Nuclear Power Plant Construction Sites," NEI 06-06, Revision 5, FebruaryAugust 2009, (ML091730415).

RCOL2_
NONE-1

RCOL2_
NONE-1

13.7-202 Comanche Peak Nuclear Power Plant Procedure STA-910, "Fitness for Duty Program," Revision II, December 2009.