

DOCKET NUMBER 50-329/330 OL
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

January 25, 1983

ATOMIC SAFETY
AND LICENSING
BOARD PANEL

NOTE 10: Docketing and Service Branch, SECY

FROM: Charles Bechhoefer *Charles Bechhoefer*

RE: Consumers Power Co., Midland Plant
Docket Nos: 50-329 01 & 50-330 0L

The attached documents were sent by Ms. Mary Sinclair, an intervenor in the 0L proceeding, but apparently were not served on other parties or on the other Board members.

Please serve these papers together with this note on all parties.

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5711 Summerset Drive
Midland, MI 48640
January 19, 1983

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Judge Charles Bechhoefer, Esq.
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

DOCKET NUMBER
PROD. & UTIL. FAC.

50-329-04
50-330-04

Dear Judge Bechhoefer:

I am sending you a letter prepared by Billie Garde of the Government Accountability Project (GAP) which has accepted the Midland nuclear plant licensing case as a major project of their organization.

As you know, GAP, which is a privately funded organization, assists citizens who are involved in actions where a federal agency has some major responsibility. In this letter (enclosed) to Dr. Chester Siess, Acting Chairman of the Midland Advisory Committee on Reactor Safeguards subcommittee, Ms. Garde has provided a comprehensive overview of what is happening at Midland at the present time and the extent of the unresolved and, one might even say, unresolvable licensing problems that we are facing.

Recently, Consumers Power Co. after an indepth Nuclear Regulatory Commission inspection last fall, layed off over 1,000 workers and decided to take out most of the safety systems in the two reactors, the auxiliary building and the diesel generator building, reinspect them and reinstall them properly. This means that almost the whole range of safety systems at the Midland plant is now in question.

It is for this reason that I raise the issue as to the feasibility of dealing with operating license contentions Nos. 3 (water hammer), 4 (steam generator) and 13 (class 9 accidents). For each of these contentions, it will be almost impossible for any witness to testify as to the real situation at the Midland plant since so much of the safety equipment is now in question.

After all, we are not licensing some theoretical plant, but specifically the Midland plant.

Mr. James Keppler noted and emphasized in the CBS national news coverage of Midland's problems that the "as built" design that his inspectors had found did not conform to the engineered design and specifications. Any testimony based on the engineering design and not the "as built" condition will not reflect the realities of what this Board is in the process of licensing.

Page Two
Judge Charles Bechhoefer, Esq.
January 19, 1983

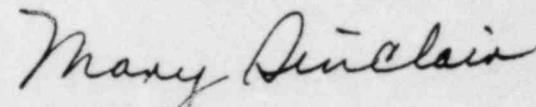
I expect to be ready for these contentions as much as possible during the week of February 14th to the 18th. However, I believe it is prudent to recognize that since Consumers Power Co. is now reinspecting the aforementioned safety systems, that any testimony which can be related to them in any way will be meaningless.

I also need clarification on the staff's comments during the last telephone conference call stating they expect to file a summary disposition on the steam generator contention.

I believe the perspective of the problems at Midland, as Billie Garde has set them out may also be useful to you.

Thank you for your attention to these matters.

Yours sincerely,


Mary Sinclair

MS/jt

Enclosure

Midland Daily

Vol. 125, No. 183

56 Pages

Friday, December 3, 1982, Midland, Michigan

News

Nuclear plant safety reinspection ordered

By PAUL RAU
Daily News staff writer

In a new plan to finish the Midland nuclear plant, Consumers Power Co. has ordered a reinspection of virtually all safety-related work at the plant.

Construction work on most safety-related aspects of the plant has halted while the reinspection takes place, leading to the layoff of 1,040 Bechtel Power Corp. workers this week. The safety-related work will resume when the reinspection is complete, Consumers said.

The new plan — described to U.S. Nuclear Regulatory Commission staff by Consumers Thursday — stemmed from a recent NRC inspection of the plant's safety-related diesel generator building.

NRC Region III spokesman Jan Strasma said the inspection found that the as-built state of the diesel generator building and its systems do not match construction drawings; that questions were raised about the material traceability of structural steel used in the generator building, which is evidence of a Quality Assurance problem; and that questions were raised about the separation of electrical cable trays.

In addition, Strasma said the inspection revealed a large back-log of plant-wide Quality Control (QC) inspections.

Strasma said the most significant aspect of the inspection was that "we found there were a number of problems rather than one glaring problem."

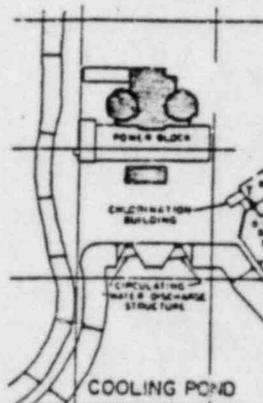
SOME OF THE laid-off workers will not be recalled to the project, but others will, according to plant spokesman Norman Saari. In the meantime, additional inspectors needed to implement the new plan will be hired. Saari could not say how many.

The new plan has not yet received the NRC's concurrence. The NRC expects Consumers to provide a detailed plan for the agency to review by the end of December, according to Wayne Shafer, chief of the Midland Section of the NRC's Office of Special Cases.

"Our staff will be watching very carefully to make sure they (Consumers) are implementing the program they have committed to," Shafer said this morning.

Shafer said the inspection disclosed significant Quality Assurance and equipment concerns in the diesel generator building, and that Consumers' plan will involve recertification of all QC personnel at the plant as well as a 100 percent reinspection of all safety-related components and structures.

There was no immediate explanation of the apparent discrepancy between Consumers' statement that virtually all safety-related work would be reinspected and the NRC's statement that all of it would



NUCLEAR PLANT buildings where reinspection of safety-related work will take place are shaded. The two rounded structures are the containment buildings. Between them is the auxiliary building. The diesel generator building is the rectangular area.

THE FIRST PHASE of the new system completion program will be to remove all construction material and temporary equipment from four buildings which contain most of the nuclear plant's safety-related or "Q" systems — the two containment buildings, the diesel generator building and the auxiliary building.

Each building will then be cleaned and teams will reinspect installed work. Construction teams will then be reformed to go back into the buildings and complete remaining work.

Construction will continue on only a "very small percent" of other safety-related systems, including the system to supply nuclear-generated steam to Dow Chemical Co., Saari said. Work also will proceed in the turbine building, Consumers said.

Saari called the new plan a "forward-backward approach" in which the new teams of inspectors provide the backward look by checking the quality of work

already installed, and the forward look is the formation of new construction teams to finish the plant, which is now 85 percent complete.

The major objectives of the plan are to provide more efficient control over the plant's completion, and to improve the project's performance in meeting the regulations and expectations of the NRC, according to plant site manager Donald B. Miller.

To implement the plan, Miller said in a news release that it was necessary to reduce the manual workforce by more than 1,000 persons, leaving about 4,000 persons at work on the Midland plant. As a result of the layoffs, the Bechtel workforce was nearly halved from 2,200 to 1,200 workers. Bechtel is the plant's engineer-architect and the prime contractor; no Consumers, non-manual or subcontractor employees were let go, with the exception of 151 Zack Co. welders, who are expected to return to work.

Both Consumers and the NRC agree the recent NRC inspection of the diesel generator building "indirectly" led to the layoffs.

Shafer said the NRC inspection continues and may not be completed until year's end.

Another factor behind the layoffs is that the entire Bechtel workforce was not needed to finish building the remaining 15 percent of the plant, Saari said.

He said no more large layoffs are being contemplated now, although the workforce will continue to be pruned by 10-20 persons a week as the project scales down.

CONSUMERS AND the NRC would not discuss whether the new plan will cause a long delay in the completion dates for the two nuclear units, now estimated at July 1983 for Unit 2 and December 1983 for Unit 1.

Consumers has said that schedule likely cannot be met, primarily because the NRC hasn't yet allowed the utility to finish correcting foundation problems caused by poorly compacted soils.

However, Saari said Consumers hopes to notify the NRC "soon" that it is ready to start the major portion of that work, adding a new foundation to the plant's auxiliary building.

More than 1,000 laid off at nuclear plant

Pg. 1

By PAUL RAU
Daily News staff writer

Nearly 1,050 manual workers employed by the Bechtel Power Corp. today were laid off indefinitely from their jobs at the Midland nuclear plant, Consumers Power Co. said.

In the last two days, a total of 1,191 workers have been laid off at the plant.

Wednesday, Consumers and the U.S. Nuclear Regulatory Commission confirmed that 151 nuclear plant workers were laid off Tuesday for unrelated reasons. That story is on page 3.

Consumers Power spokesman Norm Saari gave a number of reasons for today's layoffs, among them that the utility has not yet received the NRC's approval to begin the major part of work to correct soil problems at the nuclear plant. That part is adding new foundations to some nuclear plant structures, particularly the auxiliary building.

The major factor behind today's layoffs is the uncertainty surrounding the plant's construction schedule, Saari said.

He said the construction workforce is pruned each year to adjust for weather conditions, but added that is only a minor factor and that "no where near" 1,200 workers were laid off last winter.

Consumers announced earlier this month that slippage in the plant's construction schedule appears likely. Current projections call for Unit 2 to be finished and ready for loading of nuclear fuel by July 1983, and Unit 1 by December 1983.

Another element in the layoff decision.

In the last two days, a total of 1,191 workers have been laid off at the plant.

Saari said, is financing. "A reduction of the workforce also is a reduction in our cash flow outlay," he said.

In a related development, about 15 labor officials were told early today that all safety-related work at the plant will be halted as of next Monday, according to Floyd Young, business agent for Local 692 of the International Brotherhood of Electrical Workers.

Young said he and other business agents were told by Consumers and Bechtel officials that the safety-related work will be halted until it can be "gone over with a fine-tooth comb" by the NRC.

However, Saari said he cannot confirm that all safety-related work will be stopped Monday. He said some parts of Young's statement are accurate, but noted the meeting with the NRC to establish a plan to complete the Midland project was still underway.

THE LAYOFFS are "indirectly" related to a recent, extensive inspection conducted by the NRC, Saari said. He declined to describe the preliminary inspection findings.

The layoffs coincide with a meeting this morning with the NRC at the nuclear plant.

The NRC's special inspection team, called the Midland Section of the Office of

Special Cases, is in town to hear Consumers Power's plan to "get the program straightened out," according to Wayne Shafer, chief of the Midland Section.

NRC inspectors in the Midland Section, in conjunction with other inspectors under contract to the NRC, have been performing an inspection of the hardware and materials in the nuclear plant's diesel generator building since Oct. 12.

Shafer said preliminary findings from the inspection were presented to Consumers on Nov. 24. Today's meeting, which began at about 11 a.m., was set up to hear Consumers' response to the findings.

Neither the NRC nor Consumers would describe the findings before today's meeting, and the parties still were meeting at press time.

THE LAYOFFS involve only Bechtel manual workers; no Consumers, non-manual or subcontractor employees (with the exception of 151 Zack Co. welders) are affected. The plant now has less than 4,000 total employees.

Laid off workers include electricians, pipefitters, millwrights, boilermakers, carpenters, iron workers, laborers, painters and cement masons.

Saari acknowledged the layoffs have led to some disturbances among the plant workforce. He said some tires on automobiles parked at the plant were slashed Wednesday, but said, "We're not in a reactionary mode out here."

Midland Daily News, Midland, Michigan

Thursday, December 2, 1982

Page 3

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Section

151 nuclear plant welders laid off

By PAUL RAU
Daily News staff writer

One hundred and fifty-one welders employed by the Zack Co. have been laid off at the Midland nuclear plant due to concerns about their qualifications and the welding procedures they were using, according to a federal official.

The layoffs mean all welding on safety-related heating, ventilating and air conditioning (HVAC) ducts at the nuclear plant has been halted until the U.S. Nuclear Regulatory Commission determines the welders and their procedures meet federal standards for nuclear plant work.

Wayne Shafer, chief of the Midland Section of the NRC's Office of Special Cases, predicted the welders won't be allowed to resume work on safety-related ducts until mid-December.

The Office of Special Cases is a special inspection team set up by the NRC this summer to look at construction problems at only two nuclear plants — Midland and Zimmer, in Ohio.

Shafer said the HVAC problems were

revealed by a September audit by the Midland Project Quality Assurance Department (MPQAD) of Photon Testing Inc. Photon Testing is a subcontractor responsible for training Zack welders, certifying that they are qualified and are writing weld procedures for HVAC work.

The audit recommended that Photon Testing be removed as an approved contractor at the Midland plant because the firm was not implementing portions of a QA program and was implementing other portions improperly, Shafer said.

Shafer said the audit findings also reflect poorly on Consumers Power Co., Bechtel Power Corp. and Zack because those firms let contracts to Photon Testing which did not require it to invoke all of the government's QA standards.

QA is a system of overinspection designed to verify that nuclear plants are built according to federal specifications.

QA problems have plagued the Midland project for years, mystifying the NRC and leading it to focus intense scrutiny on the plant. The special Midland Section inspection team headed by Shafer

is an example. Plant owner Consumers Power also has reorganized its MPQAD several times to make it more effective in finding and preventing construction problems.

IN ADDITION to the layoffs and the welding halt Shafer said the qualification of new welders by Photon has been discontinued and all safety-related weld procedures have been withdrawn. Those actions taken by Consumers Power and Bechtel became effective at 3 a.m. Tuesday, he said.

Consumers Power spokesman Norman Saari said three actions will now be taken — development of new welding procedures, recertification of Zack welders and evaluation of their past work.

The NRC has not yet determined the seriousness of the HVAC situation, or whether the corrective actions were appropriate. "If it is determined that the welding was unsuccessful, it obviously will have to be repaired or removed and replaced," Shafer said.

Saari said there is "no reason to believe

the work is bad," but said Consumers has decided the problems are potentially reportable as construction or paperwork deficiencies. The utility is to report back to the NRC in 30 days with more information.

PORCTIONS OF THE HVAC system are safety-related because, among other functions, they are designed to provide a habitable atmosphere for control room operators during a radiation release accident.

Proper functioning of the Midland HVAC system is more critical than at some other nuclear plants, according to the NRC, because it also must protect operators from a possible chemical release at Dow Chemical Co., located just across the Tittabawassee River from the nuclear plant.

