



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Washington, D.C. 20240

In Reply Refer To:
FWS/DFPA/BFA/ER 03/516

SEP 15 2003

Chief, Rules and Directives Branch
Division of Administrative Services
Office of Administration
Attention: Barry Zalman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

8/22/03
L&FR 33209
(He)

Rules and Directives
Branch
FWS/DFPA/BFA/ER 03/516

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Dear Mr. Zalman:

The Fish and Wildlife Service has reviewed the Nuclear Regulatory Commission's Federal Register Notice of Intent to Prepare an Environmental Impact Statement for the License Renewal of Nuclear Power Plants and to Conduct Scoping Process. It is our understanding that the purpose of this Notice of Intent is to review and update procedures for the license renewal of nuclear power plants, including the review and update of information contained in Table B-1 of 10 CFR Part 51. We have reviewed 10 CFR Part 51, Table B-1 and the renewal regulations for licenses issued by the NRC and have enclosed our specific comments.

We support the basic tenants of the NRC's licensing process and find the combination of a General Environmental Impact Statement and a site specific supplement to the GEIS an efficient way to process applications for license renewals. We recommend that NRC improve this process by including in its regulations a requirement for applicants to consult with the Service prior to and during the development of their supplemental Environmental Report (10 CFR 51.60). This would provide the Service maximum flexibility for addressing our statutory responsibilities including, for example, the Endangered Species Act and the Migratory Bird Treaty Act. This could benefit NRC by reducing the time period for consultations with the Service.

The Service believes that the NRC should analyze information collected since the completion of their systematic inquiry into the environmental impacts of activities associated with license renewals and environmental impacts of continued project operations. This analysis should be used to verify the assumptions made for all category 1 conclusions summarized in Table B-1. Table B-1 should be updated to state affirmatively the findings for all category 1 issues. The NRC may find it necessary, based on the results of this analysis, to reclassify some impacts as category 2, thus requiring additional site specific investigations during the license renewal process.

The provisions of Clean Water Act section 316(b) should be made a requirement of all projects at the time of renewal, unless the Environmental Protection Agency, in consultation with the Service specifically waives these requirements. The default procedures should either include

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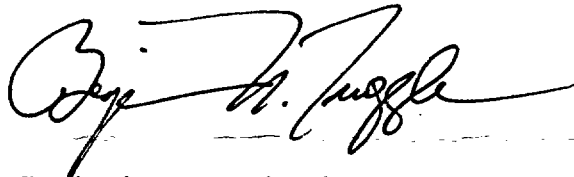
Mr. Barry Zalzman

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implementing the best technology available for screening cooling water intakes or for developing necessary studies in consultation with the Service to determine if other alternatives would be sufficient.

Thank you for the opportunity to provide comments on this action. If you have any questions or need further information, please contact me at 703/358-2161.

Sincerely,

A handwritten signature in black ink, appearing to read "Benjamin N. Tuggle". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

Benjamin N. Tuggle, Ph.D.
Chief, Division of Federal Program Activities

Enclosure

Fish and Wildlife Service
Comments on the Notice of Intent for the License Renewal of
Nuclear Power Plants (ER 03/516)

- 10 CFR 51.53(a): Although the provisions specific to license renewals begin at (c), the Nuclear Regulatory Commission should include a requirement to analyze all project effects for licenses issued under their authority with the best available information. For example, the Service has a special interest in developing and implementing the most efficient techniques for preventing entrainment and impingement of aquatic organisms at cooling water intakes. In cases where the applicable nuclear facility information is outdated, inconsistent with related information from other intake structures (i.e., nonnuclear), or fails to address specific species of concern, we believe that NRC should require license applicants to consult with the Service (and other applicable resource agencies) during the early stages of the development of their Environmental Report in an effort to expeditiously develop needed information.
- 10 CFR 51.53(c)(2): The Service believes that the environmental analysis should not be limited to proposed modifications, but should address the continuation of project operations as a new commitment of resources. As such, the analysis should consider as its baseline, the status of environmental resources without the project. Effects of the project from that point in time should be avoided to the extent possible and minimized through the development and implementation of specific project features and operations. Appropriate mitigation for all unavoidable project effects on fish and wildlife resources should be developed in early consultation stages with the applicable resource agencies and included in the preferred alternative.
- 10 CFR 51.53(c)(2): We recommend that NRC require the use of the best available information in the environmental report (see comment #4) and to require new studies to meet this objective as determined necessary by Federal and State resource agencies and affected Indian tribes. In addition, the report should include a detailed assessment of cumulative, direct, and indirect effects of project operations on the environment.
- 10 CFR 51.53(c)(3)(ii): We encourage NRC to specifically require the installation of the best technology available pursuant to Clean Water Act 316(b) or to require new project specific studies as determined necessary by Federal and State resource agencies and tribes to determine appropriate alternatives to the best technology available.
- 10 CFR 51.53(c)(3)(A): The necessity of screening cooling water intakes should be determined on a case-by-case basis and should not be subject to an arbitrary threshold based on river discharge.
- 10 CFR 51.53(c)(3)(H): The assessment described in this section should also include an analysis of effects on migratory birds, pursuant to the Migratory Bird Treaty Act and the eagle acts as appropriate.

- **10 CFR 51.60:** We believe that the environmental reports filed for license renewals should be based on the most current information available.
- **Table B-1:** We suggest that all category 1 summary findings should be reassessed and information provided to support the assumptions. Category 2 summary findings for Aquatic Ecology, specifically once through cooling water systems, should require the use of the best technology available.