UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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

REVISED CONTENTIONS (II) OF MARY SINCLAIR BASED ON REMAINDER OF DISCOVERY FROM NUCLEAR REGULATORY COMMISSION STAFF PURSUANT TO BOARD ORDER OF MAY 25, 1982.

On September 3, 1982, the Nuclear Regulatory Commission ("NRC") Staff completed its responses to interrogatories submitted to it by Mary Sinclair on June 18, 1982.

The following are revised contentions based on that discovery and on new information that relates to the original contentions.

CONTENTION 6

Serious and repeated deficiences in the quality assurance quality control program for Midland demonstrate that construction of the facility has consistently failed to meet applicable requirements, that the quality assurance/quality control program has failed to detect these violations and assure proper corrective measures, and that an unknown number of serious construction violations now remain in the facility in areas where they can neither be examined nor corrected.

Deficiencies in the quality assurance/quality control program at Midland include the following:

a. Violations of regulatory procedures

According to an internal NRC memorandum from R.B. Landsman, Soil Specialist, to W.D. Shafer, Chief, Midland section, dated August 24, 1982, the Applicant has violated the Board's Order of April 30, 1982, by going ahead with construction activities in direct violation of a requirement to obtain prior NRC staff approval, and it has engaged in deception that has repeatedly been a part of the patternof the Applicant's actions throughout the construction of Midland.

b. Alteration of Weld Radiographs

According to I & E Bulletin No. 82-01, Rev. 1, Supplement 1 (August 18, 1982), alterations have been discovered in at least [illegible] sets of piping weld radiographs for piping supplied to Midland by ITT Grinell Industrial Piping, Inc., of Kernersville, North Carolina. These radiographs were altered over a period of six years. As a result of the alterations, the quality of the welds is unknown. It is doubtful that all of the affected welds can be identified and corrected since some may no longer be accessible for inspection.

This is a violation of Criteria I, II, VII, IX, X, XI, XV, XVI, and XVII of Appendix B to 10 CFR Part 50. NOt only has the Applicant permitted the installation of noncomplying materials, it has failed to assure that its supplier has an effective quality assurance program as well. This extended failure in an area crucial to reactor safety raises serious questions about the existence of deficiencies in all vendor-supplied items.

c. Defective Welds in Control Panel

According to I&E Information Notice No. 82-34 (August 30, 1982), Midland Units 1 and 2 contain defective welds in the main control panels that were not prevented or detected as required by the quality assurance program.

d. Faulty welding, piping, and electrical installation

The following demonstrate quality assurance/quality control failures in a broad range of areas. They demonstrate, generally, that the Applicant was incapable of preventing or detecting construction failures through its quality assurance program. To the extent that the Applicant discovered such failures, it was through highly unusual reinspections, which are not a normal part of the quality assurance program, and which cannot be relied upon to assure reactor safety:

1. Non-Conformance Report of June 19, 1982. which is a part of the reinspection to which the Applicant has committed, states that 66 weld joints were non-conforming out of 146 reinspected.

2. Report on Safety Concern and Reportability Evaluation (June 21, 1982) discussed welding defects that were discovered during reinspection of a sample of installed vendor supplied structural beams. The report states, "The location of all [defective] beams is not

known, but the sample included beams in the Auxillary building and both containments...The safety impact of weld failure is unknown due to the diverse functions and locations of approximately 2,400 beams."

3. Quality Action Request (QARF 175) closed out August 24, 1982, indicates that an "increase of approximately 164% has been experienced in the area of (welding) deficiencies."

4. Non-Conformance Report, closed out on August 26, 1982, states that contrary to ASME requirements, radiographs submitted by Craven Energy Systems displayed mottlings in the vertical weld seams of the borated water storage tanks, a safety related building.

5. The NRC has identified (Inspection Reports 50-329/82-07 and 50/330/82-07) defective installation of pipe supports and restraints (NRC response to Interrogatories, p. 4), 127 deficiencies, 28% due to defective welds were reported.