Saari said welding is continuing on some HVAC systems which are not safety-related, such as those in the plant's turbine building.

Fired Zack workers claim coverup in quality control

By PAUL RAU
Daily News staff writer

Four former employees of the Zack Corp. have charged that the nuclear plant vendor attempted to cover up a widespread breakdown in documentation for safety-related components supplied to three nuclear plants, among them the Midland nuclear plant.

The four, who went public with their allegations on a Chicago television station Thursday night, claim they were fired from their jobs in Zack's Quality Assurance (QA) documentation section after they reported the breakdown to Consumers Power Co. officials at the Midland plant.

Documents indicate Consumers became aware of the QA breakdown in an October 1981 report from Zack, but decided against reporting the problems to the U.S. Nuclear Regulatory Commission.

The NRC, which became aware of the problems at Zack in May of this year, took no action until this week after being prodded by an official for the Government Accountability Project (GAP), which has offered legal representation to the four former Zack employees.

The NRC began an investigation Thursday at the LaSalle nuclear plant in Illinois to see if ductwork supplied by Zack meets federal codes, and the agency said the probe may spread to the Midland plant.

THE FOUR persons, all of them new to the nuclear field, were hired by Zack around October 1981 to clean up, as one of the four put it, a "horrendous mess" of documents at Zack's headquarters in Chicago. Specifically, they said they were to create a filing system and to group purchase orders with certifications showing that the materials sold by Zack to the three utilities were suitable for use in nuclear plants.

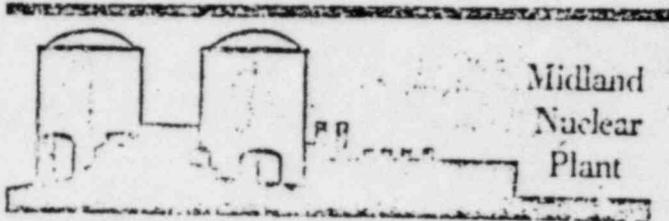
What they found, two of the four said, was that many documents were missing and that thousands more had been altered, retyped, whittled out or otherwise falsified by other Zack employees before the QA documentation section was created to deal with the problem.

Shortly after the persons reported the problems to Consumers through the Midland Project Quality Assurance Department (MPQAD), the entire four-person documentation team was dismissed by Zack on April 23.

The official reason was "departmental reorganization," but the four claim they were fired a reprisal for attempting to correct Zack's massive paperwork problems. At least one of them, the father of 10 children who is now out of work, said he is considering filing suit against Zack.

The four are Albert T. (Terry) Howard, Sharon Morelo, Mark Clifton and Charles Grant. All live in the Chicago area and were featured in a special television report broadcast Thursday night by Chicago's Channel 5, an affiliate of NBC. The report, broadcast live from the Chicago area, is to be carried tomorrow. A producer at the station said the report may be picked up by NBC's national news.

The information in this article was



Midland Nuclear Plant

compiled from a notarized affidavit sworn to by one of the four employees. Daily News telephone interviews with that person and some of the others in the group and a variety of documents that apparently passed between Zack, Consumers, Berthel Power Corp. and vendors that supplied materials to Zack. Copies of the latter documents were obtained by the four whistleblowers and given to the Daily News by GAP.

GAP, which protects and represents persons who blow the whistle on fraud and abuses, said it cautioned the four that going public with their allegations could jeopardize their careers, but GAP said they decided to speak out due to the magnitude of the problems they found at Zack.

HOWARD, 48, the father of 10, said in his affidavit, "It is intolerable to my conscience as a father, a citizen and an employee to let problems of this magnitude go unexposed."

He said that because some materials ordered by Zack did not meet federal specifications, the installation of ductwork in the three nuclear plants may have "critical implications for the health and safety of residents in the surrounding three communities." Those are Midland, Seneca, Ill., in the case of LaSalle and Clinton, Ill., for the Clinton nuclear plant.

"I am committed to exposing the full extent of this fiasco until these nuclear plants are entirely rechecked and certified as safe by trustworthy, independent authorities," he said.

Shortly after the QA documentation section was formed, Howard was installed as its supervisor. He said that at best, the activities of his group were a "paperwork shuffle" to keep the NRC from realizing the "horrible extent" of Zack's documentation breakdown. At the worst, he said the falsified documents may represent a criminal coverup by Zack.

Submitting falsified documents to a federal agency, such as the NRC, is a violation of federal law. Neither the NRC nor any other law enforcement or regulatory agency has concluded that such violations were committed by Zack.

In 1981, a similar case involving Zack was nearly sent to the U.S. Department

of Justice for criminal prosecution. NRC officials said then that paperwork violations had been committed, but that the case was not strong enough to warrant the Justice Department's attention.

Howard said in his sworn statement, which is to be sent to the NRC, "It is a fact that the history of the Zack Corp. in nuclear contracting is full of mistakes, bunglings and felonious misstatements related to material traceability, material certification, vendor certification, justification of quality control personnel and most importantly, the purchase and supply of hardware used in the construction of nuclear facilities."

HOWARD SAID the first step in the Zack "coverup" began in-house before the QA documentation section was formed, and in addition to other alterations included forged "stickers" applied to material certifications.

In a telephone interview, Howard refused to name the Zack personnel who did the forging and alterations other than to say the persons are in "upper management." He said, "We know who it is, but we did not find it necessary to put a finger on 'em. The Justice Department will take care of that."

The next step in the coverup, Howard said, was an effort to correct altered or missing documents by sending letters to various vendors asking them to certify that materials they supplied to Zack were suitable for safety-grade nuclear plant systems.

Some vendors never answered. One which did said Zack had not ordered safety-grade components in the first place.

In a letter dated Sept. 21, 1981, U.S. Steel Supply, a division of the U.S. Steel Corp., gave this reply to Zack: "These orders were not called in to our salesperson as 'Safety Related.' Therefore, they were handled in our normal procedure and not run through our V&I (verification and testing) program. Please advise us what is meant by the term 'Safety Related' and what obligations if any does this impose on the supplier."

The letter indicated U.S. Steel Supply had sent Zack 26 orders of materials between December 1980 and May 1981.

DOCUMENTS SHOW that on Oct. 23, 1981, Zack notified Consumers that the paperwork problems were potentially reportable to the NRC under part 50.55(e) of the Code of Federal Regulations. The report began, "There has been a breakdown of the quality assurance program" for documents.

Federal regulations require that utilities building nuclear power plants report any significant deviations from federal codes to the NRC.

Zack said in the report that "unauthorized personnel" had gained access to the documents and made "improper modifications." Zack said in the report, "These errors and

Continued on page 3

7/23/82
M. H. H. C.

This preliminary notification constitutes EARLY notice of events of POSSIBLE safety or public interest significance. The information is as initially received without verification or evaluation, and is basically all that is known by the staff on this date.

Facility: Consumers Power Company Midland Nuclear Power Plant Units 1 and 2 Docket Nos. 50-329 50-330 Midland, MI 48640	Licensee Emergency Classification: <input type="checkbox"/> Notification of Unusual Event <input type="checkbox"/> Alert <input type="checkbox"/> Site Area Emergency <input type="checkbox"/> General Emergency <input checked="" type="checkbox"/> Not Applicable
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Subject: INADEQUATE QUALITY ASSURANCE FOR HVAC WELDER CERTIFICATION AND PROCEDURE QUALIFICATION

All safety-related welding on the heating, ventilating and air conditioning (HVAC) was stopped November 30, 1972, after it was determined by the licensee that the quality assurance program for welder certification and procedure qualification was inadequate.

A licensee QA audit of Photon Testing, Inc., which performed testing of weld samples used in certifying welders and welding procedures, determined that the contractor did not have an adequate quality assurance program. Photon Testing has subsequently been removed by the licensee from the list of approved Midland vendors.

As a result of the audit findings, the HVAC contractor, Zack Company, has discontinued all welding on safety-related HVAC systems, laying off 151 crafts workers. Zack also discontinued the certification of new welders and withdrew all safety-related weld procedures.

The Photon Testing has performed testing services for HVAC welder and procedure qualifications since 1980.

Region III (Chicago) personnel are on site and will monitor the licensee's program to address the qualification of the Zack welders and procedures and to assess the quality of the completed HVAC welding work.

There has been local news media interest in the quality assurance problems and resulting layoffs. Region III will continue to respond to news inquiries.

The State of Michigan will be notified.

The licensee reported the quality assurance inadequacies and HVAC worker layoffs as a potential 50.55¢ construction deficiency to Region III personnel at the site at 2 p.m., (EST), December 1, 1982. This information is current as of that time.

Contact: <i>RM</i> R. Gardner 384-2524	<i>WJA</i> W. Shafer 384-2656	<i>RWD</i> R. Warnick 384-2599
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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

DEC. 03 1982

MEMORANDUM FOR: D. G. Eisenhut, Director, Division of Licensing, NRR
FROM: R. F. Warnick, Acting Director, Office of Special Cases
SUBJECT: RECOMMENDATION FOR NOTIFICATION OF LICENSING BOARD

Enclosed is a Preliminary Notification regarding the substantial reduction in the amount of safety-related work at the Midland site. This reduction is partially in response to NRC findings identified during an October-November, 1982 inspection in the diesel generator building.

Region III has reviewed this information and perceives the issues identified in the enclosure to be material and relevant to the Midland OM/OL proceedings. We recommend that the Midland Licensing Board be notified.

If you have any questions or desire further information regarding this matter, please call me.

RF Warnick

R. F. Warnick, Acting Director
Office of Special Cases

Enclosure: As stated

cc w/encl:
A. B. Davis
W. D. Shafer
R. N. Gardner
R. B. Landsman
R. J. Cook
B. L. Burgess
E. L. Jordan, IE

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md-RA

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

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

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.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
799 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

Attachment A

(K-1)

June 21, 1982

MEMORANDUM FOR: James G. Keppler, Regional Administrator

FROM: C. E. Norelius, Director, Division of Engineering
and Technical Programs
R. L. Spessard, Director, Division of Project and
Resident Programs

SUBJECT: SUGGESTED CHANGES FOR THE MIDLAND PROJECT

Historically, the Midland Project has had periods of questionable quality assurance as related to construction activities and has had commensurate regulatory attention in the form of special inspections, special meetings, and orders. These problems have been given higher public visibility than most other construction sites in Region III. As questions arise regarding the adequacy of construction or the assurance of adequate construction, we are faced with determining what regulatory action we should take. We are again faced with such a situation.

Current Problem

The current problem was caused by a major breakdown in the adequacy of soils work during the late 1970's. Because of the increased regulatory attention given the site, we expect that exceptional attention would be given to this activity and that licensee performance would be better than other sites or areas which have not had such significant problems and therefore have not attracted this level of regulatory attention. However, that does not appear to be the case and Midland seems to continually have more than its share of regulatory problems. The following are some of the specific items which are troublesome to the staff.

Technical Issues

1. In the remedial soils area, the licensee has conducted safety related activities in an inadequate manner in several instances - removal of dirt around safety related structures, pulling of electrical cable, drilling into safety related utilities.

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2. In the electrical area, in trying to resolve a problem of the adequacy of selected QC inspectors' work conducted in 1980, the licensee completed only part of the reinspection even when problems were identified, and appears inclined to accept that 5% of electrical cables may be misrouted (their characterization of "misrouting" may imply greater significance than we would attach to similar findings).
3. In the pipe support area, in trying to resolve a problem of the adequacy of QC inspections conducted in 1980, the licensee has portrayed only a small percentage of defects of "characteristics" identified and has not addressed the findings in terms of a large percentage of snubbers which may be defective because of the characteristics within each snubber that may be defective (e.g., if only one characteristic was defective out of 50 reviewed on a single hanger, the percentage is small; but if the one defective characteristic makes the hanger defective the result would have a much greater significance level). The licensee had done a detailed statistical analysis in an attempt to show that the small percentage of characteristics were found rather than broadly approaching the problem with significant reinspections to determine whether or not construction was adequate.

Communications

Multiple misunderstandings, meetings, discussions, and communications seem to result in dealing with the Midland Project. Some examples are:

1. NRC staff attending a meeting in Washington on March 10, 1982, heard the Consumers Power Company staff say that electrical cable pulling related to soils remedial work was completed. It was determined to be ongoing the next day at the site.
2. When Region III attempted to issue a Confirmatory Action Letter, J. Cook informed W. Little of his understanding that both J. Keppler and H. Denton had agreed that the subject of the CAL was not a safety related item subject to NRC regulatory jurisdiction. Such agreements had not in fact occurred and following a meeting, Consumers Power Company issued their commitments in a letter to Region III.
3. In reviewing a licensee May 10, 1982 letter, responding to the Board Order, the NRR staff had an unsigned letter and Region III had a signed copy both dated the same date but differing in content.
4. Recently a Region III inspector in closing out and exiting from his inspection described the exit meeting as being the most hostile he had ever participated in.

5. The responses to any Region III enforcement letters issued to Midland are more lengthy and ^{are} argumentative than are any other responses from any other licensee in Region III. This point was made in the SALP response provided by Midland, and the SALP response in itself from Midland is an example of the type of response which we commonly receive from the site. The length of the response is at least as long as the initial SALP report.
6. Multiple requests for briefing meetings and other statements by the utility to the effect that we should review procedures in developmental stages imply that Midland wants the NRC to be a part of their construction program rather than having us perform our normal regulatory function.

Staff Observations

1. With regard to corrective actions of identified noncompliances, the Midland response seems to lean towards doing a partial job and then writing up a detailed study to explain why what they have done is sufficient rather than doing a more complete job and assuring 100% corrective action has occurred. In the detailed writeups that are prepared, it is the staff's view that the licensee does not always represent the significance properly, and the analyses and studies often raise more questions than they solve; thus time appears to have been wasted in writing an analysis rather than in fixing the problem.
2. Midland site appears to be overly conscious with regard to whether or not something is an item of noncompliance and spends a lot of effort on defending whether or not something should be noncompliance as opposed to focussing on the issue being identified and taking corrective action. This appears in part to be due to their sensitivity of what appears in the public record as official items of noncompliance. This sensitivity may have resulted from the extended public visibility which has attended construction of the facility. The staff's view is that the Midland site would look better from the public standpoint and be more defensible from NRC's standpoint, if they concentrated on fixing identified problems rather than arguing as to the validity of citations. This type of view was expressed by the utility during a recent effort to clarify in detail that certain construction items on the soils remedial work should not be subject to NRC's regulatory action.
3. The Midland project is one of the most complex and complicated ever undertaken within Region III. The reason is that they are building two units of the site simultaneously and additionally have an underpinning construction effort which in itself is probably the equivalent of building a third reactor site. The massive construction effort and the various stages of construction activity which are involved make the site extremely complicated to manage. This activity appears to cause a lot of pressure on the licensee management.

