



Consumers
Power
Company

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February 22, 1983

Harold R Denton, Director
Office of Nuclear Reactor Regulation
Division of Licensing
US Nuclear Regulatory Commission
Washington, DC 20555

MIDLAND ENERGY CENTER PROJECT
MIDLAND DOCKET NOS 50-329, 50-330
CVN IMPACT DATA FOR PRESSURE VESSEL WELD WF-70
FILE M-1.1, 0485.13 SERIAL 21046

ENCLOSURE AFFIDAVIT OF JAMES H TAYLOR, B&W MANAGER OF LICENSING,
WITH ATTACHED EXHIBIT A AND PROPRIETARY EXHIBIT B

The Midland Safety Evaluation Report (SER) (NUREG-0793) Section 1.8 identifies the "Unirradiated CVN Impact Data for WELD WF-70 (5.3.1)" as a Confirmatory Issue. Table 5.3-2 of the Midland FSAR states that the unirradiated RT_{NDT} for this material is + 20°F. In support of this stated value, the enclosed proprietary Exhibit B is submitted in order to close Confirmatory Issue #11.

Also included in Exhibit B for the information and consideration of the NRC Staff is a summary of the available data on the effects of irradiation on RT_{NDT} for welds fabricated from the same heat of filler metal as the Midland Unit 1 WF-70 weld metal. These data demonstrate that RT_{NDT} does not shift as much as would be expected based upon trend curves such as those of Regulatory Guide 1.99.

Since the attached Exhibit B and the document listed in the attached Exhibit A contain trade secrets or privileged and confidential commercial information within the meaning of 10 CFR 2.790 and 9.5(a)(4), we are requesting that this information be withheld from public disclosure pursuant to 10 CFR 2.790 and 9.12. In support of this application for the withholding of proprietary information, we are submitting the enclosed affidavit of Mr J H Taylor, Manager of Licensing in the Nuclear Power Generation Division of Babcock & Wilcox. Mr Taylor's affidavit contains a full statement of the reasons which

ATTACHMENTS CONTAIN PROPRIETARY INFORMATION
WITHHOLD FROM PUBLIC DISCLOSURE

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support our claim that the subject documents should be withheld from public disclosure.

James W. Cook

JWC/TEH/HWS/fms

CC Atomic Safety and Licensing Appeal Board, w/o
CBechhoefer, ASLB, w/o
MMCherry, Esq, w/o
FPCowan, ASLB, w/o
RJCook, Midland Resident Inspector, w/o
RSDecker, ASLB, w/o
SGadler, Esq, w/o
JHarbour, ASLB, w/o
DSHood, NRC, w/a (2)
DFJudd, B&W, w/a
FJKelley, Esq, w/o
WHMarshall, w/o
WDPatton, Esq, w/o
BStamiris, w/o
CRStephens, NRC Docketing & Service Branch, w/a (3)
MSinclair, w/o
LLBishop, w/o

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CONSUMERS POWER COMPANY
Midland Units 1 and 2
Docket No 50-329, 50-330

Letter Serial 21046 Dated February 22, 1983

At the request of the Commission and pursuant to the Atomic Energy Act of 1954, and the Energy Reorganization Act of 1974, as amended and the Commission's Rules and Regulations thereunder, Consumers Power Company submits CVN Impact Data for pressure vessel weld WF-70, Midland Unit 1.

CONSUMERS POWER COMPANY

By JW Cook
J W Cook, Vice President
Projects, Engineering and Construction

Sworn and subscribed before me this 21 day of February, 1983

Barbara Bounan
Notary Public
Jackson County, Michigan

My Commission Expires September 8, 1984

AFFIDAVIT OF JAMES H. TAYLOR

- A. My name is James H. Taylor. I am Manager of Licensing in the Nuclear Power Generation Division of Babcock & Wilcox, and as such I am authorized to execute this Affidavit.
- B. I am familiar with the criteria applied by Babcock & Wilcox to determine whether certain information of Babcock & Wilcox is proprietary and I am familiar with the procedures established within Babcock & Wilcox, particularly the Nuclear Power Generation Division (NPGD), to ensure the proper application of these criteria.
- C. In determining whether a Babcock & Wilcox document is to be classified as proprietary information, an initial determination is made by the unit manager who is responsible for originating the document as to whether it falls within the criteria set forth in Paragraph D hereof. If the information falls within any one of these criteria, it is classified as proprietary by the originating unit manager. This initial determination is reviewed by the cognizant section manager. If the document is designated as proprietary, it is reviewed again by Licensing personnel and other management within NPGD as designated by the Manager of Licensing to assure that the regulatory requirements of 10 CFR Section 2.790 are met.
- D. The following information is provided to demonstrate that the provisions of 10 CFR Section 2.790 of the Commission's regulations have been considered:
- (i) The information has been held in confidence by the Babcock & Wilcox Company. Copies of the document are clearly identified as proprietary. In addition, whenever Babcock & Wilcox transmits the information to a customer, customer's agent, potential customer or regulatory agency, the transmittal requests the recipient to hold the information as proprietary. Also, in order to strictly limit any potential or actual customer's use of proprietary information, the following