6. According to Applicant's response to Inspection Report 82-07 (Aug. 13, 1982) in the Hanger Report (Aug. 9, 1982), results of the resinspection showed that out of 123 hangers inspected, only 55% were acceptable.

7. According to Applicant's May 5, 1982, report of the exit meeting of April 23, 1982, the reinspection conducted by Applicant of piping hangers that had previously been inspected and accepted by Bechtel QC revealed that 43.9% of the hangers inspected were identified as non-conforming. (Attachment 15 to Aug. 13, 1982 Report)

8. In their August 30, 1982, letter to the Applicant, Region III stated that while the Applicant's response identified corrective actions taken or planned to be taken regarding the 55 defective hangers identified in Applicant's reinspection, Region III has "no confidence that the remaining hangers have been installed in accordance with the original drawings and specifications."

9. The Safety Concerns and Reportability Evaluation (June 17, 1982) states that the minimum wall thickness of Piping Class ELB utilizes materials of a different allowable stress (17,500 psi) than the specifications for fittings (15,000 psi) for this class of piping.

10. Inspection Report 81-23, July 26, 1982, discussed, in addition to rodent damage to insulation, a multitude of discrepancies in the penetrations such as: "conductor insulation cracking at

module-conductor interfaces; cracks in the module opoxy insulation; inadequate crimping by use of improper sized lugs, improper crimping, loose terminations, and use of the wrong crimp; butt splices improperly crimped which could be easily pulled apart and were covered with questionable insulation; and loose coaxial cable connections." These has not been prevented or properly detected by Applicant's quality assurance program.

Contention 29 - Dropped

Contention 34

The installation of pipe supports and restraints has been deficient such that there can be no assurance that the public health and safety will be protected. In particular,

(a) There has been an inadequate examination of the use of snubbers as component supports, and there has been inadequate consideration of actual and potential snubber malfunction.

(b) Inspection Reports 50-329/82-07 and 50-330/82-07 identify extensive deficiencies in installation of pipe supports and restraints. (NRC staff response to Interrogator 13.b, p. 4). The Applicant's response to the Inspection Report was determined to be unacceptable. (Letter, J.A. Mooney, to J.G. Keppler, dated August 13, 1982, file 0.4.2, Serial 17572 and letter, R.F. Warnick to J.W. Cook, dated August 30, 1982).

As a result of these deficiencies, the findings required by 10 CFR 50.57(a)(3)(i) and 50.57(a)(6) cannot be made.

Contention 37

The current design criteria for the postulation of pipe breaks and protection therefrom at Midland are inconsistent and have not been justified. According to Supplement 1 to the SER, dated July 13, 1982 (p. 6-2), the Staff is conducting a re-review of B&W's small break LOCA methods. The Staff has determined that integral system experimenta data are needed to confirm the predicted behavior of the B&W designed nuclear steam supply system. The Staff has not yet obtained these data. Accordingly, it is not possible to evaluate the safety of the Midland design. Therefore, the findings required by 10 CFR 50.57 (a)(3)(i) and 50.57(a)(6) cannot be made with respect to the Midland facility.

Contention 43

It is not possible to assure the security of the Midland facility against sabotage or other terrorist acts without seriously infringing on the constitutionally protected civil liberties of plant workers and citizens of the surrounding community. In such a conflict between constitutional rights and nuclear power, the Constitution must prevail.