4. Mr. J. Cook, the Vice President responsible for the Midland site is an extremely capable and dynamic individual. However, these characteristics in conjunction with the complexity and immenseness of operation as set forth in 3, above, may actually be contributing to some of the confusion which seems to exist. The staff views that (1) he is too much involved in detail of plant operations and there are times when the working level staff appears to agree and be ready to take action where Mr. Cook may argue details as to the necessity for such action or may argue as to the specific meaning of detailed work procedures, (2) this kind of push may lead to such things as letters both signed and unsigned appearing in NRR and causing confusion, (3) this push may lead to some animosity at the licensee's staff level if NRC activities are looked on as slowing progress of construction at the site.

Recommendations

It appears essential that some action be taken by NRC to improve the regulatory performance of the Midland facility. The following specific suggestions are made.

1. The company must be made aware and have emphasized to them again that their focus should be on correcting identified problems in a complete and timely manner.
2. We should question whether or not it is possible to adequately manage a construction program which is as complex and diverse as that which currently exists at Midland. We would suggest specifically that the following activities be considered:
 - a. That the licensee cut back work and dedicate their efforts to getting one of the units on line in conjunction with doing the soils remedial work.
 - b. That they have a separate management group all the way to a possible new Vice President level, one of which would manage the construction of the reactor to get it operational and the second to look solely after the remedial soils and underpinning activities.
3. Consumers Power Company should develop a design and construction verification program by an independent contractor. This would provide an important additional measure of credibility to the design and construction adequacy of the Midland facility.

James G. Kappler

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6/2/1/82

We would be happy to discuss this with you.

C. E. Norelius

C. E. Norelius, Director
Division of Engineering and
Technical Programs

R. L. Spessard

R. L. Spessard, Director
Division of Project and
Resident Programs



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REGION III
795 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

Attachment B

(K-2)

July 23, 1982

MEMORANDUM FOR: R. F. Warnick, Director, Enforcement and Investigations Staff

FROM: R. J. Cook, Senior Resident Inspector, Midland Site

SUBJECT: INDICATORS OF QUESTIONABLE LICENSEE PERFORMANCE - MIDLAND SITE

As per our conversation of July 21, 1982, the following is a list of those items that various inspectors consider to be indicative of questionable licensee performance:

1. One of the leading items is the over-inspection performed on electrical QC inspectors which was done in response to NRC concerns identified in the May 1981 team inspection. The licensee found weaknesses in the inspections performed by some electrical QC inspectors pertaining to not identifying the mis-routing of cables. This item culminated in an item of noncompliance. The licensee did not expand the overview activity to a degree necessary for an acceptable resolution to the identified weakness - even after a meeting in RIII. This item has not been resolved to the satisfaction of the NRC although our position has been clearly defined. i

As a partial response to the team inspection concern, the licensee presented the NRC with an audit report which would demonstrate a response to our concern of questionable electrical QC inspections. However, the audit report stated that it (the audit report) did not address the NRC concerns.

2. During the dialogue for the underpinning and remedial soils work, a large amount of emphasis has been placed on the settling data for the structures involved. During a meeting in HQ on March 10, 1982, the need for QC requirements on remedial soils instrumentation were explicitly delineated. However, one week later, the NRC inspectors found soils work instrumentation installation was started the day after the March 10, 1982 meeting without a QC/QA umbrella; that the licensee's QA Auditor and QA Engineering personnel were not approached pertaining to the need for QA coverage for this soils settlement instrumentation; that there were strong indications that the licensee had mislead the NRC in relating that the work was essentially complete when indeed it was not; and presently, the licensee management informs our inspector that items are ready for his review when in actuality they are not. Our conversations with licensee personnel - other than management - confirm that the items are not ready for review.

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3. Historically, one of the NRC questions has been, "Who is running the job - Bechtel or Consumers?" The following example would allow one to believe it is Bechtel: As a part of the resolution to our findings in the soils settlement instrumentation installation, the NRC insisted that the licensee generate a Coordination/Installation Form to cover interface between different evolutions of instrumentation installation. The licensee would call our inspector for his concurrence on the adequacy of the form - the inspector would approve Consumers Power Company's form, but then would find out that Bechtel did not want to work to Consumer's form - the form that was generated to resolve regulatory concerns. This event has occurred twice and was considered as a deviation during a more recent inspection. The opinion of the staff is that if Consumers generates a form that will aid them in not incurring regulatory difficulty, and which has had NRC input, the licensee should demand that the contractor comply with these policies instead of the contractor dictating the regulatory environment under which they will work.
4. Deficiencies in material storage conditions has continually been a concern to the NRC and has resulted in items of noncompliance. To the inspectors, the ability to maintain quality storage is indicative of how rigorous or slipshod the constructor's attitude is towards construction. The licensee has attempted to entice the constructor to do better in maintaining the material storage conditions, but still the licensee's auditors and the NRC have negative findings in material storage conditions and negative discussions with the contractor about the validity of the finding.
5. At periodic intervals, the support of cables, particularly in the control room area, which are awaiting further routing or termination, has met with the disapproval of the NRC inspectors. These discrepancies also include cables without covered ends being on the floor in walk areas that are in a partially installed status. This is also another indicator of slipshod workmanship which has been brought to the constructor's attention at various times, but was last noted during a recent inspection.
6. In the area of instrumentation impulse line installation and marking, the licensee has had separability violations which has required removal of all installed impulse lines. Also, the NRC, because of this and significant adverse operational conditions, insisted that the installed impulse lines be identified. Although the licensee plans to mark the impulse lines, there was an inordinate amount of resistance to marking the lines - even though there had been instances of mis-matched channels because of identification confusion.

7. An example of reluctance in placing the responsibility for quality workmanship at the foreman and/or worker level has recently been identified. The NRC inspectors noted that some drop-in anchors were improperly installed and obviously did not adhere to the installation procedures. The licensee's attitude indicated this was not a valid finding because QC had not inspected the item. The NRC inspectors treat this as indicative that slipshod workmanship is tolerated in the hopes that QC will find the mistakes.
8. Late in 1981, the licensee decided to move the QA Site Superintendent into another position and cover this site function by sharing the site time between the QA Director and the QA Manager. After a January 1982 meeting with the NRC at RIII, the licensee opted to fill the QA Superintendent spot with another person. In the spring of the year, the NRC inspectors were following up on welding allegations and approached the QA Superintendent. The QA Superintendent was familiar with the alleged poor welding and had established what the NRC inspectors determined to be a responsive plan to resolve the questionable QC welding inspections. At the Exit Interview, the QA Director did not appear to back the QA Site Superintendent's proposed plan which had tacit NRC approval. The NRC inspector classified in writing and with just cause that the Exit Interview was the most hostile exit interview he had ever encountered.
9. During a recent inspection, it was noted by the NRC inspector that fill dirt was piled and being covered with a mud mat at a nominal 1:1 horizontal to vertical slope when the specification called for a 1 1/2:1 horizontal to vertical slope. A constructor Field Engineer witnessed the wrong slope being installed and justified and defended the slope after being informed of the specification requirement. This is another example of the constructor having an attitude which precludes quality workmanship.
10. At different times, NRC inspectors have experienced difficulty in getting information which is controlled by the contractor, such as supporting calculations and qualifying information to justify a given installation. A recent example is: the NRC inspector informed the licensee and the contractor he wanted to see resumes of persons involved in the remedial soils work. There is an obligation to the NRC to supply a precise number of "qualified" persons on the soils work. The inspector was informed he could not get these records as they were personal. The inspector ultimately did get the information after bringing it to the attention of licensee upper management. However, this indicates an implied unwillingness of the constructor to share information with the NRC and sometimes with the licensee.

July 23, 1982

11. The licensee oftentimes does not demonstrate a "heads up" approach to their activities. The following are examples of the licensee operating in an environment using tunnel vision - "blinders".
- a) During a recent NRC inspection, the inspector challenged the ability to maintain the proper mix ratio on high pressure grout. This was done after the inspector noted that the operator could never maintain the proper mix ratio without continual manual control - which was not available when the grout is applied. The licensee's apathetic attitude did not allow them to stop the grout application until the next day when this became an issue at the exit interview.
 - b) At one point in time, the company doing drilling on site for the remedial soils work cut into a safety related duct bank between the diesel generator building and the service water building. The Consumers Power Site Manager's Office (the production people) stopped work because - from a quality standpoint conditions were so deplorable. However, the Site Manager's Office did not have responsibility in this area - the Midland Project QA Department had this responsibility and did not invoke their authority to prevent the drilling work from getting out of control - or to bring it back into control.
 - c) The NRC inspector recently witnessed the licensee setting up to drill a well hole in safety related dirt using a technique which was not authorized. If the inspector had not brought this to the licensee's attention, the licensee would have violated an Order addressing remedial soils work and also the Construction Permit. When the licensee was queried as to the availability of the QC/QA personnel who would prevent such activity from happening, the NRC inspector was informed that this was (another) misunderstanding.

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The NRC inspectors have been informed by our contacts on site that there are memoes written to the effect that "peripheral vision" should be curtailed and communication with the NRC stifled. The NRC has not read these memoes yet - but plans to in the near future, provided they really exist and infer what we have been informed.

12. The licensee 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. Some examples of this are:
- a) The NRC soils inspector informs the licensee that soils stabilization grout comes under the Q program. The licensee is not particularly happy with this position. Unknown to the inspector, the licensee argues his point with NRR to have the grout non-Q - using only those arguments which support his (the licensee's) position. The licensee

has the advantage of the NRC inspector's technical and regulatory basis for supporting his (the inspector's) position, and therefore avoids mention of this during the discussions with NRR. However, the licensee's QA program, which has already been approved by NRR, states that all the remedial soils work is Q unless RIII approves a relaxation on a case by case basis. It appears the licensee does not wish to acknowledge the prior agreements with the NRC.

- b) Since the failure of auxiliary feedwater headers in B&W steam generators, discussions have transpired between the NRC inspectors and the site personnel. These discussions have indicated that the licensee was maintaining a conservative approach and were entertaining the concerns expressed by the NRC which were stimulated primarily by gross mistakes in attempting the modification at operating B&W plants. The licensee's corporate personnel were annoyed that the NRC inspectors would not give approval to start the modification until all the preparatory work had been accomplished as this would tend to impact the schedule and the modification to the steam generators could become a scheduling nuisance. The licensee corporate personnel contacted the NRC inspectors involved to "reason with them". However, the corporate personnel, (including a representative from B&W) were unable to answer the concerns of the NRC inspectors but did mention that the NRR Operational Project Manager indicated that it was alright to proceed with the modification. The licensee corporate personnel could not state what the position of the NRR Construction Project Manager was on this issue - only that they had found some form of approval from someone in the NRC.
- c) At times, when Immediate Action Letters or other forms of escalated enforcement become imminent, the licensee attempts to "appeal" their case with individuals in the regional management who are removed from the particulars of the tentative enforcement action. The licensee attempts to get these persons to agree to specific portions of the issue which would indicate that the licensee is "really not all that bad". However, the "real" issues, as identified by the NRC inspectors are being masked.
- d) During inspections of the remedial soils work, the NRC inspector has been informed by the licensee that certain findings and areas of inspection were not within the purview of his (the inspector's) inspection program because they were in essence considered non-Q and that by virtue of prior agreement with the Regional Administrator were excluded from enforcement action. However, the NRC inspectors would subsequently find that there was no such agreement between the Regional Administrator and the licensee - only a philosophical discussion as to what, in general terms, constituted an item of noncompliance.

The above indicators support the reputation the licensee has for being argumentative. Their apparent inability to accept an NRC position without diligently searching to find a "softened" position results in numerous hours of frustrated conversations between all parties involved to resubstantiate (usually the original position) a position based on technical and regulatory prudence.

13. The licensee has been classified publicly by the NRC as being argumentative. The licensee continues to exhibit this trend, as evidenced by the following examples:
 - a) Essentially every item of noncompliance receives an argumentative answer which addresses only the specificity of the item of noncompliance and selectively avoids any concept which would support the essence for the item of noncompliance. For example - in the instance of the improperly installed drop-in anchor mentioned above, it was the fact that QC had not inspected the installation of the bolt which was important to the licensee. However, the real enforcement issue was that components were being improperly installed.
 - b) The Cycle II SALP made critical evaluations of the licensee's performance in several areas. The licensee's response to this SALP report was argumentative over specific details and did not seem to acknowledge that the consensus of opinion of the NRC inspection staff was that there were areas where the licensee's performance was weak. The licensee's argumentative position is in the form of "we really are not all that bad" when the records, findings and observations of the NRC inspectors support just the opposite position.
 - c) The "Q-ness" of the remedial soils work has continually been an argumentative topic of discussion which ultimately resulted in a HQ meeting on March 10, 1982. At this meeting, the "Q-ness" of the remedial soils work was specified and later documented with the meeting minutes. However, the licensee did not wish to abide by this position and a subsequent meeting was held in RIII to further clarify the NRC position. Still, the topic of "Q-ness" is being argued by the licensee, even though the ASLE has issued an Order further defining the "Q-ness" of the soils work. It might be noted that a hearing is in process over this soils issue and the NRC's position on "Q-ness" has been expressed during these testimonies.
14. During a recent episode, the licensee wanted to continue excavation of soils in proximity to the Feedwater Isolation Valve Pit (FIVP). However, the licensee wanted to perform this evolution without determining that the temporary supports of the FIVP were adequate. Making this determination would have an impact on scheduling, as stated by the licensee. The FIVP supports were installed without a Q umbrella and subsequent inspections did reveal several discrepancies in the installation of the support structure.

