

UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

1-6-72

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
CONSUMERS POWER COMPANY )  
 )  
(Midland Plant, Units 1 and 2) )

Docket Nos. 50-329 ✓  
50-330

ANSWER OF AEC REGULATORY STAFF TO MOTION OF SAGINAW VALLEY,  
ET. AL., INTERVENORS FOR RECONSIDERATION OF CERTAIN PORTIONS OF  
BOARD ORDER DATED DECEMBER 22, 1971

On December 24, 1971, intervenors Saginaw Valley Nuclear Study Group, et. al. (intervenors) filed a motion for reconsideration of so much of the December 22, 1971, order of the presiding Atomic Safety and Licensing Board (Board) as requires the intervenors to serve by December 31, 1971, their contentions, positions and requests for discovery with respect to the applicant's environmental report.

The intervenors have been on notice since November 23, 1971, that the Board was contemplating the issuance of an order containing provisions along the lines of those to which this motion is directed. At the November 23, 1971, conference, during a lengthy discussion of the merits of requiring the intervenors to set forth their contentions, positions and discovery requests with respect to the applicant's environmental report, counsel for intervenor Dow Chemical Company (Dow) proposed (Tr. 4922-23) that the Board require all opposing intervenors to make a good faith effort in that direction. The Board then asked Dow counsel to submit a draft order implementing his suggestion (tr. 4924).

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On November 24, 1971, counsel for Dow filed his draft order, which provided, in pertinent part, for the filing of intervenors' contentions, positions and discovery request with respect to the applicant's environmental report by December 10, 1971. Subsequently, comments on the draft order were filed by the intervenors and certain other parties. The intervenor's comments expressed general opposition to the draft order but did not offer any specific objection or alternative to the December 10 deadline proposed by Dow.

We note additionally that the "applicant's environmental report, i.e., the original environmental report as supplemented pursuant to revised Appendix D to 10 CFR Part 50, has been available since October 19, 1971. By now, the intervenors should be in a position to set forth, even on short notice, their contentions, positions and discovery requests pertaining thereto.

In view of the circumstances detailed above, we believe that the intervenors motion for reconsideration has so little merit that the Board would be justified in denying it out of hand. However, under the circumstances of this case, we would not object to a reasonable extension of the December 31, 1971, deadline. In the present posture of this proceeding, however, a "reasonable" extension of the deadline must be one which would permit other parties to have the intervenors'

submission in time for discussion at the conference scheduled for January 19, 1972. Accordingly, we would propose that the Board either deny the motion or extend the December 31 deadline to no later than January 14, 1972.

Except to the extent noted above, we oppose the intervenors' motion for reconsideration.

Respectfully submitted,

*David E. Kartalia*

David E. Kartalia  
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland,  
this 6th day of January, 1972