AFFIDAVIT OF JAMES H. TAYLOR (Cont'd)

provision is included in all proposals submitted by Babcock & Wilcox, and an applicable version of the proprietary provision is included in all of Babcock & Wilcox's contracts:

"Purchaser may retain Company's Proposal for use in connection with any contract resulting therefrom, and, for that purpose, make such copies thereof as may be necessary. Any proprietary information concerning Company's or its Suppliers' products or manufacturing processes which is so designated by Company or its Suppliers and disclosed to Purchaser incident to the performance of such contract shall remain the property of Company or its Suppliers and is disclosed in confidence, and Purchaser shall not publish or otherwise disclose it to others without the written approval of Company, and no rights, implied or otherwise, are granted to produce or have produced any products or to practice or cause to be practiced any manufacturing processes covered thereby.

Notwithstanding the above, Purchaser may provide the NRC or any other regulatory agency with any such proprietary information as the NRC or such other agency may require; provided, however, that Purchaser shall first give Company written notice of such proposed disclosure and Company shall have the right to amend such proprietary information so as to make it non-proprietary. In the event that Company cannot amend such proprietary information, Purchaser shall, prior to disclosing such information, use its best efforts to obtain a commitment from NRC or such other agency to have such information withheld from public inspection.

AFFIDAVIT OF JAMES H. TAYLOR (Cont'd)

Company shall be given the right to participate in pursuit of such confidential treatment."

- (ii) The following criteria are customarily applied by Babcock & Wilcox in a rational decision process to determine whether the information should be classified as proprietary. Information may be classified as proprietary if one or more of the following criteria are met.
- a. Information reveals cost or price information, commercial strategies, production capabilities, or budget levels of Babcock & Wilcox, its customers or suppliers.
 - b. The information reveals data or material concerning Babcock & Wilcox research or development plans or programs of present or potential competitive advantage to Babcock & Wilcox.
 - c. The use of the information by a competitor would decrease his expenditures, in time or resources, in designing, producing or marketing a similar product.
 - d. The information consists of test data or other similar data concerning a process, method or component, the application of which results in a competitive advantage to Babcock & Wilcox.
 - e. The information reveals special aspects of a process, method, component or the like, the exclusive use of which results in a competitive advantage to Babcock & Wilcox.
 - f. The information contains ideas for which patent protection may be sought.

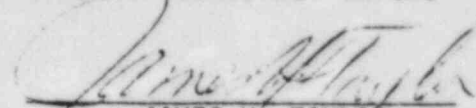
AFFIDAVIT OF JAMES H. TAYLOR (Cont'd)

The document(s) listed on Exhibit "A", which is attached hereto and made a part hereof, has been evaluated in accordance with normal Babcock & Wilcox procedures with respect to classification and has been found to contain information which falls within one or more of the criteria enumerated above. Exhibit "B", which is attached hereto and made a part hereof, specifically identifies the criteria applicable to the document(s) listed in Exhibit "A".

- (iii) The document(s) listed in Exhibit "A", which has been made available to the United States Nuclear Regulatory Commission was made available in confidence with a request that the document(s) and the information contained therein be withheld from public disclosure.
- (iv) The information is not available in the open literature and to the best of our knowledge is not known by Combustion Engineering, EXXON, General Electric, Westinghouse or other current or potential domestic or foreign competitors of B&W.
- (v) Specific information with regard to whether public disclosure of the information is likely to cause harm to the competitive position of Babcock & Wilcox, taking into account the value of the information to Babcock & Wilcox; the amount of effort or money expended by Babcock & Wilcox developing the information; and the ease or difficulty with which the information could be properly duplicated by others is given in Exhibit "B".


E. I have personally reviewed the document(s) listed on Exhibit "A" and have found that it is considered proprietary by Babcock & Wilcox because it contains information which falls within one or more of the criteria enumerated in Paragraph D, and it is information which is customarily held in confidence and protected as proprietary information by Babcock & Wilcox. This report comprises information utilized by Babcock & Wilcox in its business which afford Babcock & Wilcox an opportunity to obtain a competitive advantage over

those who may wish to know or use the information contained in the document(s).



JAMES H. TAYLOR

Statue of Virginia)
) SS. Lynchburg
City of Lynchburg)

James H. Taylor, being duly sworn, on his oath deposes and says that he is the person who subscribed his name to the foregoing statement and that the matters and facts set forth in the statement are true.


JAMES H. TAYLOR

Subscribed and sworn before me
this _____ day of _____ 1983.



Notary Public in and for the City
of Lynchburg, Sate of Virginia

My Commission Expires _____