15. During the limited remedial soils work which has transpired, the licensee has managed to penetrate Q-electrical duct banks, a condenser header drain line, an abandoned sewer line, a non-Q electrical duct bank and a 72-inch circulating water line. All of these occurrences have happened because of a lack of control and attention to details. Whenever approached by the NRC as to the adequacy of review prior to attempting to drill, the NRC receives responses which strongly suggest that the time was not taken to perform these reviews - perhaps taking this time would impact on the schedule.
16. By virtue of an earlier ALAB Order, the licensee is required to perform trend analyses for nonconforming conditions. These trend analyses have, in the past, masked the data such that obvious trends are not obvious and has resulted in negative findings by the NRC. This was addressed in one of the earlier SALP meetings. Recently, while performing a review of hanger welding data, the NRC inspector found that the statistical data had been diluted to the point that the number of unsatisfactory hangers could not be determined from the trend analyses or the type and degree of non-conforming conditions which were being identified pertinent to the hanger fabrication.
17. The licensee continually would use the NRC staff as consultants and classifies a regulatory and enforcement position as counter productive. This is reflected by the licensee not wishing to perform Q-work without obtaining NRC prior approval and then addressing only those areas where the NRC has voiced a regulatory concern - provided it is convenient to the licensee. This attitude has particularly prevailed in the remedial soils issue and to a lesser degree in the electrical installation areas. The preferred NRC inspector mode would be for the licensee to generate his program to establish quality and then the NRC would approve or disapprove. However, the licensee requires consultation with the NRC to establish his level of quality requirements.

The above is not intended to be a complete list of all discrepancies which indicate questionable licensee performance as this would require a more extensive review of the records and inspection personnel involved than time permits. Also, there has been no attempt to systematically document the enforcement and unresolved items list as these are contained in other information sources. However, the listing is rather comprehensive of the types of situations and attitudes which prevail at the Midland Site as observed by the NRC inspector staff.

When considering the above listing of questionable licensee performance attributes, the most damning concept is the fact that the NRC inspection effort at Midland has been purely reactive in nature for approximately the last year, and that these indicators are what have been observed in approximately the last six months. If

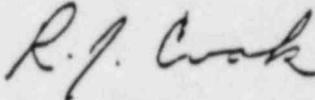
R. F. Warnick

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July 23, 1982

these are the types of items that have become an NRC nuisance under a reactive inspection program, one can only wonder at what would be disclosed under a rigorous routine inspection and audit program.

Sincerely,



R. J. Cook
Senior Resident Inspector
Midland Site Resident Office

cc: W. D. Shafer
D. C. Boyd
R. N. Gardner
R. B. Landsman
B. L. Burgess



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Enclosure 3

Attachment C
(K-3)

August 18, 1982

MEMORANDUM FOR: Region III Files

FROM: Robert F. Warnick, Acting Director, Office of Special Cases

SUBJECT: MEETING BETWEEN NRC AND REGION III RE CONSUMERS POWER COMPANY PERFORMANCE AT MIDLAND (DN 50-329; 50-330)

On July 26, 1982, R. F. Warnick and James G. Keppler met with E. G. Case, D. G. Eisenhut, R. H. Vollmer, R. O. Tedesco, T. H. Novak, W. D. Paton, and J. Rutberg to discuss the performance of Consumers Power Company at the Midland site.

During the meeting reference was made to information contained in two memos from the RIII staff. The first memo dated June 21, 1982 is from C. E. Norelius and R. L. Spessard and concerns suggested changes for the Midland Project. The second memo dated July 23, 1982 is from R. J. Cook and concerns the licensee's performance at Midland. Copies of the memos are attached.

The meeting resulted in the following recommendations:

- (1) Region III should obtain the results of the recent audit by KMC.
- (2) Schedule a public meeting between NRC and CPC management in Midland, Michigan, to obtain licensee commitment to accomplish (3) and (4) below.
- (3) The licensee should obtain an independent design review. (A vertical slice from design thru completion of construction.)
- (4) The licensee should obtain an independent third party to continuously monitor the site QA implementation and provide periodic reports to the NRC. Region III is to provide a suggested outline for the continuous monitoring function.

Robert F. Warnick

Robert F. Warnick, Acting Director
Office of Special Cases

Attachments: As stated

cc w/attachments: Meeting
participants

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August 18, 1982

Attachment D
(K-4)

MEMORANDUM FOR: James G. Keppler, Regional Administrator

FROM: Robert F. Warnick, Acting Director, Office of Special Cases

SUBJECT: CONSUMERS POWER-MIDLAND (DN 50-329; 50-330)

When you created the Office of Special Cases and a special Midland Section staffed with individuals assigned solely to that project, you indicated your concern with the Midland Project. You did this in spite of the favorable findings of the special team inspection conducted in May, 1981, and the favorable testimony you gave before the Atomic Safety and Licensing Board on July 13, 1981. You indicated your concern was based on the Systematic Assessment of Licensee Performance (SALP) report for the period July 1, 1980 to June 30, 1981, the inspection findings since those dates, and the memo of June 21, 1982, by C. E. Norelius and R. L. Spessard suggesting certain changes be made at the Midland Project (copy attached as Enclosure 1).

At my request R. J. Cook prepared a summary of indicators of questionable license performance at Midland. A copy of Cook's memo dated July 23, 1982 is attached as Enclosure 2.

Because of your expressed concerns, you and I met with representatives from NRR on July 26, 1982 to discuss Midland and Consumers Power Company (CPCo) performance. That meeting also resulted in recommended actions. A summary of the meeting is attached as Enclosure 3.

Following the meeting with NRR, I discussed the recommendations of that meeting with our Senior Resident Inspector, other members of the new Midland Section, and former Section and Branch Chiefs who are intimately familiar with Midland.

Later that week (July 30) I spent a day at the Midland site. I attended the exit meeting following Landsman's and Gardner's inspection, met with CPCo and Bechtel management to get acquainted with them, and toured the plant site.

On July 31, 1982, I expressed my opposition to the recommendations we had come up with in the NRR meeting. My opposition was based on (1) opinions expressed by the Senior Resident Inspector, a Region III Branch Chief formerly responsible for the NRC inspection of Midland, and a Construction Section Chief who has been intimately associated with inspections of Midland regarding the proposed actions; (2) my visit to the site; and (3) the inability of Region III to articulate the problem(s) at Midland which the above referenced recommendations were supposed to solve. I indicated that we needed to better identify our concerns and the prescribe actions that would resolve these concerns.

OFFICE	RIII	RIII	RIII	RIII
SURNAME	Gardner	Landsman	Shafer	Warnick
DATE				

On August 3, 1982, members of the Midland Section met with you to discuss my opposition to the recommendations coming from the meeting with NRR. The pros and cons of the recommendations together with other alternatives were discussed. The meeting concluded with you agreeing to give the Section until August 11 to determine a better proposed course of action to resolve NRC concerns about Midland.

To this end the Midland Section met together on August 4 and again on August 5 following our public meeting with CPCo on the SALP II report. Several alternatives were discussed including stopping all work on one unit, have an independent third party monitor all past and current construction work, stopping work in selected areas, performing a construction appraisal team inspection, placing all site QC work under CPCo, and establishing an augmented NRC inspection effort.

Although some members of the Midland Section thought that stronger actions should be taken, all members of the Section agreed they could support an augmented NRC inspection effort coupled with other actions to strengthen the licensee's QC/QA organization and management. These recommended actions are attached as Enclosure 4.

It is recommended the proposed actions to improve the licensee's performance be discussed with NRR and then the licensee.

Robert F. Warnick, Acting Director
Office of Special Cases

Attachments: As stated

OFFICE ▶							
SURNAME ▶							
DATE ▶							

Midland Daily News

Vol. 125, No. 162

20 Pages

Tuesday, November 9, 1982, Midland, Michigan

25c Per Copy

Testimony says slipshod workmanship tolerated at n-p

By PAUL RAU
Daily News staff writer

"Slipshod workmanship" is tolerated at the Midland nuclear plant in the hopes that quality control inspectors will find construction mistakes later, according to written testimony filed recently by the U.S. Nuclear Regulatory Commission.

The NRC officials also said that Consumers Power Co. is more "argumentative" than any other nuclear utility in eight neighboring states.

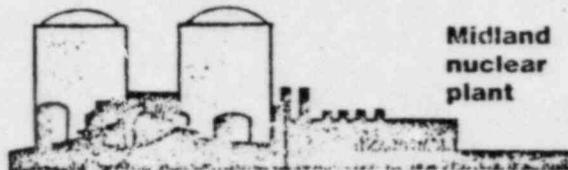
The utility would be better off concentrating on fixing construction problems at the Midland nuclear plant rather than arguing about them, according to the testimony.

Bechtel Power Corp., the plant's prime contractor, seems at times to be running the project rather than Consumers, and Bechtel has been unwilling to provide information requested by the NRC, the agency also wrote.

The memoranda, written by four NRC officials, contain some of the NRC's harshest criticism of the Midland project, and provide an illuminating look at the relationship between Consumers, Bechtel and the federal regulatory agency.

For example, Robert F. Warnick, director of the NRC's Office of Special Cases — a special unit set up to focus on problems at the Midland and Zimmer nuclear plants — had this to say about Bechtel: "We are convinced that Bechtel has cost and scheduling as their foremost consideration. Quality is taking a back seat with management."

THE RECENTLY mailed testimony appears to have shocked Consumers into requesting a delay in the time allotted to



Midland nuclear plant

respond to the NRC documents, according to an NRC official.

Consumers was to file testimony in response by next Monday, but an attorney representing the utility said a delay of up to a week likely will be sought. He said, however, that the extension will be sought due to the length of the NRC testimony and not its critical nature.

But NRC attorney William Paton said, "I think they (Consumers) felt our testimony was a little more adverse than they thought it would be. It was not a big plus."

The NRC testimony deals with quality assurance (QA) programs at the Midland nuclear plant, and was filed in conjunction with the Atomic Safety and Licensing Board hearing into the plant's soil problems.

The most critical portions were submitted as two attachments to the testimony of NRC Region III Administrator James Keppler. The attachments, A and B, were written by two Region III directors actively involved in inspecting the Midland plant, C.E. Norelius and B.L. Spessard, and by the plant's senior NRC resident inspector, Ronald J. Cook.

Keppler's testimony itself was favorable in that it concluded that work to fix the plant's soil problems may continue because of intense NRC scrutiny and other commitments by Consumers Power.

Asked why the attachments were filed along with Keppler's testimony, Paton said, "Full disclosure. These are the facts — that's just the way it is. Those notes exist, they were relevant to the proceeding, so they were included."

Consumers Power declined comment on the NRC testimony because it has not yet been introduced at the soil hearing.

THE MEMOS BY Norelius, Spessard and Cook were solicited by Keppler in an attempt to identify the fundamental problems at the Midland construction site. Keppler has said he cannot understand why QA programs are implemented poorly here because the programs themselves are adequate.

The memo written by Norelius and Spessard states that the Midland project is "one of the most complex and complicated ever undertaken" in Region III because two reactors are being built in

addition to another project unprecedented in the nuclear industry — the addition of new foundations below several critical buildings to correct soil problems.

This underpinning project, the two NRC officials wrote, is "probably the equivalent of building a third reactor site" and is among factors placing "a lot of pressure" on Consumers.

Norelius and Spessard questioned whether it is possible to adequately manage a project as complex as Midland, and recommended that Keppler consider requiring Consumers to halt work on one nuclear unit while concentrating on the other two projects — finishing the soils work and getting one nuclear unit on-line.

This recommendation was not adopted by Keppler, but others were, documents show.

Another unadopted recommendation made by Norelius and Spessard was that Consumers form a second management group — "all the way to a possible new Vice President level" — that would look solely after the soils and underpinning work while the existing group concentrated on building the reactors.

Attachment A by Norelius and Spessard calls James W. Cook, the Consumers vice president in charge of the Midland project, an "extremely capable and dynamic individual." But it says these attributes may actually be causing some of the "confusion" at the Midland project.

The NRC officials said James Cook "is too much involved" in details of plant operations, and that there are times when his staff appears to be ready to take action while Cook continues to argue about the

necessity for taking the action.

OTHER POINTS in the Norelius/Spessard memo:

- Consumers' responses to Region III enforcement letters are "more lengthy and more argumentative" than responses from any other licensee in the region, which covers a dozen nuclear units under construction in eight Midwestern states.

- Repeated requests by Consumers to have the NRC review procedures in developmental stages "imply that Midland wants the NRC to be a part of their construction program rather than having us perform our normal regulatory function."

- When actions are required to correct construction non-compliance, "the Midland response seems to lean toward doing a partial job and then writing up a detailed study to explain why what they have done is sufficient rather than doing a more complete job and assuring 100 percent corrective action has occurred."

Norelius and Spessard also said Consumers is "overly conscious" and defensive about whether something is an item of non-compliance.

"This appears in part to be due to their sensitivity of what appears in the public record as official items of non-compliance. This sensitivity may have resulted from the extended public visibility which has attended construction of the facility.

"The staff's view is that the Midland site would look better from the public standpoint and be more defensible from

NRC's standpoint: fixing identifies, arguing as to actions," they say.

IN HIS MEV NRC's Ronald "seems to possess search all factors have found our point of view impact on plant."

He cites over "The above indication the licensee's argumentative. He accept an NRC diligently search, frustrated convention involved."

In a list of "Licensee Performance workers at the licensed to prevent safety related electrical duct to drain line, an 82 inch circuit, forming the core."

"All of these period because attention to suggesting that to drilling work doing so would schedule Consum."

NRC gives examples to back criticism

Related story, page 3

By PAUL RAU

Daily News staff writer

In recently filed testimony, the U.S. Nuclear Regulatory Commission gave several examples to justify its harsh criticism of the Midland nuclear plant project.

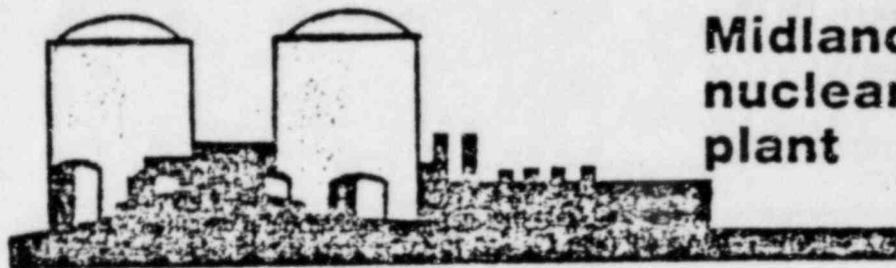
For example, the NRC described two occurrences to back its claim that "slipshod workmanship" is tolerated at the nuclear plant.

