

50-329330



DOW CHEMICAL U.S.A.

January 5, 1977

MICHIGAN DIVISION
MIDLAND, MICHIGAN 48640

Lawrence Brenner, Esquire
Counsel for NRC Staff
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555



Dear Mr. Brenner:

Enclosed is a copy of a letter from Frank J. Kelly, Attorney General of the State of Michigan, to Mr. Henry, the new General Manager of the Michigan Division. Also enclosed is a January 3, 1977, newspaper article that appears to be based, in part, on statements made by the Attorney General's office in connection with this letter. Both the letter and the article are self-explanatory.

Sincerely,

L. F. Nute
Attorney

Attachments

cc: Service List

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H



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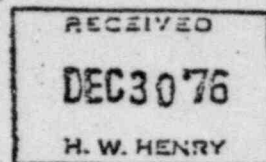
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STANLEY D. STEINBORN
Deputy Attorney General

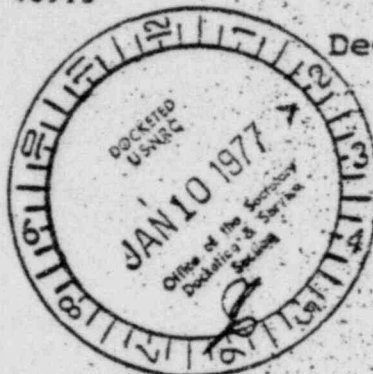


FRANK J. KELLEY
ATTORNEY GENERAL

LANSING
48913

December 30, 1976

Mr. Hunter W. Henry
General Manager
Dow Chemical Company
Midland Division
2020 Dow Center
Midland, Michigan 48640



Dear Mr. Henry:

At its meeting of Record on January 20, 1976, the Michigan Air Pollution Control Commission expressed concern that Dow would not be able to comply with the July 1, 1980 deadline for control of air pollution emissions from the power plant at your Midland facility. At that same meeting, the Commission's professional staff reported to the Commission that Dow was responsible for violations, in the Midland area, of Federal health-related air quality standards.

For the past year, I have been following the progress of this matter. Unfortunately, no solution has emerged. Some Dow representatives continue to maintain that Dow will comply by 1980 by building a new power plant; other Dow representatives assert that Dow will solve the problem by purchase of power from the proposed Consumers Power Nuclear Facility.

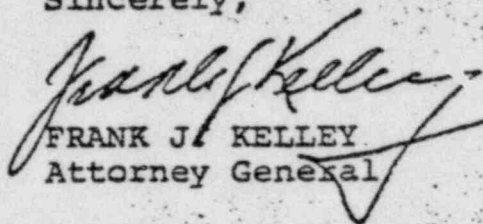
I am now advised that the United States Environmental Protection Agency plans to conduct hearings, in Michigan on January 4 and 5, regarding this air pollution and public health problem. I am further advised that Dow will appear before the Air Pollution Control Commission at its January, 1977 meeting to discuss the problem. I hope that Dow will present an adequate program to these regulatory bodies.



Unless an adequate and legally enforceable program is forthcoming during these hearings, or in response to this letter, I intend to act on behalf of the People of the State of Michigan by filing suit against Dow pursuant to the Environmental Protection Act and other appropriate legislation.

The people, through their constitution, have declared protection of the air resource and the public health to be of paramount importance. As Attorney General, I am prepared to go to court, if necessary, to carry out this mandate of the people.

Sincerely,


FRANK J. KELLEY
Attorney General

Attorney General: n-plant inadequate

By SANDRA L. DICKEY
Daily News staff writer

Dow Chemical Company may face court action if it persists with air pollution control plans that depend on Midland's nuclear plant, a state official said this morning.

Chief assistant attorney general Stanley Steinborn said a control program tied to the nuclear facility would not be considered adequate by the attorney general, who has threatened Dow with a lawsuit.

The threat came late last week in a letter which stated that court action would be initiated if Dow does not present adequate pollution control plans to two clean-air agencies later this month.

The company is scheduled to meet with the Environmental Protection Agency (EPA) Jan. 6 to answer a violation notice issued several weeks ago.

At a Jan. 18 meeting, the Michigan Air Pollution Control Commission (MAPCC) will hear Dow's plans for complying with a July 1980 deadline for full pollution control.

Steinborn said the decision on whether to bring suit against Dow will be made after the two meetings.

"If Dow is dependent on Consumers Power Company's nuclear plant and cannot get some assurance (on a start-up date), they are going to have to find some other source of electricity," he said.

A Dow spokesperson said this morning the chemical company has not decided what it will tell the MAPCC.

Dow general manager Hunter Henry and environmental manager Frank Brower were meeting this morning to discuss a Tuesday meeting with the MAPCC staff. The officials refused to comment on their pending decision until after that meeting.

Dow officials earlier said their decision was tied to the outcome of a federal hearing on the nuclear plant.

That hearing, to determine if construction should be suspended at the plant, will not resume until Jan. 18 in Chicago.

Dow is bound to a 1974 contract to purchase steam from the nuclear plant and has been threatened by Consumers with a \$600 million lawsuit if the contract is not carried through.

The nuclear plant has been a sore spot in Dow's pollution control plans. It was first scheduled to operate in 1975 and now is planned for 1982.

Both state and federal clean-air agents have reacted unfavorably to

Dow's continued commitment to the plant.

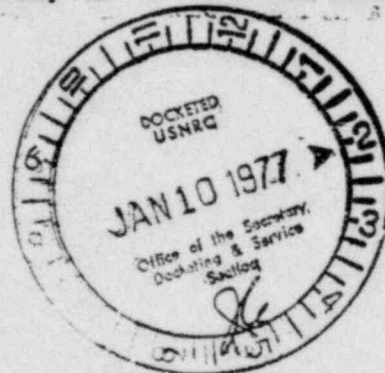
Steinborn said the attorney general considered litigation when it was revealed Dow may not be able to comply with the 1980 deadline.

The letter was not requested by the MAPCC or its staff, he said.

The letter, written Thursday, stated the concern that Dow may not be able to comply with the 1980 deadline for control of air pollution emissions.

The letter also claimed violations by Dow of federal health-related standards.

The attorney general has been reviewing the situation for the past year and sees no solution, the letter also stated.



POOR ORIGINAL