Several NRC sponsored reports have been made on the type of security and safeguards that nuclear facilities need. These include among others, the Rosenbaum Report, the Mitre Report, Barton Report and BDM Report. These government studies stress the implementation of intelligence operations as the first and one of the most important lines of defense. (Rosenbaum Report) The priorities are not to preserve basic constitutional rights but to preserve nuclear power as an energy source for our country and the world. (Mitre Report to the U.S. NRC, p. 1-26)

These and other studies are discussed in a report called "Nuclear Power and Civil Liberties - - Can We Have Both," published by the Citizens' Energy Project (CEP) of Washington, D.C., in 1979. That CEP report states that the Mitre Report says that any group which organizes large demonstrations is suspect. Communities surrounding nuclear plants should be monitored as well. (p.52) The Mitre Report urged the NRC to distribute the intelligence data it gathered to the security officers as each nuclear facility.

The following statement quoting the Mitre Report is carried on page 53 of this study:

"We recommend that NRC maintain a close working relationship with the intelligence community and keep intelligence agencies aware of the information needed by NRC to meet its safeguard responsibilities."

A quote from the Barton Report in this study says: "In constitutional language, the most serious effects are on freedom of association and discussion (particularly on nuclear issues) and on privacy." (p.52)

A 1976 GAO Report found that utility employers were regularly used as "confidential informants" in FBI's investigation of groups and workers at nuclear facilities.

FBI data is recorded in the agency's National Crime Information Center (NCIC) computer. (p. 57) The Georgia Power Co. and Alabama Power Co. have both received information from the computer. (p.58)

Georgia Power Co. opened secret offices in Atlanta to conduct "security" operations, intelligence, surveillance and harassment of citizen anti-nuclear activists and characterized them as a "bolshevik brain trust set up to wreck the electric business." (p. 78)

Now thatthis Administration is pressing for the construction of the Clinch River Breeder Reactor to produce plutonium, the warnings on dangers to civil liberties that are carried in the "Harvard Civil Rights--Civil Liberties Law Review," Vol. 10, 1975, p. 369-443 become most important. The report points out that this plutonium is to be used as additional fuel for nuclear reactors (p. 370). The author of this report, Russell Ayres, states, "Plutonium provides the first rational justification for widespread intelligence-gathering against the civilian population. In the past, federal courts have taken a skeptical view of attempts to justify spying on national security grounds, but with the very real threat of nuclear terrorism (which production of plutonium will invite) in the picture, the justification is going to sound very convincing."

The security of this nuclear plant cannot be assured unless serious infringement of civil liberties of workers and the citizens of the community takes place. Therefore, the findings required by 10 CFR 50.57(a)(3)(i) and 10 CFR 50.57 (A)(6) cannot be made.

Contention 44 - Dropped

Contention 51 - Dropped

Contention 57 -

There is no basis for a finding of reasonable assurance that the electrical system at Midland will function adequately because:

1. It is vulnerable to damage by fire. In late 1975, it was learned that Bechtel-- the architect-engineer for the Midland project -- had tolerated cases where non-safeguard cables routed in safeguard raceways had been terminated and a new non-safeguard cable (same circuit) had been continued in a different safeguard channel's raceway. So far as appears, at that time Bechtel took no correctiv

action to prevent recurrence of that problem and was unable to give positive assurances that other cables did not similarly violate the single failure criterion. Further, in September and October 1978, a fire test of a full-scale vertical cable tray array demonstrated that the configuration of fire protection features used in the test would not be acceptable for application in nuclear power plants. The final test reports of several tests conducted for the NRC fire protection research program have not yet been issued. (NRC Response to Interrogatory 36.a). There is no assurance that the same cable problems, and the same inadequate fire protection features, do not exist at Midland. There can be no reasonable assurance that the electrical system at Midland will function adequately under accident or fire conditions.

2. According to an affidavit by an anonymous electrician at the plant, there were serious quality control lapses in the electrical systems that he installed. For example, where a cable design called for three shielded pairs of 16-gauge wire, the cable shop would use 6-stranded 16-gauge wire with the shielding around the entire bundle. (Midland Daily News, July 28, 1982). This could result in a weaker signal than necessary through the wires, and it could contribute to the likelihood of shorting, which could disrupt service and pose a fire hazard.

Respectfully submitted,

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