Electrical cables, particularly in the control room, are at times allowed to dangle on the floor in walk areas despite the fact the ends of the partially installed cables are uncovered, senior NRC resident inspector Ronald Cook said in an attachment to the NRC's written testimony.

The testimony is to be used in an upcoming portion of the federal hearing on the plant's soil problems.

"This is also another indicator of slipshod workmanship which has been brought to the constructor's attention at various times, but was last noted during a recent inspection," Cook wrote.

In the second example, Cook said NRC inspectors found that some drop-in anchors used to attach components to concrete walls were improperly installed and "obviously did not adhere to the installation procedures."



Midland nuclear plant

He said Consumers protested that this was not a valid finding of non-conformance because plant quality control (QC) inspectors had not yet inspected the anchors.

"The NRC inspectors treat this as indicative that slipshod workmanship is tolerated in the hopes that QC will find the mistakes," Cook wrote.

TO SUPPORT its claim that Bechtel Power Corp., the plant's prime contractor, is uncooperative and seems to be running the project rather than Consumers, the NRC cited two more examples.

In one, Cook said, an NRC inspector asked Consumers and Bechtel to provide resumes of workers involved in work to correct soil and foundation problems. The inspector was told the records would not be provided because they were personal.

Cook noted there is an obligation to the NRC to supply a precise number of qualified persons for the soil work, and said the information ultimately was obtained by appealing to Consumers' upper management.

"However, this indicates an implied unwillingness of the constructor (Bechtel) to share information with the NRC and sometimes with the licensee (Consumers)," Cook wrote.

"Historically, one of the NRC questions has been, 'Who is running the job — Bechtel or Consumers?'" Cook said, adding that a second example "would allow one to believe it is Bechtel."

The example involved a form that the NRC insisted Consumers generate to coordinate the installation of instruments needed for the soil work. The form was written by Consumers and approved by

the NRC, but on two occasions Bechtel indicated it did not want to use the form, Cook said.

"The opinion of the staff is that if Consumers generates a form that will aid them in not incurring regulatory difficulty, and which has had NRC input, the licensee should demand that the contractor comply with these policies instead of the contractor dictating the regulatory environment under which they will work," Cook wrote.

AN EXAMPLE cited by the NRC of Consumers' "argumentative" nature was the utility's response to an NRC report called Systematic Assessment of Licensee Performance (SALP), which grades the regulatory performance of utilities building nuclear plants.

The latest SALP said Consumers was weak in several areas. The utility responded with a rebuttal document at least as long as the SALP report itself.

"The licensee's argumentative position is in the form of 'we really are not all that bad' when the records, findings and observations of the NRC inspectors support just the opposite position," Cook said.

ANOTHER PORTION of the testimony written by two other NRC officials said James W. Cook, the Consumers vice president in charge of the Midland project, is an "extremely capable and dynamic individual" but that these attributes may be causing confusion because Cook is too involved in details of plant operations.

Consumers has declined comment on the NRC testimony, and said it will respond with its own testimony during the soil hearing.

But at a news conference Tuesday, Cook responded to the testimony that addressed him personally.

"My policy is to be involved to the extent one person is able to be," Cook said. He said such personal involvement by upper management is essential to satisfactorily complete any nuclear project.

Cook also said there was "some confusion in the way that (NRC testimony) was written," and that Consumers will attempt to clarify the situation in its testimony, which has not yet been filed.

Attachment 4

Consumers struggles to complete N-plant

BY DAVE SEDGWICK
News Staff Writer

1-4-83

Officials from Consumers Power Co. may be forgiven if they feel like Sisyphus, the mythical Greek figure who was forced to spend eternity pushing a boulder up a slope only to see it roll to the bottom again.

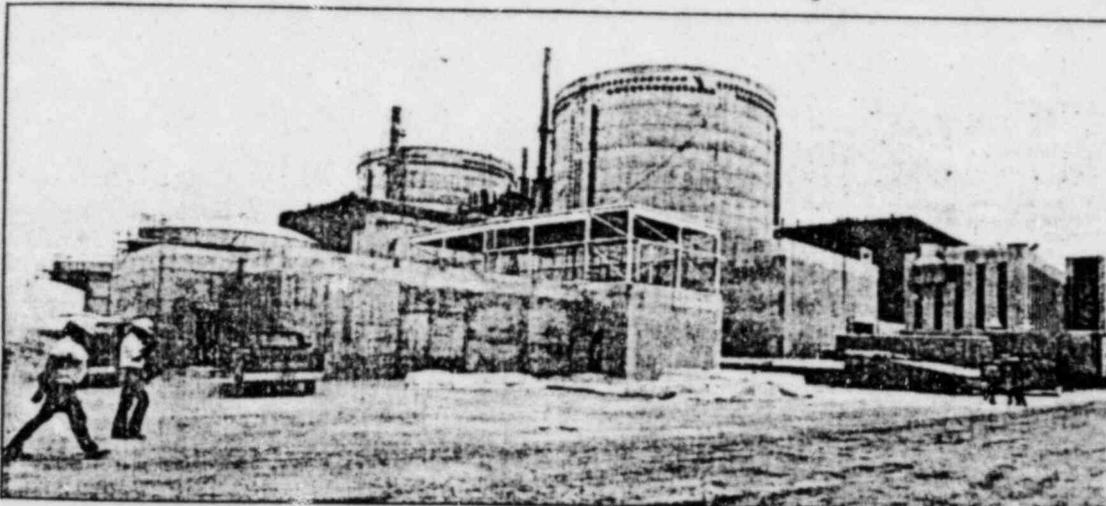
That sums up the utility's struggle to complete construction of the problem-plagued \$3.4 billion Midland Nuclear Plant.

Publicly, Consumers Power officials assert they have almost made it to the top of the slope.

The plant is 85 percent complete, the utility has cleared several important regulatory hurdles in its effort to get an operating license, and Consumers Power finally has gotten NRC approval to begin shoring up the foundations of the plant.

But critics say the boulder already is starting to roll back down to the bottom. In 1982, the utility was rocked by workers' allegations of shoddy construction practices, sharp federal criticism of its quality control efforts, and the investigative efforts of a Washington-based citizens' group.

It will be virtually impossible for Consumers Power to start commercial operation of the Unit 2 reactor in December 1983, and Unit 1 in July 1984. The major postponements have been caused by long-delayed plans to shore up the foundations underneath the auxiliary building.



(Saginaw News File Photo)

About 85 percent of the construction work at the nuclear plant in Midland has been completed

During an earthquake, those underpinnings would be undermined by the soft, improperly compacted soil underneath the foundations.

A year ago, the utility unveiled a \$120 million plan to reinforce the underpinnings of the auxiliary building, which houses fuel-handling equipment and other safety devices.

But the NRC repeatedly called a halt to the foundation work, as the agency's engineers found fault with the quality of Consumers Power's work.

Last November, frustrated utility

officials said they would wait until the first quarter of 1983 to announce a new completion date. Consumers Power officials want to see how quickly — or slowly — construction moves ahead on the underpinnings.

Consumers Power also must convince the NRC it can complete the

job properly on the rest of the plant. So far, the NRC has proven to be a skeptical audience.

Most recently, an exhaustive NRC inspection of the plant's diesel generator building turned up so many construction flaws that Consumers Power agreed to conduct a massive

re-inspection of its own.

More than 1,000 workers were off at the site immediately after utility made its announcement.

Consumers Power may face a national heat from the Government Accountability Project, an act group which is investigating allegations of shoddy construction practices.

The non-profit group is preparing "six to ten" new affidavits by week-ends, a spokeswoman Monday.

The watchdog group is sponsored by the Institute for Policy Studies, a liberal, Washington-based think tank.

Last March, the organization encouraged workers to step forward with allegations about construction flaws at the plant. The NRC launched a probe of those charges that probe is still continuing.

Here are some highlights — lowpoints — of Consumers Power's zig-zag course toward completion of the plant over the past year.

In January, estimated construction costs rise by an additional \$10 million, to a total of \$3.4 billion. Much of the added costs are due to the utility's \$120 million plan to shore up the foundations of plant.

In March, the Government Accountability Project announced it will encourage plant workers to

Please see NUCLEAR, Page

NUCLEAR—

Continued from Page E-1 1-4-83

forward with allegations about construction problems.

- In May, Consumers Power clears a major regulatory hurdle when the NRC announces the plant can be operated safely.

The federal agency's "Safety Evaluation Report" indicates the nuclear plant can be operated safely. The study notes that the soil settlement problem is unresolved.

- In July, the NRC concludes the plant will not pose a significant hazard to the environment.

The NRC's "Final Environmental Statement" is another important victory for Consumers Power.

- In June, Consumers Power is rocked by workers' allegations of shoddy construction practices.

The Government Accountability Project publicizes charges of faulty welding practices, poor quality control, lax NRC inspections, and on-the-job marijuana smoking by workers.

- In July, four former employees accuse a subcontractor of falsifying records of materials used in construction of the plant's ventilation system.

The whistle-blowers produce documents that indicate that Zack Co., a Chicago firm, knew that one of its own officials had altered the documents. The NRC agrees to probe the charges.

- In October, the Michigan Water Resources Commission grants the utility permission to discharge water from the plant's cooling pond into the Tittabawassee River.

Consumers Power hails the permit. But officials from Tittabawassee Township fear the hot water will degrade the river's water quality, and announce they will challenge the permit.

- In November, Consumers Power acknowledges it will have to choose new completion dates for the twin reactors.

- In December, the Bechtel Corp. lays off more than 1,000 of its construction workers.

Bechtel, the main contractor at the plant site, takes action after Consumers Power announces a construction slowdown.

- Despite the construction problems, the NRC grants Consumers Power permission to resume work on the underground foundations.

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies
1901 Que Street, N.W., Washington, D.C. 20009

(202) 234-9382

November 11, 1982

Mr. Harold P. Denton
Office of Nuclear Reactor Regulation
Division of Licensing
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. James G. Keppler
Administrator, Region III
U. S. Nuclear Regulatory Commission
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Re: Midland Nuclear Power Plant, Units I & II
- Consumers Power Company, Quality Assurance Program
Implementation for Soils Remedial Work
- Consumers Power Company Midland Independent
Review Program

Dear Sirs:

This letter provides a comprehensive review of the written materials and presentations from the October 24 and November 5, 1982 meetings between Consumers Power Company (CPCo) and the NRC at the Bethesda offices. We are submitting these comments on behalf of those former employees, local citizens and the Lone Tree Council of the tri-city area surrounding the plant.

We are pleased with a number of results to date; specifically the inclusion of the Tera Corporation's vertical slice review, the expertise of Parsons and Brinkerhoff, and the impressive qualifications of certain personnel selected to perform the independent assessment. Further, we are pleased with the consensus for the independent auditors to submit their reports simultaneously to CPCo and the Nuclear Regulatory Commission.

In general, however, we remain skeptical of the plan being provided by CPCo to allay legitimate NRC and public concerns over the safety of the Midland project. Although we are operating at a handicap due to the generalized nature of CPCo's presentations, the following specific concerns and observations may be helpful as you review the final CPCo proposal.

I. Summary of October 22, 1982 Recommendations

On October 22, 1982 GAP provided an extensive review of the three Consumers Power Company letters outlining the utility's proposed relief. The review

included a number of specific concerns which remain unresolved, as well as pertinent recommendations. Based on our review of the licensee proposals (and subsequent presentations) we are asking the NRC:

1. To withhold approval of the independent audit proposal in its present form.
2. To require two further public meetings, in Michigan, that finalize the details of the independent contracts.
 - a. At least one of these meetings should be in Midland, so that local residents can be informed; and one of these meetings should fully explain the proposed single-point accountability (SPA) proposal, including having the individuals who are to perform this function explain their personal understanding of their respective responsibilities.
 - b. Further, GAP recommends that:
 1. Final approval of the SPA individuals rest with the NRC;
 2. SPA officials should commit to at least one meeting and site tour with public nuclear employee witnesses to resolve their allegations;
 3. SPA officials should be accessible to the public on a regularly scheduled basis to discuss the status of the work.
 - c. The second meeting should provide an opportunity for all the contracted independent auditors to meet directly with the NRC staff, in public, and review the terms and requirements of their contracts.
3. To require the expansion of the proposed training sessions, including NRC review of the training materials relating to NRC regulations and requirements.
4. To increase direct contact between NRC regional management officials and QA/QC personnel performing work on the soil remedial project, including written materials for each employee, a site visit by Mr. Keppler, and an "open door" policy with resident inspectors.
5. To reject the INPO evaluation by Management Analysis Company as the independent assessment. (Although GAP believes the INPO evaluation may be beneficial to CPCo management, it does not meet the minimum requirements for either independence or a comprehensive evaluation.)
6. To reject the selection of Stone & Webster for the independent assessment of QA implementation.
7. To request that the entire record, including all relevant, material raw data, be provided to the NRC with the weekly and monthly reports.

8. To require a mandated percentage of field verification of the systems being reviewed.

Finally, GAP provided a series of specific recommendations for the charters of the independent contractors and subcontractors. These are noted below:

1. The independent contractor should be responsible directly to the NRC, submitting all interim and final product simultaneously with CPCo and the NRC.
2. The independent contractor should do a historical assessment of CPCo's prior work, including a frank report of the causes of the soils settlement problem.
3. The charter should ensure that, once hired, CPCo cannot dismiss the independent contractor from the project without prior notice to the NRC and an NRC-sponsored public meeting to justify the decision.
4. The charter should require that each auditor, at least five already identified, subcontract any services for which its direct personnel are not qualified.
5. The charter should require that the proposed methodology be disclosed: specifically selection criteria and size of the samples for inspections and testing.
6. The charter should require the auditors to provide calculations demonstrating that it is possible to adequately complete its work during the proposed timeframe.
7. The charter should require the auditor to support its proposed methodology through references to established professional codes (ASIM, ASME, ANSI, AWS, etc.).
8. The charter's should require all auditors to report all safety-related information directly to the NRC.
9. The employees and auditors should demonstrate that the personnel assigned to the project are free from conflicts of interest.
10. The auditors must recommend corrective action, and then control its implementation.

