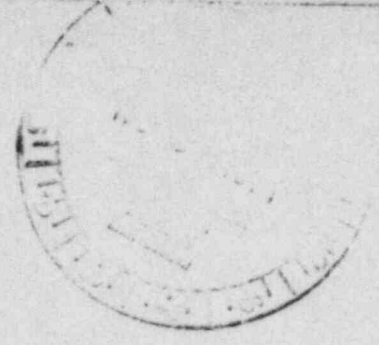


UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION



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

Docket Nos. 50-329 -
50-330

142-71

APPLICANT'S MOTION TO STRIKE THE WRITTEN
TESTIMONY OF DR. CHARLES W. HUVER

On September 28, 1971, the Mapleton Intervenors filed the written testimony of Dr. Charles W. Huver. Although the Mapleton Intervenors, in their letter to the Chairman of September 28, 1971 at p. 2, characterized his testimony as "environmental evidence," it was clearly radiological evidence which, if allowable at all, was required by paragraph I A 2(c) of the Board's Order to be filed by September 15, 1971.*

Dr. Huver's testimony dealt with the effects of liquid radioactive waste discharges and thermal discharges from nuclear power plants on fish and human beings. While this testimony is very interesting, it clearly has nothing to do with the proposed Midland plant which is designed for essentially zero radioactive liquid waste release and the discharge of cooling water from the

*For purposes of this motion, we put aside the fact that the evidence was filed 13 days late. We also put aside the fact that Contentions 3 and 4 of the Mapleton Intervenors, as to which the order permitted them to submit written evidence, said nothing about thermal discharges.

8007310

663 G

Leaving

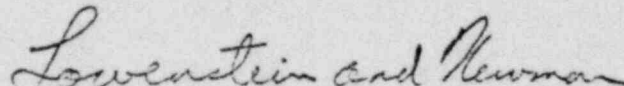
cooling pond to the Tittabawassee River at a temperature within one degree Fahrenheit of the river temperature at the point of discharge. See Amendments 20 and 21 to the PSAR and Applicant's environmental submission of June 21, 1971 to Dr. Peter Morris, Director of the Division of Reactor Licensing.*

The absurdity of the Mapleton Intervenors' filing of testimony totally unrelated to the proposed plant at issue in this proceeding can only be explained by either their failure to read the basic materials in the record concerning the design and features of the proposed plant or their desire to use the testimony for propaganda purposes in the Midland area. Whatever the motive, however, it is improper to encumber the record with such patently irrelevant material.

Applicant therefore moves that the written testimony of Dr. Huver, subscribed and sworn to on September 14, 1971, be stricken.

Dated: November 2, 1971

Respectfully submitted,


LOWENSTEIN AND NEWMAN
1100 Connecticut Ave., N.W.
Washington, D.C. 20036

Of Counsel:

Robert Lowenstein
Harold P. Graves
John K. Restruck
Jerome E. Sharfman
Richard G. Smith

Attorneys for Applicant
Consumers Power Company

*New data available in Applicant's Supplemental Environmental Report at pp. 4.4-6 and 4.4-7 shows that the river temperature would remain the same after the discharge into it of the cooling pond water.

UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

In the Matter of)
)
CONSUMERS POWER COMPANY) Docket Nos. 50-329
) 50-330
(Midland Plant, Units 1 and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of the "Applicant's Motion to Strike the Written Testimony of Dr. Charles W. Huver", dated November 2, 1971, in the above-captioned matter have been served on the following in person or by deposit in the United States mail, first class or airmail, this 2nd day of November, 1971.

Arthur W. Murphy, Esq., Chairman
Atomic Safety and Licensing Board
Columbia University School of Law
Box 38, 435 West 116th Street
New York, New York 10027

Milton R. Wessel, Esq.
Kaye, Scholer, Fierman, Hays
and Handler
425 Park Avenue
New York, N.Y. 10022

Dr. Clark Goodman
Professor of Physics
University of Houston
3801 Cullen Boulevard
Houston, Texas 77004

James N. O'Connor, Esq.
The Dow Chemical Company
2030 Dow Center
Midland, Michigan 48640

Dr. David B. Hall
Los Alamos Scientific Laboratory
P.O. Box 1663
Los Alamos, New Mexico 87544

Myron M. Cherry, Esq.
109 N. Dearborn Street
Suite 1005
Chicago, Ill. 60602

William J. Ginster, Esq.
Suite 4
Merrill Building
Saginaw, Michigan 48640

Algie A. Wells, Esq., Chairman
Atomic Safety and Licensing
Board Panel
U.S. Atomic Energy Commission
Washington, D.C. 20545

James A. Kendall, Esq.
135 N. Saginaw Road
Midland, Michigan 48640

Stanley T. Robinson, Esq.
Chief, Public Proceedings Branch
Office of the Secretary of
the Commission
U.S. Atomic Energy Commission
Washington, D.C. 20545

Anthony Z. Roisman, Esq.
Berlin, Roisman and Kessler
1910 N Street, N.W.
Washington, D.C. 20036

Irving Like, Esq.
200 West Main Street
Babylon, New York 11702

Thomas F. Englehardt, Esq.
U.S. Atomic Energy Commission
Washington, D.C. 20545


Jerome E. Sharfman