

DOCKET NUMBER  
50-329,330

BEFORE THE  
UNITED STATES OF AMERICA  
ATOMIC ENERGY COMMISSION

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

Docket Nos. 50-329  
50-330

6-4-71

STATEMENT OF LEGAL AND/OR FACTUAL CONTENTIONS

TO THE HONORABLE SAFETY AND LICENSING BOARD:

Now come NELSON AESCHLIMAN et al, Intervenor of Mapleton, Michigan, by their attorney, WILLIAM J. GINSTER, and respectfully reserving the right to move to make any further legal and/or factual contentions deemed necessary, make the following more specific legal and/or factual contentions (than those heretofore set forth in the PETITION FOR LEAVE TO INTERVENE) in support of their Interventions:

I.

That to permit construction and/or operation of the proposed nuclear reactors at the proposed site in such close proximity to the AESCHLIMAN et al Intervenor of Mapleton, Michigan and under all other circumstances and conditions prevailing would constitute a clear violation of 10CFR Part 100.

II.

That 10CFR Part 50, Appendix D, as applied to the AESCHLIMAN et al Intervenor is arbitrary and unreasonable, and constitutes a violation of vested legal rights under the Constitutions of the State of Michigan and of the United States of America.

III.

That 10CFR Part 20, as presently applicable and/or applied, is arbitrary and unreasonable, and constitutes a violation of vested legal rights under the Constitutions of the State of Michigan and of the United States of America.

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Leaving

III - A

That permitting applicant to dump any radioactive waste into the proposed cooling pond or emitting such radioactive waste into the atmosphere under all the circumstances and conditions prevailing would constitute a violation of 10CFR Part 20, a claimed radiological hazard and danger to the health of AESCHLIMAN et al Intervenors and/or their invitees and/or children.

III - B

That permitting applicant to dump any radioactive waste into the proposed cooling pond or emitting such radioactive waste into the atmosphere under all the circumstances and conditions prevailing without the consent of the AESCHLIMAN et al Intervenors constitutes a claimed violation of vested legal rights under the Constitutions of the State of Michigan and the United States of America.

III - C

That permitting applicant to dump waste on land not owned by the Federal or State Governments constitutes a violation of 10CFR Part 20.

IV

That the failure of the emergency core cooling system for nuclear power plants which have been recently tested in small scale simulated models in Idaho by the Idaho Nuclear Corporation constitutes a grave hazard and danger to the health and safety of AESCHLIMAN et al and/or their property rights, and proceeding in this licensing matter at this time and not holding it in abeyance until emergency core cooling systems have been properly designed, thoroughly researched and developed, and completely tested in full scale models at the Idaho test location and not under simulation, is respectfully contended to be an abuse of discretion and a violation of vested legal rights under the Constitutions of the State of Michigan and of the United States of America.

V.

That the operation of the proposed units is likely to impair or destroy the air or constitute a hazard or danger to the health and safety of the

AESCHLIMAN et al Intervenor and/or their vested property rights in the following particulars:

VI - A

Likelihood of escape of radioactive gasses, especially with passage of time.

VI - B

Likelihood of radioactive additions to atmospheric fog created and/or aggravated by operation of the proposed cooling pond and cooling tower; it being contended that under the peculiar meteorological conditions at or about the proposed site that water vapor will have a tendency to trap and retain such radioactivity and for want of dispersion with inversion, will concentrate such radioactive gasses.

VI - C

Likelihood of dangerous or hazardous vehicular driving conditions by reason of fogging and interference with visibility, and also creation of slippery and treacherous driving conditions from icing in winter time caused and/or contributed to by the cooling tower.

VI - D

Likelihood of creation of noxious or deleterious odors from chemical additives in operation of the proposed cooling pond and or tower with possible radioactive gasses or vapors emanating therefrom.

VI - E

Likelihood of property damage from the foregoing.

VI - F

Likelihood of injurious or detrimental effects on health, physical and/or mental.

VI - G

Likelihood of substantial or material interference with use and enjoyment of property.

VI - H

Likelihood of destruction or impairment of business.

VI - I

Likelihood of sufferance of annoyance, inconvenience, or discomfort.

VI - J

Likelihood of radioactive and chemical contamination from the proposed pond of underground water, including drinking water.

VI - K

Possibility of maximum credible accident.

VI - L

Depreciation of property values.

VI - M

Likelihood of noise and/or noise pollution from operation of proposed cooling tower.

VII

That the location of the site and/or operation of the proposed nuclear power plant leaves AESCHLIMAN et al with no insurance coverage in the event of a nuclear accident by reason of the nuclear exclusion clause, and said Intervenor has suffered deprivation of their property rights by reason thereof within the scope and meaning of the Constitutions of the State of Michigan and the United States of America.