Our further comments can be categorized into priority items and methodology.

A.. Priority Items

1. No soils work should be allowed to go forward until all questions on implementation review process are resolved.

November 11, 1982

- a. Lack of independence. At the November 5, 1982 meeting it was obvious that the most basic questions about Stone & Webster's (S&W) work had not been resolved. The disclosure that S&W in fact had done previous work for CPCo was particularly disturbing. This places S&W in the same position as MAC. According to the "Independency Criteria" outlined in the February 1, 1982 letter from Chairman Palladino to Congressman John Dengell, as well as the previous independence criteria used in Region III, S&W must be rejected.
 - b. Conflict of interest. Further, the conflict-of-interest clause pertaining to "significant amounts" of stock has not been adequately explained, nor has the specific stockholding been adequately disclosed for the members of S&W's management review team and the S&W corporation itself. Insignificant conflicts should be fully disclosed and explained, subject to NRC approval.
 - c. Lines of authority. Additionally, S&W and Consumers representatives could not provide adequate answers to explain who has final decisionmaking authority within and between S&W, Bechtel and Consumers. It was quite clear that Consumers "does not anticipate" any problems between the numerous involved parties. This optimistic attitude belies a sense of security that is inconsistent with both the potential and the historic problems between Bechtel and Stone & Webster. (Specifically, GAP recommends the use of the NRC dissenting professional opinion procedure throughout this process.
2. The CPCo option to provide QA implementation for only a 90-day period must be dropped.

As proposed, the 90-day initial assessment period will cover only the trial period of construction. This limited scope cannot realistically present any assurance that CPCo and Bechtel have reversed a decade-long history of failures and bungling. Anything less than 100% review will fall short of accomplishing the goal of the proposed remedy.

3. Until the specific methodology of how S&W is going to evaluate the adequacy of technical, construction and quality procedures is disclosed, no approval should be issued.

Although the evaluation will be cumulative, it is critical that NRC staff and the public are aware of the methodology for S&W's review. Otherwise, faulty fact-finding techniques will be faits accompli when the public has an opportunity to review them.

4. Release and Review of the Project Quality Plan for soils QA review is essential.

This document evidently holds the key to S&W review. It is through this Plan that the actual implementation will be reviewed and

November 11, 1982

monitored. It is critical that this document be released for public review and analysis before any NRC approval is given.

5. It is critical that CPCo commission an independent assessment team as quickly as possible.

1. As indicated previously, GAP cannot accept MAC and the INPO evaluation as a substitute for an independent review. (See October 22, 1982 letter, pp. 17-18.) As a result we have refrained from providing specific comment on the MAC proposals. However, some of the major programmatic weaknesses are listed below--

- lack of historical analysis of problems to get to the "root cause," leaving unanswered questions with regards to the causes contradicting the ACRS's June 9, 1982 request to the NRC staff);
- lack of trending of systems or nonconformances to identify specifically weak areas of construction or QA/QC functions;
- time guidelines dictated by the utility, hampering the independence of any company to define the scope of necessary evaluations;
- lack of specified criteria to identify the qualifications of the key factfinders and inspectors;
- reporting procedures that exclude independent contact with the NRC;
- evaluation/contact report that provides a weak substitute for Nonconformance Reports without verification of corrective action;
- lack of recommendations for resolution of identified weaknesses; and
- lack of recognition for the gravity of Midland's problems, evidenced by attempting to substitute INPO for aggressive independent assessment.

6. Expansion of the role performed by Tera Corporation is appropriate.

a. The Tera Corporation proposed to look at the Auxiliary Feedwater System for its independent safety system. This system has been reviewed several times in previous audits. GAP recommends that this system be rejected in favor of a combination of two systems: one system under controversy -- the HVAC system specifically* -- and another system yet unidentified for major review or auditing.

*/ In an October 12, 1982 letter from Mr. J. G. Keppler to Ms. Billie Garde, it was suggested that the independent assessment would resolve the questions of the

- b. Tera's work, although admirable, failed to provide an acceptable or even identifiable level of field verification of the as-built condition and failed to explain the disclosed inconsistencies in the scope of its proposed field verification effort.

It is our recommendation that Tera provide additional qualified personnel to conduct comprehensive field review of the system(s) under scrutiny.

- c. Tera should be removed from any reporting line through MAC, answering directly (and simultaneously) to the NRC and the licensee with reports and findings. (This was already reflected in Tera written presentation, but was not clear in the MAC/CPCo comments at the October 24 meeting.)

B. Methodology

Generally, the specific methodology for assessments/audits was non-existent. Without the information on such issues as the size of samples, specific system criteria for examination, evaluation criteria, forms used for evaluations and reporting procedures, it is impossible to accept any review as adequate.

The Tera's presentation was a refreshing deviation from the otherwise public relations-style presentation. It is our request that any further meetings be delayed until after CPCo provides adequate comprehensive methodologies for analysis. (Perhaps the NRC could provide examples of particularly noteworthy independent reviews to CPCo in an effort to demonstrate a truly broad scope assessment.)

It is our earnest hope that this methodology, once provided, will provide a basis to begin restoration of public confidence in the plant. Anything short of an "open book" at this point will fall short of the goals of this expensive effort.

We have attempted to provide a thorough review of the massive independent assessment efforts at the Midland site. But a comprehensive effort is impossible based on the minimal public disclosure to date. As a result, we request the following specific plans or documents from the NRC in order to finish our evaluation.

1. The details of the Quality Improvement Plan (QIP) (September 17 letter to Denton).
2. The Project Quality Plan (S&W presentation, November 5, 1982)
3. The Single Point Accountability System. (September 17, 1982 CPCo letter to Denton)

(footnote continued)

HVAC systems adequacy. It does not appear to be the case in any of the presentations thus far.

Mr. Harry P. Denton
Mr. James G. Keppler

- 7 -

November 11, 1982

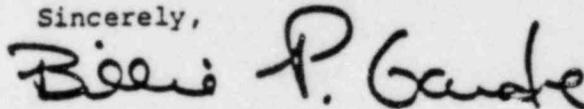
4. The criteria for selection of the independent auditors
5. The criteria for choosing the specific safety system
6. A reporting (communication line) chart, from the worker up and the NRC down
7. The conflict-of-interest disclosures for all independent assessment corporations, individuals and management
8. The training materials to be used as part of the QIP
9. The criteria for selection of field verification inspections by Tera personnel
10. The breakdown of S&W personnel with nuclear experience by plant site.

II. Conclusion

Finally, we wish to thank you for your inclusion of public comment into this procedure. It is a positive step forward on behalf of public safety issues.

We look forward to notification of the next meetings on the independent assessment of the Midland plant, as well as notification of any other pertinent meetings on the Midland project. As the role of the Government Accountability Project in the Midland investigation grows, it seems appropriate to repeat an oft-used phrase of Mr. James G. Keppler about the William H. Zimmer Nuclear Power Station. The "real sin" at Zimmer is that the plant is in the ground at 97% complete. Since Midland is far from complete, there remains an opportunity to avoid the sins of Zimmer -- but it will take concerted effort by all parties at this critical juncture.

Sincerely,



BILLIE P. GARDE

Director

Citizens Clinic for Accountable Government

BG/my

MDN

Editorial

Midland Daily News

Charles A. Spence, Publisher

John A. Palen, Editor

Norman C. Rumble, Publisher Emeritus

N-plant testimony raises serious questions

11-10-82

The picture of the Midland nuclear plant project that emerges out of testimony prepared by NRC officials is a disturbing one.

Slipshod work is tolerated at the project in the hope that quality control inspectors will find construction mistakes later, says written testimony prepared for presentation to the Atomic Safety and Licensing Board.

Bechtel Power Corp., the plant's prime contractor, appears to be running the show instead of Consumers Power Co., the plant owner, the testimony says.

And, in the words of NRC official Robert F. Warnick, "We are convinced that Bechtel has cost and scheduling as their foremost consideration. Quality is taking a back-seat with management."

The testimony also characterizes Consumers as overly-defensive about criticism and more concerned with keeping non-compliance items off the public record than with fixing them.

The testimony is the harshest yet to come from the NRC about the Midland project. Consumers officials have said they want to wait a

Our view

while before commenting. The public ought to reserve judgment until Consumers has defended itself.

But it also ought to hold Consumers to a thorough and candid defense, and to prompt action to correct the situation if the NRC characterizations have a basis in fact.

The nuclear plant's implications for public health and the economy in the Midland area are enormous. It is no project in which to be tolerating shoddy work, putting cost and schedules ahead of quality or paying more attention to public relations than to substance.

Midlanders shouldn't rush to judgment until Consumers has been heard from. Neither should they file this round of criticism in the same folder with claims that nuclear reactors can explode like bombs.

The NRC testimony is a serious indictment by knowledgeable people. It raises doubts and questions that have to be settled before the plant should be allowed to operate.



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NUCLEAR REGULATORY COMMISSION
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DEC 14 1982

Government Accountability Project
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Director
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1901 Que Street, NW
Washington, D. C. 20009

Dear Ms. Garde:

Thank you for your letters dated October 22, 1982 and November 11, 1982 addressed to Mr. Denton and me, conveying the Government Accountability Project's views on quality assurance matters and the third party assessment at the Midland Nuclear Power Station. We are considering your comments and concerns.

There have been two public meetings on the independent review program, one held October 25, 1982, and the second on November 5, 1982.

After the October 25 meeting Mr. Eisenhut and I informed Mr. James Cook of Consumers Power Company by telephone that our preliminary thoughts were that the following elements were necessary, but may not be sufficient, to accomplish an adequate overall review of QA matters:

1. The third party design review, which focused on the auxiliary feedwater system (proposed by TERA Corporation), should be broadened by including one or two additional safety systems and that the reviews should encompass an evaluation of the actual system installation (i.e., construction). In addition, consideration should be given to perhaps expanding the program for confirming construction quality.
2. The INPO and biennial QA audits are not an acceptable substitute for the third party review. While these activities do have merit, they do not fulfill the total needs we have identified.
3. Questions were raised concerning whether Management Analysis Company was sufficiently independent to assume lead responsibility for the independent review.

Regarding the ability of the Stone and Webster personnel to perform the third party independent review of the remedial soils work, the final decision will be made in the near future.

DEC 4 1982

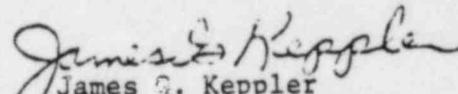
The remainder of the independent review effort is still under consideration. We intend to hold a public meeting, probably in Midland, regarding the independent review programs at the Midland site, but the date has not yet been scheduled.

You requested a series of documents in the November 11, 1982 letter. None of these are in the NRC's possession, although they would be available for our review at the plant site or corporate offices. You may wish to request access to the documents from Consumers Power.

I also understand from my staff that you have indicated to them that the Government Accountability Project has additional affidavits concerning construction activities at the Midland site. If you do have further information, I would hope that you would forward it to us promptly so that we may include it in our investigation of the affidavits you previously submitted.

I can assure you that the NRC shares your concern that any third party at Midland be both independent and competent. We also must be careful that we, the NRC, do not intrude into the review process ourselves and thus compromise its independence. We will, however, provide sufficient direction to assure the thoroughness and objectivity of the review.

Sincerely,


James G. Keppler
Regional Administrator

NINETY-SEVENTH CONGRESS

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TIMOTHY W. GLIDDEN
 REPUBLICAN COUNSEL

December 7, 1982

The Honorable Nunzio Palladino
 Chairman
 United States Nuclear Regulatory Commission
 Washington, D.C. 20555

Dear Mr. Chairman:

In response to my request, Mr. David Gamble, a former member of the staff of the NRC Office of Inspector and Auditor (OIA), has provided the Subcommittee documents pertaining to the OIA inquiry into certain aspects of the Zimmer matter. In his cover letter, Mr. Gamble raises questions about the integrity of the OIA investigation of the adequacy of the NRC Region III investigation of Mr. Thomas Applegate's Zimmer allegations.

Of particular concern is that Mr. Gamble was directed to remove documents from the OIA offices with the result that no mention was made of these documents in the NRC response to a Freedom of Information Act (FOIA) request submitted by the Government Accountability Project (GAP). Moreover, it appears that at least one important Zimmer document which remained in the OIA files, the document summarizing the OIA interview with Mr. Harpster, was neither included in the OIA Zimmer report nor mentioned in response to the GAP FOIA request.

The withholding of such documents had the effect of placing the Zimmer situation in a more favorable light than was justified by the facts. The withholding of these documents contributed to the delay in public recognition of the true status of the Zimmer project.

Accordingly, I would appreciate your providing me the following information: (1) the reason for Mr. Gamble being directed to remove documents from the OIA offices; (2) the basis for the NRC not indicating to GAP the existence of these documents; (3) the rationale for the failure to include Mr. Harpster's interview in the OIA Zimmer report of August 7, 1981; (4) the results of any NRC inquiry into the propriety of OIA withholding Zimmer documents; and (5) an enumeration of steps taken by the Commission to insure against further acts of improper withholding of documents.

Sincerely,

M. Udall
 MORRIS K. UDALL
 Chairman

THE CINCINNATI ENQUIRER

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FRIDAY, DECEMBER 10, 1982

A GANNETT NEWSPAPER

Udall Accuses NRC Of Zimmer Cover-Up

BY DAVID SHAPIRO
Gannett News Service

WASHINGTON—The Nuclear Regulatory Commission (NRC) issued this public on the extent of nuclear inspection problems at Zimmer Nuclear Power Station near Cincinnati by improperly withholding NRC documents critical of Zimmer, says Rep. Morris Udall, interior committee chairman of the House.

Udall, who has spearheaded an Interior Committee probe of Zimmer, said the NRC's attempt to withhold the material from the public "raises questions about the integrity" of the agency's investigation of Zimmer.

"The withholding of such documents had the effect of placing the Zimmer situation in a more favorable light than was justified by the facts . . . (and) contributed to the delay in public recognition of the true status of

the Zimmer project," Udall said. Fourchard declined comment on the charges, except to say that the committee "will look into the matters raised by Congressman Udall and respond as soon as possible."

