

GOVERNMENT ACCOUNTABILITY PROJECT

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March 7, 1983

Mr. Darrell Eisenhut, Director
Division of Licensing
U. S. Nuclear Regulatory Commission
Washington, D. C.

Dear Mr. Eisenhut:

On February 8, 1983, the Government Accountability Project (GAP) attended two public meetings in Midland, Michigan on behalf of the LONE TREE COUNCIL, concerned citizens, and several former and current employees working on the Midland Nuclear Power Plant, Units 1 and 2. As you know, the large public turnout for both the daytime meeting between Consumers Power and various Regional and Washington-based offices of the Nuclear Regulatory Commission (NRC) and the evening session between the NRC and the general public included spirited debate and lengthy presentations. These meetings, although highly beneficial to the education of the Michigan public about the nuclear facility being constructed in Midland, did not allow for the type of technical questions and detail about the Construction Completion Plan (CCP) in which GAP is particularly interested.

Therefore, I appreciate this opportunity to address a number of concerns that we have regarding issues presented at the public meeting and contained in the detailed CCP submissions. In order to complete our own continuing analysis of the Midland project, I would hope that you can provide answers to and/or comments on the enclosed questions.

Pending further public meetings and detailed review of basic elements of the Construction Completion Plan, I assume that your verbal requests to Consumers Power (Consumers) management to "hold off" on making any commitments will be translated into a firm NRC directive. As you know, Consumers has had a history of misinterpretations and miscommunications in relation to many of the aspects surrounding the Midland plant. The public understood quite clearly what your instructions were; if those have changed I suggest that you continue to express those changes to the public through the appropriate local media representatives.

I. REQUESTS FOR FURTHER INFORMATION

A. The relationship between the Washington NRC offices (NRR, DOL, etc.) and the Regional management, and on-site Midland Special Team and Inspector.

It is unclear where the authority lines for approval of various elements of the Midland construction project are drawn. GAP investigators, staff and attorneys are continually getting unclear signals from the various regulation divisions as to who is making what decisions and when. Since it has been noted by the NRC staff itself that "[Consumers] seems to possess the unique ability to search all factions of the NRC until they

have found one that is sympathetic to their point of view - irregardless of the impact on plant integrity,"^{1/} it seems critical to establish once and for all the authority lines within the NRC that Consumers must respond to.

We are particularly concerned about the apparent transferring of responsibility for the on-site inspectors and the Midland Special Section Team to the Regional Administration and Washington-based NRC officials. Although I am sure that you have read the testimony of Mr. Keppler, submitted to the Atomic Safety and Licensing Board (ASLB) on October 29, 1983, and attached memorandum from the staff members that are more directly responsible for the Midland project, I have included them with this letter for your renewed attention following the results of the Diesel Generator Building inspection. (Attachment #1.)

There have been a number of incidents within the last several months where Regional personnel (RIII team or on-site) have indicated one answer pertaining to construction work, and then other action was taken after approval from NRR. Several examples of this that are fairly recent are:

1. A February 8, 1983 conference call between Consumers, Bechtel and the NRC regarding the discussion of loading sequence for pier load test and background settlement readings did not include any Region III personnel, most particularly Ross Landsman. Although I do not know the details of his exclusion, I am concerned that he was not a participant in the call, or in the decisionmaking process.
2. At the recent ASLB hearings NRR and RIII personnel were asked about the projected timeline for Consumers to approach the Feedwater Isolation Valve Pit jacking work. RIII personnel seemed confident that work would not begin on this until at least late March or early April, yet work actually was begun on the same day as the conversation, February 17, 1983.
3. The NRC has taken a position that "no major discrepancies" have been found in the soils remedial work to date. Yet: (a) two cracks, including one 10 millimeters by 7 inches long, have been discovered in the valve pit.^{2/} (b) A February 15, 1983 memorandum from R. B. Landsman to R. F. Warnick identifies three specific concerns since the beginning of the underpinning work that -- to GAP -- indicate serious flaws in the perception of Consumers about the seriousness of the work they are engaged in. These include craftworkers not receiving the required amount of training, arguments with Consumers about techniques that show a priority to deadlines instead of quality, and a major flaw in the Stone & Webster independent assessment. (Attachment #2.)

Given our experiences with the NRC inspection efforts, I am particularly anxious to have the on-site/special section team members have as much direct input into the review/licensing process as possible. Although I do not always agree with their decisions or their actions, I am more comfortable with their version of the facts on the Midland site.

^{1/}Memorandum from R. J. Cook to R. F. Warnick, July 23, 1982.

^{2/}According to the Midland Daily News, February 24, 1983, Construction Technology had performed an "independent" analysis of the cracks before the Midland team even had the opportunity to complete its own investigation or review.