VIII

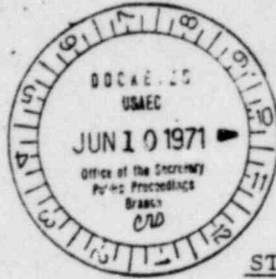
AESCHLIMAN et al assert rights protectable by the Michigan ENVIRONMENTAL PROTECTION ACT of 1970, effective October 1, 1970; a copy of which is attached hereto.

Respectfully Submitted,



WILLIAM J. GINSTER  
Attorney for intervenors AESCHLIMAN et al  
of Michigan

Dated: June 4, A. D. 1971.



CKET NUMBER  
PROD. & UTIL. FAC. 50-329,330

ATTACHED TO AND MADE A PART OF  
STATEMENT OF LEGAL AND/OR FACTUAL CONTENTIONS

**P.A. 126** 1970 REGULAR SESSION

**COIN OPERATED DEVICES—ENTRY WITH INTENT  
TO STEAL—FELONY**

**PUBLIC ACT NO. 126\***

**SENATE BILL No. 583**

AN ACT relating to coin operated devices, including but not limited to parking meters, coin telephones and vending machines; and providing for a penalty.

*The People of the State of Michigan enact:*

**M.C.L.A. § 752.811**

Sec. 1. A person shall be guilty of a felony punishable upon conviction by confinement in the state prison for a period not to exceed 3 years or by a fine of not more than \$1,000.00 or both if he does either of the following:

(a) Enters or forces an entrance, alters or inserts any part of an instrument into any parking meter, vending machine dispensing goods or services, money changer or any other device designed to receive currency or coins with the intent to steal.

(b) Knowingly possesses a key or device, or a drawing, print or mold thereof, adapted and designed to open or break into any such machine with intent to steal money or other contents from it.

**M.C.L.A. § 752.812**

Sec. 2. This act shall take effect January 1, 1971.

Ordered to take immediate effect.

Approved July 24, 1970.

**ENVIRONMENTAL PROTECTION ACT OF 1970**

**PUBLIC ACT NO. 127\*\***

**HOUSE BILL No. 3055**

AN ACT to provide for actions for declaratory and equitable relief for protection of the air, water and other natural resources and the public trust therein; to prescribe the rights, duties and functions of the attorney general, any political subdivision of the state, any instrumentality or agency of the state or of a political subdivision thereof, any person, partnership, corporation, association, organization or other legal entity; and to provide for judicial proceedings relative thereto.

*The People of the State of Michigan enact:*

**M.C.L.A. § 691.1201**

Sec. 1. This act, shall be known and may be cited as the "Thomas J. Anderson, Gordon Rockwell environmental protection act of 1970".

\* M.C.L.A. §§ 752.811, 752.812.

\*\* M.C.L.A. §§ 691.1201 to 691.1207.

Substantive changes in text indicated by underline

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Changes by asterisks \* \* \*

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Substantive changes in text indicated by underline

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LIST OF WITNESSES FOR INTERVENORS  
AESCHLIMAN et al of Mapleton, Michigan

Expert witnesses who may be called to testify in support of the contentions of the above-entitled Intervenors at the hearing in opposition to the granting of the application of CONSUMERS POWER COMPANY with a resume of qualifications of each, are as follows:

DR. CHAS. W. HUVER

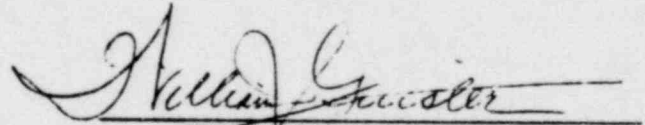
He has a B. S. Degree with high honors from Michigan State University, a Masters Degree in Zoology from the University of Wisconsin at Madison; a PHD in Zoology from Yale University and has worked in research capacity for the U. S. Fish and Wildlife Service; he has worked at various Marine Laboratories such as the Marine Biological Laboratory at Whitshall, Massachusetts; the Learner Marine Laboratory. at Benomee; the University of Connecticut Marine Laboratory; he has taught at the University of Rhode Island as an Instructor in the Zoology Department, and from there went to the University of Illinois Medical School and joined the Anatomy Department as an Assistant Professor; then he came to the University of Minnesota as an Associate Professor of Zoology and is also Curator of fishes at the Bell Museum of Natural History of the University of Minnesota. He has participated in other AEC SAFETY AND LICENSING BOARD PROCEEDINGS.

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*Levin*

STEVE J. GADLER

Steve J. Gadler of St. Paul, Minnesota is a registered professional engineer in the State of Minnesota. He is a member of the National Society of Professional Engineers and the Minnesota Society of Professional Engineers. He is a senior member of the Society of Electrical and Electronic Engineers. He is a member of the Minnesota Pollution Control Agency. He has participated in other AEC SAFETY AND LICENSING BOARD proceedings.



WILLIAM J. GINSTER  
Attorney for Intervenors  
AESCHLIMAN et al  
of Mapleton, Michigan

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