THE NRC last month shut down construction of the plant after the NRC staff reported serious deficiencies in quality control. Zimmer is being built by Cincinnati Gas & Electric Co. and two other Ohio utilities.

Udall based his charges on a letter to his committee from David Gamble, a former OIA inspector who played a major role in the 1981 investigation.

The OIA investigation was ordered after the NRC was accused of glossing over charges of construction deficiencies made by Thomas Applegate, a local private investigator.

In his letter to Udall, Gamble said OIA investigators found serious deficiencies in the NRC's overall investigative program, as well as specific problems at Zimmer.

BUT HE said the draft report submitted by the staff was cut and rewritten by OIA management "so that it no longer described the scope of the OIA's investigation. . . . The rewritten summary of the final report leads the reader to believe that OIA had only performed a limited investi-



REP. MORRIS UDALL
... critic of NRC

OIA material that had been deleted from the final report.

"MY SUPERVISOR asked me if I had any records subject to the request," Gamble said. "When I replied that the file cabinet in my office contained a number of data and material that had been deleted from the final report, I was directed to remove these documents from CIA offices. OIA's response to GAO's Freedom of Information request made no mention of these documents."

Gamble said he has kept the material he removed from his files and recently provided copies to the NRC's general counsel.

Udall and Gamble expressed particular concern about the OIA's decision to delete entirely from its final report a 1981 interview with Terry Harper, who was an NRC inspector at Zimmer from 1971 to 1979.

In the deleted interview, which has been obtained independently by Gannett News Service, Harper told Gamble that quality assurance was "out of control" when he arrived at Zimmer.

HE SAID COLE had "little appreciation for the resources needed for the plant" and that the utility barely met minimum staffing requirements.

Harper said that "many plant personnel felt a nuclear plant was similar to the operation of a fossil fuel plant," according to Gamble's account of the interview.

Harper said he tried to draw attention to the quality control problems at Zimmer, but was consistently resisted by COLE and the NRC.

He told Gamble there were "a lot of tough guys" working at the plant and the situation got worse when they were drinking. One assistant manager said he was afraid to tour the plant because of the convicted felons working out there.

Harper sharply criticized the NRC's inspection system, saying it left inspectors too dependent on the utilities for information and construction along to keep costs down.

In his letter to Palladino, Udall asked that the NRC provide its reasoning for deleting the Harper interview from the OIA, and for directing Gamble to remove his files from the office.

Udall also requested "an enumeration of steps taken by the commission to ensure against further acts of improper withholding of documents."

(See ZIMMER, Page A 8)

WALL STREET JOURNAL.

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WEDNESDAY, DECEMBER 15, 1982

WHITE OAK, MARYLAND

40 CENTS

Troubled Project Construction Halt At Nuclear Plant Raises Unsettling Questions

One Is How Facility in Ohio Got So Near Completion With So Many Problems

Drugs & Alcohol on the Job?

By JOHN R. EMSHWILLER

Staff Reporter of THE WALL STREET JOURNAL.

CINCINNATI—By its owner's reckoning, the William H. Zimmer nuclear plant, located about 28 miles from this city, is 97% completed. The fate of the remaining 3% is unclear.

Last month, based on a variety of structural and paper-work irregularities at the project, the federal Nuclear Regulatory Commission ordered a halt to construction of those parts of the plant deemed necessary for safe operation and shutdown. Cincinnati Gas & Electric Co., which is heading a group of utilities building the \$1.7 billion, 840,000-kilowatt facility, had been predicting the plant would be ready to load fuel in the third quarter of 1983. Now the utility is reassessing that prediction, although a spokesman says: "We are absolutely certain the plant will be built and operated."

James Keppler, the head of the NRC's regional inspection office near Chicago, doesn't have that absolute certainty. Mr. Keppler, whose office oversees the Zimmer plant, says there is a slim possibility the plant has too many deficiencies ever to be licensed—which would be a first in nuclear history. And though he adds that the more likely course is that the plant will eventually be allowed to operate, he goes on to say: "It's impossible to give a firm estimate (of completion time) until you have identified all the problems."

A \$200,000 Fine

The problems, according to the NRC and others, are manifold: Construction records are missing or have been doctored; thousands of welds on the plant are believed to be deficient; the quality of steel and other material is suspect. Added to that, safety inspectors have testified to being threatened and harassed trying to do their jobs.

In November 1981, the NRC levied a \$200,000 fine against Cincinnati Gas & Electric, the largest fine ever imposed in connection with a nuclear-construction project. A year later came the halt to all safety-related construction. And a federal grand jury is probing possible criminal violations by some of those involved in building the plant.

But the full story of Zimmer (named after a former president of Cincinnati Gas) goes beyond the tale of one troubled project and raises broad, unsettling questions about the nation's nuclear-power program. One question is how officials for the utility and the NRC could have allowed a plant with so many problems to get so near completion. Another is whether the Zimmer experience is being duplicated at the 60 other nuclear plants being built around the U.S. "It makes one wonder how many other Zimmers might be lurking out there," says Democratic Rep. Morris K. Udall of Arizona, who has held hearings on Zimmer.

Special Investigation

Similar, if less severe, cases are known. In late 1979, following months of pressure from local citizens' groups and the media, the NRC conducted a special investigation of the South Texas nuclear-power plant being built by Houston Lighting & Power Co. and others; the commission found problems ranging from inadequate construction practices to safety inspectors being threatened with physical harm by construction workers. As a result, the NRC fined Houston Lighting \$100,000, and construction was stopped for several months (but has since resumed).

Then, late last year, the NRC actually gave permission to Pacific Gas & Electric Co. to start operating its Diablo Canyon nuclear plant at Avila Beach, Calif.—only to retract that go-ahead when PG&E engineers discovered that in analyzing the plant's ability to withstand an earthquake, the utility had mistakenly used construction data from a companion plant being built at the site. Pending resolution of that problem, the plant remains closed.

There is also the possibility that some operating plants may have undetected defects because federal safety regulators lied about inspecting them. (See story on page 20)

The safety of nuclear plants received intense publicity following the 1979 accident at the Three Mile Island nuclear facility in Pennsylvania. Though the worst accident in the history of commercial nuclear power was caused by equipment failures and operator mistakes rather than construction deficiencies, it was also due in large part to the failure of officials in the government and nuclear industry to identify and effectively deal with similar problems that had occurred earlier at other nuclear facilities.

Inspection Teams

In the wake of Three Mile Island, and spurred partly by the experience at Zimmer, the NRC has started an office of investigators to probe allegations of safety-rule violations at nuclear plants and has set up teams of inspectors to make periodic visits to sites. The agency has also begun holding seminars for top utility officials to impress upon them the need to build plants properly.

But nuclear critics aren't impressed, arguing that the public safety remains dangerously at the mercy of the companies building the plants. And up to a point, NRC officials agree with that argument. They concede that the commission has the resources to sample only a small part of the actual work done at a nuclear site. "We rely on the utility and the contractors to do the job right," says the NRC's Mr. Keppler.

In the case of Zimmer, the NRC feels that its trust was abused. "From a quality-assurance standpoint, this is the worst plant

Please Turn to Page 21, Column 1

Troubled Project: Construction Halt at Nuclear Plant In Ohio Is Raising a Host of Troublesome Questions

Continued From First Page

I've ever seen," says Victor Gilinsky, one of the agency's five ruling commissioners.

For its part, Cincinnati Gas & Electric strongly defends its conduct and the quality of the Zimmer plant. A spokesman for the utility admits that there are "paper-work deficiencies" in the construction records and that some repairs are needed, but he adds: "Basically, we think the plant construction is safe and sound." (Cincinnati Gas & Electric owns 40% of Zimmer; a unit of Columbus, Ohio-based American Electric Power Co. has a 28.5% interest in the facility, and Dayton Power & Light Co. owns the rest.)

Whatever the merits of the respective arguments, the fact is that the NRC was getting warning signals since the mid-1970s about problems at Zimmer. However, those signals—ranging from complaints by plant workers to some of the commission's own routine inspection reports—went largely unheeded until one Thomas Applegate appeared on the scene.

The 31-year-old Mr. Applegate is an unlikely figure for the role he has been playing in the Zimmer affair. A private detective with no nuclear background, he first came to Zimmer in November 1979 in the course of investigating a domestic squabble; the husband of the couple involved happened to work at the plant.

During the domestic probe, Mr. Applegate uncovered evidence of timecard cheating by Zimmer workers. He brought that to the attention of utility officials, who were sufficiently impressed to hire him as an investigator at the construction site in December 1979. A month later, he was let go. The utility says his work was finished. Mr. Applegate insists he was fired because he was exposing construction problems at the plant.

Being dropped didn't daunt Mr. Applegate. In early 1980, on his own, he called the NRC in Washington with his charges, which included theft of materials and defective welding at Zimmer. He talked several times to staff officials, he says, but didn't think they were showing enough interest. He then placed another call to the agency, demanded to speak with the top man and was connected with John Ahearn, the acting NRC chairman. "Twenty-four hours later . . . two NRC investigators were at my front door," he recalls.

But the detective was soon to be disappointed. The NRC investigation resulted in only one, relatively minor, citation. "They

just surface-treated my allegations," he asserts. "I've spent more time looking for a lost dog." (In hindsight, Nunzio Palladino, the NRC's current chairman, agrees that the commission's initial probe of Mr. Applegate's charges should have been more comprehensive.)

Going to the Press

So Mr. Applegate went to the press and managed to generate a few stories, including a lengthy piece in the Chicago Sun-Times. And in May 1980, he contacted the Government Accountability Project, a Washington, D.C.-based private group that works to protect whistle blowers, mostly in the government. Though the private detective was a private citizen, GAP took the case.

Enter Thomas Devine, GAP's legal director. In the 31-year-old Mr. Devine, Mr. Applegate found someone willing and able to probe into matters at Zimmer. (In choosing a career, Mr. Devine says, "I had to decide whether to be a lawyer or an investigative reporter. So I became an investigative lawyer.") Mr. Devine and his colleagues at GAP talked to every source suggested by Mr. Applegate and followed every lead provided by the private detective and then developed new sources and leads of their own.

When the GAP investigators felt they had enough evidence of an inadequate investigation by the NRC, they went to the special counsel of the Merit Systems Protection Board, a federal agency empowered to help whistle-blowing government employees. The counsel, impressed with the evidence, pushed the NRC for a response to GAP's charges.

The NRC's response was to start new investigations of Zimmer. One by the commission's internal auditors reviewed the NRC's initial probe of Mr. Applegate's charges. Another looked at the quality of Zimmer's construction.

The latter probe resulted in the \$200,000 fine and a two-inch-thick report that found violations of 12 of 18 basic safety criteria for building a nuclear plant. The report also included affidavits from workers who testified to alcohol and drug use by workers at Zimmer. Two plant guards testified to observing a bookmaking operation and gun raffles being run at the site.

The spokesman for Cincinnati Gas & Electric says the utility paid the NRC fine "to avoid endless hearing" on an appeal and not because it agreed with all the findings. He says further that alleged incidents in-

volving alcohol, guns, drugs or bookmaking would be "in violation of our rules."

The probe by NRC's internal auditors agreed with Mr. Applegate that the initial NRC investigation of his charges was superficial. For example, the detective had said that deficient welds had been accepted for use; he went on to cite three such welds. The NRC investigating team said that charge couldn't be substantiated. But the NRC's internal auditors found that the commission's investigators had missed the fact that one of the cited welds had been replaced after Mr. Applegate made his allegation.

Though obviously pleased with parts of the NRC reports, GAP fiercely disagreed with some major conclusions. GAP argued that new building at Zimmer shouldn't go ahead until all the problems in the existing work had been identified. And the group asserted that given the utility's past failures to follow construction rules at Zimmer, independent engineers should be brought in to help fix the plant's problems.

In support of its position, GAP in August filed to the NRC 120 pages of further contentions about problems at Zimmer and supported those contentions with another group of documents numbering some 3,000 pages. What's more, by this time, other agencies and individuals were looking into matters at Zimmer. The Justice Department, for example, began investigating possible criminal violations at the plant. And in June, Rep. Udall held his first hearing on the situation at Zimmer.

Construction Halt

In November, the five NRC commissioners, by a 3-2 vote, ordered construction at Zimmer halted immediately, pending efforts to explore fully the growing list of problems at the plant.

Earlier this year, GAP filed requests under the Freedom of Information Act seeking supporting documents and draft reports released to the NRC's investigations of Zimmer. GAP's Mr. Devine says the requests were partly prompted by suspicions that parts of the reports had been watered down and that other sections had been deleted entirely.

In response to those requests, the NRC told GAP that the commission's files didn't contain any drafts of the auditors' report on the initial Applegate investigation. But sources say that statement, though perhaps technically correct, wasn't really true. As

one NRC investigator involved in the report told Congressman Udall, he had had draft copies of the report in his office file but was ordered to remove them after GAP filed its request. GAP recently filed suit against the NRC in a Washington federal court seeking a determination of whether NRC employees acted illegally in handling the requests.

The response to GAP's information requests caused heated debate within the NRC, sources say. Some NRC officials argued that while the agency could fight public disclosure of certain documents, it was obligated under the law, at the very least, to identify all the documents it had. "What happened was a cover-up," asserts one NRC official.

James Cummings, the head of the NRC's internal-audit office, says that because of pending litigation he can't fully respond to the charges of a cover-up. But he does say: "If you know all the facts, it isn't fair to paint us as being less than honest."



Local and area

Citizen intervenor criticizes NRC decision to begin corrective work

By LORIE SHANE ¹²⁻¹³⁻⁸²

Daily News staff writer

A Freeland woman who has played an active role in a series of hearings regarding the Midland nuclear plant has criticized a U.S. Nuclear Regulatory Commission decision that work may begin to correct some soil-related problems at the plant site.

Barbara Stamiris is a citizen intervenor in the hearings, which have been going on for more than a year. She indicated during Friday's hearing that she believes allowing the work to begin is risky and unsafe because a final decision has not been made by the Atomic Safety and Licensing Board regarding the adequacy of the work.