B. The guidelines and timetable by which the independent third-party auditor will be chosen.

It is not at all clear what guidelines, if any, your office intends to employ in the review or monitoring of the selection process for the third-party auditor of the Midland facility. We are extremely distressed at the way that both Stone & Webster (S&W) and the TERA Corporation were approved by your office. We feel that the approval was more by default than by aggressive review of the proposals, contracts and criteria as presented to the NRR office. Further, it is very clear to us that the Regional personnel involved in the initial contact with the Stone & Webster organization gave the impression that S&W's on-site activities were authorized. Even if that impression was only technically incorrect, it is a serious breach of public trust by the Regional staff.

We recommend that your office adopt the prudent position that Consumers follow the nominating process used for Diablo Canyon's independent assessment. Although Midland's problems have not yet reached the stage of major public controversy such as Diablo or Zimmer, it is clearly evident that the sensationalism of the problems with the soils settlement and the cost of the Midland facility will move it more into the public eye as it reaches completion.

If there was any doubt as to the active interest of the Midland community in regards to the Midland facility, the February 8, 1983 public meeting should have dispelled that misconception. The community surrounding the plant is extremely attentive to the issues and concerns raised by the nuclear facility -- the debate will continue. To choose another, more congenial approach to identifying the firm that will be responsible for the completion of the plant would be a grave mistake in our opinion.

C. The plans that the NRC staff has made to determine the actual "as built" condition of the rest of the buildings and systems on the Midland site in the wake of the findings in the Diesel Generator Building inspection.

The aggressive efforts of the DGB inspection were a solid step forward in determining the extent of the problems at the Midland facility. However, it is unfortunate that the inspection did not expand to other buildings. The public must have confidence that all the problems have been identified, as well as basic factors about how the problems were caused and how they are going to be fixed if there is ever any hope for restoring faith in the safety of the plant.

D. The methodologies that are to be employed in the technical review of generic problems on the site, such as determining the accuracy of quality control/quality assurance documentation made suspect by the flawed process, and the training and recertification of all the welders who were trained by Photon Testing, Inc.

The two items mentioned above, as well as problems that have resulted from the ZACK corporation, unidentifiable electrical cables, untrained quality control inspectors, material traceability inaccuracies, etc., must be addressed in any workplan to identify the problems on the site. It is not clear whether the NRC staff, the NRR staff or the independent auditor is to

be responsible for identification of all of the problems prior to the start up of construction activities on the site.

E. The resolution of what is and what is not "Q" work in regards to the soils remedial work should be handled in a public forum.

The "Q" debate between NRC staff members - including Regional management and the on-site inspectors - as well as between the NRR and NRC staff has been a topic of considerable concern to us. The resolution of these issues has critical implications for the rest of the soils work project. Because it has been a major item of discussion in the hearings currently underway in Midland, as well as among the staff, we believe that it would be beneficial for you to receive the position that concerned citizens have taken. I have suggested that those residents who have been following this issue very closely prepare a position statement for your office on the "Q" soils issue.

II. COMMENTS CONCERNING THE THIRD-PARTY REVIEWS

It is our understanding that there are currently three separate independent audits being conducted (or considered) at the Midland facility. These are:

(1) The Stone and Webster Corporation's third party independent assessment of the soils remedial work activities. A February 24, 1983 letter from Mr. Keppler to Consumers outlines the scope of the S&W assessment. It significantly broadens the original scope of S&W's review. As a result of the expansion of S&W's responsibilities, and apparently a close monitoring of their work by the RIII team, Mr. Keppler approved the release of additional underpinning work for construction. We request the following documents in reference to the S&W approval:

- a. The criteria that NRC officials used to judge the adequacy of the initial S&W work.
- b. The methodologies which the S&W personnel are utilizing to provide their QA overview and assessment of the design packages, inspector requalification and certification program, and training programs.
- c. The details of the expanded work contract which will assess the actual underpinning work on safety-related structures.

(2) The Independent Design Verification and vertical slice review being performed by the TERA Corporation. We have recently received the detailed Engineering Program Plan from TERA on the Midland Project. Although extremely impressed with some of TERA's procedures, organization and structure there are a number of areas which raise serious questions.

