

11/28/78



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

Docket Nos. 50-329-OL
50-330-OL

NRC STAFF RESPONSE TO
CONTENTIONS OF MAPLETON INTERVENORS

Introduction

On November 13, 1978, this Board issued a Memorandum and Order requiring the parties to this proceeding to set forth their respective positions concerning the supplemental contentions recently filed by Mary P. Sinclair and Wendell H. Marshall. The NRC Staff has reviewed Mr. Marshall's contentions filed on behalf of Mapleton Intervenors and is hereby setting forth its view with regard to them.

Mapleton Intervenors originally filed some brief contentions in this proceeding in conjunction with its September 6, 1978 "Petition for Leave to Intervene". Since the Commission's revised rule 10 CFR §2.714 does not require intervening parties to file contentions until 15 days prior to the first prehearing conference, Mapleton supplemented their original contentions with an additional filing on October 31, 1978. Their original contentions appear to be substantially included in their supplemental

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filing. Consequently, the NRC Staff has chosen to respond to the supplemental filing and all references will be to that filing unless otherwise indicated.

The NRC Staff objects to Mapleton's first contention that radioactive spills at the Palisades Nuclear Power Plant are indicative of operation to be expected at Midland. This contention is vague and lacks specificity. It is impossible to determine what spills from what systems are involved and how they are applicable to the Midland facility.

While Contention 2 concerning settlement of the generator building needs revision to positively state Mapleton's position, the NRC Staff does not object to it as a matter appropriate for litigation in this proceeding at this time.

Contention 3 makes a vague reference to some court litigation involving nuisance. No citation or other demonstration of relevance appears. Consequently, the NRC Staff objects to this contention. Contention 4 is apparently a further elaboration of the nuisance theory and is equally objectionable.

Mapleton's Contention 5 is based on their observation of discussions between the NRC Staff and local Midland officials last summer. In its present form, the contention merely asserts that icing and fogging will

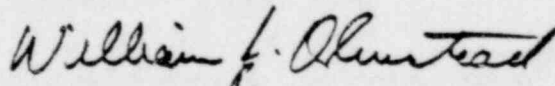
interfere with and damage Mapleton's members' property. While further detail and specificity should be required, the NRC Staff has no present objection to this contention.

Mapleton's Contention 6 involves an allegation that spent fuel storage is a health and safety hazard to Mapleton Intervenors. No basis for this allegation is provided and in its present form this contention is objectionable.

Contention 7 repeats the nuisance theory of Contentions 3 and 4. Lacking basis and specificity, the NRC Staff objects to its admission.

For the foregoing reasons, the NRC Staff objects to the admission of Mapleton Contentions 1, 3, 4, 6 and 7. No objection to Contentions 2 and 5 is made provided they are rephrased to set forth specifically Mapleton's position and basis for the contention.

Respectfully submitted,



William J. Olmstead
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 28th day of November, 1978.