



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
612 EAST LAMAR BLVD, SUITE 400  
ARLINGTON, TEXAS 76011-4125

October 19, 2011

MEMORANDUM TO: Thomas B. Blount  
Deputy Director  
Division of Reactor Safety

Ray L. Kellar  
Enforcement Officer

Thomas R. Farnholtz, Chief  
Engineering Branch 1  
Division of Reactor Safety

Jeff Clark, Chief  
Projects Branch F  
Division of Reactor Projects

George Wilson, Chief  
Instrumentation and Controls Branch  
Division of Engineering/NRR

FROM: Elmo E. Collins **/RA/**  
Regional Administrator

SUBJECT: CHARTER FOR BACKFIT PANEL ON POSTULATED FAILURE OF  
UPSTREAM DAMS AFFECTING FORT CALHOUN STATION

In response to a proposal from David Loveless, dated July 1, 2011, to evaluate a backfit exception for Fort Calhoun Station, a backfit panel is being convened in accordance with Region IV Office Policy Guide (PG) 0901.6, "Facility-Specific Backfit and Information Collection Procedure. You are hereby designated as the Panel Chairman. Ray Kellar, Tom Farnholtz, and Jeff Clark are designated as panel members. Additionally, the technical liaison assigned to support the panel is David Loveless and the Office of General Counsel will support the panel from a backfit process perspective.

A. Basis

Management Directive 8.4, "Management of Facility-specific Backfitting and Information Collection," states that NRC staff shall be responsible for identifying proposed facility-specific backfits. By memorandum from David P. Loveless, Senior Reactor Analyst to

me, dated July 1, 2011, Mr. Loveless identified a proposed adequate protection backfit exception for Fort Calhoun Station. The proposed backfit exception relates to the licensee's preparedness and capability to protect the reactor core and spent fuel onsite from the consequences of the total failure of any of the six upstream dams on the Missouri River.

B. Scope

The panel is expected to address the following:

1. Review the analysis performed by Mr. Loveless to determine if an information request in accordance with 10 CFR 50.54(f) is justified and whether the burden imposed on the licensee by the information request is justified in view of the potential safety significance of the issue addressed in the information request.
2. Determine if there is reason to believe that the public health and safety may not be adequately protected at the Fort Calhoun Station with respect to total failure of any of the six upstream dams.
3. If the panel determines under Item 1 that a request in accordance with 10 CFR 50.54(f) is not justified, and under Item 2 that the public health and safety is adequately protected at the Fort Calhoun Station prepare a memorandum for me discussing the reasons for your conclusions. This memorandum should include an evaluation of each of the pertinent assumptions from the analysis performed by Mr. Loveless.
4. If the panel makes either determination in Items 1 or 2 above, prepare a draft 50.54(f) letter to require Omaha Public Power District to provide additional safety information to enable the Commission to determine whether or not their Fort Calhoun Station operating license should be modified, suspended, or revoked.
5. Develop a final evaluation to demonstrate that the information request is necessary including at least the following elements:
  - a. A statement of the problem describing the need for the requested information in terms of its potential benefit;
  - b. The licensee actions required and an estimate of the burden on the licensee to develop a response to the information request; and
  - c. An anticipated schedule for the NRC to use the information.
6. The draft letter in Item 4 should be prepared for my signature and should request specific information related to OPPD's preparedness and capabilities to respond to a total failure of any of the six upstream dams in addition to the bases of the evaluation performed in Item 5.

7. Upon completion of Items 1–2, and 4-6, the panel shall provide me with a briefing to discuss the panel’s findings, the information to be requested from the licensee, and the perceived benefits of acquiring such information.
8. Following receipt of the licensee’s response, the panel will reconvene to review the provided information and prepare a draft addendum to this charter recommending the subsequent actions to be taken by the Region.

C. Guidance

10 CFR 50.109, “Backfitting,” describes the methods available to the Commission to require that licensees modify or add to the structures, components, or design of a facility. 10 CFR 50.109(a)(4)(ii) states that a backfit analysis is not required where the staff finds and declares with an appropriately documented evaluation, that regulatory action is necessary to ensure that the facility provides adequate protection to the health and safety of the public.

10 CFR 50.54(f) permits the Commission to request a licensee to submit written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked. 10 CFR 50.54(f) also states that if this information is not sought to verify licensee compliance with the current licensing basis for that facility, the NRC must prepare the reason for each information request prior to issuance to ensure that the burden imposed on the respondent is justified in view of the potential safety significance of the issue addressed in the requested information.

Management Directive 8.4, “Management of Facility-Specific Backfitting and Information Collection,” and PG 0901.6, “Facility-Specific Backfit and Information Collection Procedure,” states that NRC staff positions may be identified as potential backfits by the staff. When the staff invokes a backfit exception (i.e., either a compliance backfit or an adequate protection backfit), the Regional Administrator must provide a documented evaluation that includes a statement of the objectives, the reasons for the modification, and the basis for the backfit exception.

This charter may be modified should the panel develop significant new information that warrants review. If you have any questions concerning this guidance, contact Anton Vegel, Director, Division of Reactor Safety, at (817) 860-8180.

**ML11293A198**

ADAMS		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> SUNSI Rev Complete		Reviewer Initials:	DPL	
Publicly Avail		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Sensitive Value: <input checked="" type="checkbox"/>				
DRS/SRA	DRS/EB1/BC	DRP/DD	DRS/DD	DRS/D	OGC/RMR	NRR/DE/EICB	RIV/RA
DLoveless	TFarnholtz	JClark	TBlount	AVegel	BJones	G.A.Wilson, Jr.	ECollins
<b>/RA/</b>	<b>/RA/</b>	<b>/RA/</b>	<b>/RA/</b>	<b>/RA/</b>	<b>/RA/e-mail</b>	<b>/RA/ e-mail</b>	<b>/RA/</b>
9/15/11	9/15/11	9/23/11	9/23/11	9/23/11	09/27/11	10/05/2011	10/11/2011

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