- a. What specific reporting procedures does TERA have to follow in regards to findings, corrective action reports, controversies among their own staff over issues of noncompliance or questionable accuracy, and internal reporting. Figure 1-1 clearly indicates that

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TERA intends to notify the NRC at the same time as Consumers, but at the February 8 meeting there was a very clear example of that not actually happening because of miscommunication between TERA and the NRC.

b. What is the difference between a Corrective Action Report as referenced in the QA Audit Procedures and a Non-Conformance Report as required by 10 CFR Part 21. (A similar "informal" nonconformance reporting procedure at the William H. Zimmer plant caused innumerable problems for both the NRC and the licensee.) We would ask that the C.A.R.'s be forwarded to the NRC, or preferably be written up as NCR's immediately upon identification of an item of non-compliance. Any discretion between informal and formal procedures should be limited to the judgement of the NRC.

c. What is the intent and scope of the "EXCEPTIONS" referred to in Part 1.1 of the plan?

d. Who controls the Administrative decision making process between Consumers and TERA over specific points of technical controversy?

e. What documents will be forwarded to the NRC in support of the various findings - whether favorable or unfavorable - during the course of the two vertical slice reviews?

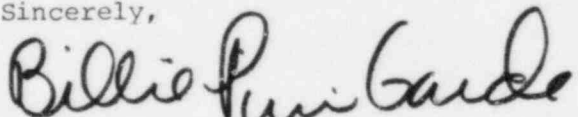
(Further comments and questions about the TERA plan will be forthcoming under separate cover when we are able to finish our review.)

(3) The overall independent third-party assessment. Instead of providing your office with our detailed (and lengthy) analysis of the flaws and shortcomings of the CCP as introduced by Consumers in the January 10, 1983 letter and the public meeting we have decided to wait for further detail to be provided by Consumers on their plan. We are somewhat anxious about this, as we understand that there have been detailed discussions going on between the NRC and Consumers. As you know, similar events at the Zimmer plant led to increased public skepticism and an even greater loss of confidence in the NRC process.

We strongly encourage your office and the Regional Administrator to consider the process of choosing a third-party auditor as important and delicate as was the process at Zimmer. If there is to be a "closed door" approach to Midland we request that you articulate that at this time. If you do not we will assume that the NRC intends to follow a fully public process of nomination and selection.

Thank you for your time, we look forward to answers to our questions in the near future.

Sincerely,



BILLIE PIRNER GARDE
Director, Citizens Clinic

10/29/82

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 OM & OL
)	50-330 OM & OL
(Midland Plant, Units 1 and 2))	

TESTIMONY OF JAMES G. KEPPLER
WITH RESPECT TO QUALITY ASSURANCE

Q.1 Please state your name and position.

A.1 My name is James G. Keppler. I am the Regional Administrator of the NRC's Region III office. My professional qualifications have been previously submitted in this proceeding.

Q.2 Please state the purpose of your testimony.

A.2 In my testimony to the Board in July 1981, I testified on the more significant quality assurance problems that had been experienced in connection with the Midland project and the corrective actions taken by Consumers Power Company and its contractors. I stated that, while many significant quality assurance deficiencies have been identified, it was our conclusion that the problems experienced were not indicative of a breakdown in the implementation of the overall quality assurance program. I also noted that while deficiencies have occurred which should have been identified earlier, the licensee's QA program had been effective in the ultimate identification and subsequent correction of these deficiencies. Furthermore, I discussed the results of Region III's special quality

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assurance inspection of May 18-22, 1981, which reflected favorably on the effectiveness of the Midland Project Quality Assurance Department, which was implemented in August 1980. The thrust of my testimony was that I had confidence that the licensee's QA program both for the remedial soils work and for the remainder of construction would be implemented effectively.

It was not until April 1982 that I was made aware of additional problems with the effectiveness of implementation of the QA program. The problems came to my attention as a result of the April 1982 meeting between NRC and Consumers Power Company to discuss the Systematic Assessment of Licensee Performance (SALP) report for Midland and the discussions held within the Staff in preparation for that meeting. The SALP report addressed the Midland site activities for the period July 1, 1980 through June 30, 1981. During this period, the soils work activities were rated Category III, the lowest acceptable rating given by the SALP review process.

During the April 1982 public meeting on the SALP findings, Mr. Ronald J. Cook, NRC Senior Resident Inspector at Midland, stated that as of that date he would rate Consumers Power Company soils work Category III, the same rating as it received for the SALP period. He had similar comments on other work activities. Based on my July 1981 testimony, I expected Consumers Power Company would be rated a Category I or II in the soils area, as well as other areas, by April 1982, and I was certain that my July 1981 testimony had left that impression with the Board.

On the basis of the above, I decided it was appropriate to supplement my July 1981 testimony.

Q.3 What actions have been taken by Region III in response to the information contained in your previous answer?

A.3 I met with the NRC supervisors and inspectors who had been closely involved with Midland during the past year to get a better understanding of their concerns. As a result of these meetings, I concluded that the problems being experienced were ones of program implementation rather than problems with the QA program itself.

Because of my concerns, I requested the Region III Division Directors most actively involved with the Midland inspection effort to try to identify the fundamental problems and their causes and to provide me with their recommendations to resolve these problems. They provided me with an assessment of technical and communications problems experienced by the licensee and made recommendations with respect to the licensee's workload, institution of independent verification programs, and QA organization realignments. This response is included as

Attachment A. (Memorandum from Norelius and Spessard to Keppler, dated June 21, 1982)

In July 1982 I recognized that more NRC resources were going to have to be provided in overseeing activities at Midland and created the Office of Special Cases (OSC) to manage NRC field activities at Midland (and Zimmer). Mr. Robert Warnick was assigned Acting Director. A Midland Section was formed comprised of a Section Chief, two regional based

inspectors, and two resident inspectors (the second resident inspector reported onsite in August 1982).

Before meeting with representatives of the Office of Nuclear Reactor Regulation (NRR) to discuss options for NRC action in connection with Midland, Mr. Warnick requested Senior Resident Inspector Cook to provide a summary of the indicators of questionable licensee performance.

Mr. Cook provided a memorandum documenting a number of problems and concerns, which is included as Attachment B. (Memorandum R. J. Cook to R. F. Warnick, dated July 23, 1982)

Mr. Warnick and I met with representatives of NRR on July 26, 1982 to discuss Consumers Power Company's performance. This meeting resulted in recommended actions concerning third party reviews of past work and ongoing work which are described in Attachment C. (Memorandum, Warnick to Files, dated August 18, 1982)

Following the meeting with NRR, Mr. Warnick discussed with members of the Midland Section positions concerning third party reviews developed at the meeting with NRR. The members of the Midland Section were not convinced the recommended actions were the best solution, since the causes of the problems had not been clearly identified. Instead, they proposed a somewhat different approach consisting of an augmented NRC inspection effort coupled with other actions to strengthen the licensee's QA/QC organization and management. This proposal is documented in Attachment D. (Memorandum, Warnick to Keppler, dated August 18, 1982)

In response to these suggestions, Mr. Darrell Eisenhut, Director, Division of Licensing, NRR, and I met with top corporate management representatives from Consumers Power Company on August 26, 1982, and

again on September 2, 1982, to discuss NRC's concerns and possible recommended solutions. Because it was not clear to the NRC staff why Consumers Power was having difficulty implementing their QA program, we requested them to develop and propose to the NRC, actions which would be implemented to improve the QA program implementation and, at the same time, provide confidence that the program was being implemented properly.

Consumers Power subsequently presented its proposal for resolution of the identified problems in two letters dated September 17, 1982, which are included as Attachments E and F. (Letters Cook to Keppler and Denton, dated September 17, 1982)

These proposals were lacking in detail, particularly with respect to the plant independent review programs. Following a meeting between NRC staff members and Consumers Power Company in Midland on September 29, 1982, Consumers Power submitted a detailed plan to NRC on October 5, 1982 concerning the planned third party activities (Attachment G). Consumers Power Company's proposals (Attachments E, F, and G) are currently under review by NRC.

Q.4 Do you believe that soils remedial work at the Midland plant should be permitted to continue?

A.4 Yes. This portion of my testimony discusses what has been accomplished and what will be accomplished in the near future to provide a basis for continued construction at the Midland plant.

We expect that Consumers Power Company will have independent third party assessments of the Midland construction project. These assessments will include reviews of safety related work in progress and of completed

work activities. The scope of, and contractors for, the third party assessments are presently under review by the NRC staff.

Along with the independent third party reviews, the Office of Special Cases, Midland Section, has expanded its inspection effort and has taken actions to assure compliance with the Licensing Board's April 30, 1982 requirement that the remedial soils work activities receive prior staff approval. Specifically, the Midland Section has (1) established a procedure for staff authorization of work activities proposed by Consumers Power Company (Attachment H, Work Authorization Procedure, dated August 12, 1982), and (2) has caused a stop of the remedial soils work on two occasions once in August 1982 and again in September 1982 (Attachments I and J, Confirmatory Action Letters dated August 12, 1982, and September 24, 1982, respectively). The Section has also started an inspection of the work activities which have been accomplished by Consumers Power Company in the last twelve months in the diesel generator building, the service water building and other safety related areas. This inspection was started during October 1982 and is continuing as of the filing date of this testimony.

Based upon (1) the third party assessments of the plant which will be performed, (2) the increased NRC inspection effort, and (3) the work authorization controls by the NRC, I believe that soils remedial work at the Midland plant may continue. As demonstrated by the previous stop-work effected in the remedial soils area, the staff will take whatever action is necessary to assure that construction is in accordance with applicable requirements and standards.