Obviously discouraged, Mrs. Stamiris also said she plans to re-evaluate her role in the hearings, but did not say she will drop out. She did leave Friday's hearing after making her statement in the morning.

THE HEARINGS began after the NRC issued an order in December 1979 which called for amendments to Consumer Power Co.'s construction permits. Consumers Power requested the hearings, which have centered on two main issues: the discovery of poorly compacted soils in some foundations at the site, which caused some buildings to settle excessive-

Soils hearings

ly, and Consumers' quality assurance program, the program designed to inspect work which has been done and assure it meets NRC requirements.

Consumers has presented testimony on both issues; including technical plans to shore up the foundation of several buildings. The three-man panel of ASLB judges who are presiding at the hearings ultimately will decide whether those plans are adequate.

IN THE MEANTIME, however, the NRC already has given approval for work to begin on the soils projects. That is allowed even though the ASLB decision has not yet been made. The ASLB board does have the authority, however, to issue a decision which may require changes in work the NRC already has approved. Last week the NRC said Consumers may begin installing two piers which will be part of an underground support system for buildings at the site.

Mrs. Stamiris was critical of that decision Friday, saying she feels the NRC is giving Consumers the go-ahead before safety issues are resolved.

"I find it shocking that ... we are now

going to let the work go forward before we resolve the questions," she said. She pointed out the NRC now is investigating various allegations made by former workers about poor work done at the plant and that a recent NRC inspection revealed various quality-control problems which have led to Consumers' agreement to re-inspect its safety-related work.

CONSUMERS POWER lead attorney Michael Miller said the utility recognizes that the ASLB board does have the authority to require changes in the soils projects, even though the NRC has granted its approval.

"The company certainly recognizes that construction may have to be modified," he said.

Mrs. Stamiris questioned, however, whether the ASLB board likely would decide the soils work is not adequate now that Consumers is being allowed to do it.

"Is there any chance we can even have a fair hearing?" she asked.

ASLB CHAIRMAN Charles Bechhoefer responded that when the hearings began there was no legal requirement for Consumers Power to get approval for any of its work. He pointed out it was the ASLB board who said the utility must secure formal, written NRC approval for

each step of the soils work.

This morning, Mrs. Stamiris said she is re-evaluating her participation in the ASLB proceeding, but that she doesn't expect to reach a decision on whether to keep intervening or to drop out until January.

She said the decision by the NRC's Region III office to allow the underpinning to begin was "shocking in light of all the recent findings and inspection reports" which show that Quality Assurance (QA) problems still are occurring at the Midland plant.

MRS. STAMIRIS repeated her belief that the ASLB should first decide whether QA programs at the plant are adequate to assure the plant's safe construction and operation before allowing the soil work to proceed. "It only makes sense to do it that way," she said.

"I don't know what my participation will be (in future hearings). I don't see myself going through many more hearings if it won't do any good at all," Mrs. Stamiris said.

However, she added: "It would be harder to quit at this point than to see it through because of all the time I've invested. If it will be meaningful, I'd like to stick with it and see it through."

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Attachment 9

AFFIDAVIT

My name is _____ I am submitting this affidavit freely and voluntarily, without any promise of reward and in spite of indirect and implied threats and warnings, not with malice, but out of a devotion to my country and community and a genuine concern over the threat posed by the Midland Nuclear Plant.

I was born and raised in _____ Michigan. I completed high school there in _____ and attended the University of _____ where I was graduated in _____ with a B.A. in _____. I worked as a _____

I was indentured as an apprentice with the IBEW local _____. I completed this apprenticeship in _____ am now a State Licensed Journeyman Electrician. It was in this capacity that I was employed by Bechtel Power Corporation at the Midland Nuclear Plant.

I went to work there in _____ and from the first, found it difficult to adjust to the working conditions and the pace. I had always taken pride in my workmanship and was accustomed to working hard. I had always worked for small contractors whose success depended on the men working quickly and efficiently. It was hard getting used to waiting around for or tracking down someone to sign a requisition for tools or material; and then possibly waiting another day or two for the item to be delivered if the request was for material stored elsewhere on site; or not getting the item at all if the request was for a tool the superintendent or crib foreman was holding for his friends. But this was all a part of Bechtel's

philosophy; and you can adjust, get ulcers or quit.

It really isn't hard to understand their philosophy. The contract pays for time and material--the more material used and the longer it takes to install it the more money they make. As long as they can convince the customer they are making progress and the delays and overruns are not their fault, they can just ride the gravy train, as it were. The same philosophy permeates all the way down the ranks but with an added corollary: The less work done, the further behind you get. The further behind, the more likely you are to get overtime. It can be plainly seen that this positive financial reinforcement encourages the "Powerhouse Shuffle".

The "Powerhouse Shuffle" is a name the workmen have applied to the pace at which you are required to work. A little like walking in place; you must look busy without actually doing anything. I recall one instance during which I worked two days without a job to do and was praised for my industriousness. I spent the two days measuring things---walls, ceilings, floors, cabinets. It didn't matter what I measured. Everyone who saw me assumed I was working and that I knew what I was doing. That's the "Powerhouse Shuffle".

They have an arsenal of ways to impose the pace on everyone. I was frequently criticized by my peers for working too quickly. With the prospective reward of overtime for dawdling---peer pressure is a tremendous force.

Additionally, there is the "material-tool bottleneck". Although material is routinely cast aside and thrown away if something is changed or revamped; when first issued, strict controls are used to

account for each item. These controls and procedures do much to slow the overall progress.

Some subtler methods of retarding the pace are also available. Generally one works with a partner. By pairing a faster worker with a slower worker, they can slow the faster one down. I've never seen a case in which the slower man was sped up.

Another method is to reward competence with increasingly heavier and more difficult work. With one foreman I worked for, I started running 1" conduit and each new assignment was larger conduit in a more difficult or more awkward location. There is little incentive to work fast facing a harder job each time. I was running 6" conduit when I was transferred.

The transfer is another method of controlling speed by finding the area in which a man is least competent. On two occasions I was transferred for excessive competence. The tactical use of discouragement has also been successfully employed. By assigning a difficult job which upon completion is torn out and thrown away, a man is discouraged from doing his best. This method works well by example. In one instance I recall, several men spent months installing 3" and 4" conduit along the south corridor of the auxiliary building -- elevation 634'. When completed, it was a very good example of fine workmanship. When they were told to tear it out, I have been told that the men quit. But the work was so visible, the lesson was evident to all the men.

There is the temptation to dismiss such an incident as just an oversight, a mistake, or somehow not deliberate. But such incidents

are a way of life there and far too common to be dismissed. Often times, I had been told in advance that my assignment would be torn out when I was done. Once I was in a crew that worked 3 months installing wireway in the lower spreader room. When we moved to a different area, another crew came into the spreader room and spent a month tearing it all out and throwing it away. Meanwhile, we went to 646' elevation of the Auxillary building and for that month, we tore out what day shift installed and ran conduit to valves which were not yet in place. The dayshift would tear out what we installed and would redo it their way. After a month of this I asked for and received a transfer.

There are a few less specific issues that I have about the safety of the Midland Nuclear Plant. As I recall, when we installed the switchgear in the battery rooms on 614' elevation, we were unable to obtain minimum anchor bolt imbedment because of reinforcement rod interference. We followed a standard procedure to deceive quality control. We added threads to an anchor bolt, cut it off and dressed it up with a grinder and once installed it was practically indistinguishable from an untampered with bolt. This was not a unique situation; it was part of the game. Back then there was no code stamped on the end of the bolt but it would not be difficult to add a code letter to the procedure. My point is that while the anchor bolts we installed with no code will be given an ultrasound test, bolts with a code on them even if counterfeit will be accepted if they pass a torque test.

Another problem I think perhaps has not been recognized is the presence of debris in the small bore stainless steel lines. Some of

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these lines will carry contaminated coolant and waste products. I cannot begin to count the times I have seen someone throw peanut shells, orange peels, banana peels or waxed paper into 2" and smaller pipes. Supervision was always good for that. Perhaps it was just another way of demeaning the men. These lines are by no means straight nor even limited to a 360 degree bend. I find it difficult to believe that flushing these lines can blow the banana peels out the end.

After having worked in the control room of the Midland Plant, one can see the control room simulator at the Training Facility, the single greatest impression made is that the simulator is so vastly more spacious than the real thing. I think this demonstrates Consumers Power's own conviction that the control room in the plant is grossly undersized. My concern is not for the operator and the restrictions placed on his movements and the accessibility to his instruments and controls. My concern is more for the heat buildup and the fact that the control room itself is surrounded by heat generating electrical conductors in the upper and lower spreader rooms. Couple this with the fact that in the cable cut shop we were free to substitute a similar type of cable for a type that was unavailable or out of stock, and I feel there is a very real possibility that the operator may have to deal with stray, random or erroneous signals telling him something is happening when it isn't or that something is not happening when it is. His reactions based on this false input could vary from serious to slight in consequence. Should he grow accustomed to these false alarms it could lead to his ignoring a real problem should one occur.

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By way of example, suppose a cable was required with 3 twisted shielded pair of 16-guage wire. At the cable cut shop, we may have substituted 6 conductor 16-guage with a shield. Such substitutions are routinely made without consultation and without regard to the purpose, location or operation in which the cable is used. Whether one conductor may induce a current in another conductor within the shield and whether this would be significant are unknown factors which should be investigated.

It was in my final assignment that I began to seriously consider the possibility that this power plant might actually fuel up and try to run. My last assignment was to assist Q.C. in their inspection of electrical conduits and supports. In this position, I had to take seriously all shortcomings, mistakes and violations both accidental and deliberate. It was no longer a joke, trying to see how much we could get away with--how much we could sneak by undetected. All these flaws, deviations, errors had to be paid for now or with more severe consequences later.

I was assigned to work with the quality control inspection sub-contractor, Comstock Engineering, in My job duties included the marking and identification of Q-conduit supports. The Q-conduit supports were all required to be inspected by quality control because they all involved conduit necessary in an emergency shutdown of the plant. My job duties, in part, required the completion of a form showing the type of conduit support and the weight it was carrying. I found that many conduit supports had been in place and were supporting weight greater than permitted by the specifications. I reported

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many of the faulty conduit supports to my immediate foreman, but failed to get any kind of adequate response. Bechtel has a quality improvement program which permits employees to go from immediate foreman to their general foreman and finally to the superintendent if the employee believes that there has not been adequate attention to the quality control complaint. I did not get adequate support from either my foreman, general foreman or the superintendent. My electrical superintendent,

observed me speaking to one of the Comstock Engineering inspectors and pointing out some of the weight problems in the conduit supports. The electrical superintendent instructed me to no longer fill in the weight portion of the forms which I was completing. I was also instructed, through the general foreman, that I was not to point out potential violations in the conduit support system to the Comstock Engineering people, as it was their job to find the violations; and it was my job to fix and repair those conduit supports after the violation had been discovered. My foreman, Bob Essex, told me that they would wait and see if the violations were caught before taking any steps to make repairs.

I finally decided to write a letter to the NRC regarding the quality control mistakes which I had been observing. This letter was generated because of a story which I saw in the Midland Daily News in which a former Comstock Engineering employee had written to complain of the lax attitude of QC and the unqualified inspectors. I welcomed this news because I knew how valid his complaint was. Out of the 12 inspectors I worked with, only one could be considered even marginally competent or qualified. A

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few days after that story appeared, there was an article indicating that the NRC had dismissed the complaint of the Comstock employee because of lack of specific information. In response to that article, I wrote the NRC a letter specifying two kinds of violations which I had observed. First was the numerous violations of weight standards and the lack of inspection for compliance with weight specifications and second, the improper installation and use of the type 30 conduit supports which are attached to the flanges of steel I-beams. I wrote the letter to the NRC in February, 1982; and shortly thereafter I was instructed to go back and fill in the weight portions of the forms for each of the conduit supports. There was also some action to correct some of the conduit supports which were not in compliance with specifications. I have attached a copy of this list setting forth each conduit support and the problem which I observed to be not in compliance with specifications. The two (2) that are crossed out on the attached list were subsequently corrected. However, to the best of my knowledge, the remainder have not been corrected. I brought notice of each of these conduit support violations to both my foreman and general foreman, although a copy of this list has not been given to anyone connected with the power plant or to the NRC.

I was terminated as an employee of the Bechtel Power Corporation at the Midland Nuclear Power Plant on March 31, 1982. It is my belief that my termination was a direct result of my communication to the NRC.

I wish to reserve the right to expand this affidavit at a

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later date.

I have read the above nine (9) page affidavit and it is true and accurate to the best of my knowledge and belief.

ORIGINAL OF THIS AFFIDAVIT NOTARIZED
AND FILED WITH NUCLEAR REGULATORY COMMISSION
ON June 29, 1982

Memo from Mary Sinclair Jan 20, '83

Judge Beckhofes -

Here is the letter to Dr. Chester Sices which Billie Sande of the Govt. Accountability Project prepared. I inadvertently omitted it from the envelope containing my cover letter and the attachments.

Mary Sinclair

GOVERNMENT ACCOUNTABILITY PROJECT

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January 11, 1983

Dr. Chesler Siess, Acting Chairman
Midland ACRS Subcommittee
3110 Newmark Laboratories
208 N. Romine
University of Illinois
Urbana, Illinois 61801

Dear Dr. Siess:

As you know, the Midland Nuclear Power Plant being constructed by Consumers Power Company (Consumers) in Midland, Michigan has historically had serious construction problems. Your committee and your Washington staff have consistently demonstrated a sincere concern about developments at the construction site. You may not be aware, however, that the situation at Midland has deteriorated dramatically in recent months. At the same time the Nuclear Regulatory Commission (NRC) staff has taken a number of actions that may have irreversible consequences for the construction project and upon the ability of the NRC to now assure the public that this nuclear plant can operate safely.

We urge you to consider seriously the current events at Midland, and to take decisive action through the ACRS meeting process to pull together the fragmented Midland story. The complications and contradictions of the after-the-fact Operating License and Soils/Quality Assurance hearing, the numerous independent audits, the overlapping and incomplete staff investigations and inspections, and the weekly setbacks have produced a nuclear industrial regulation nightmare.

The Government Accountability Project (GAP) is a project of the Institute for Policy Studies (IPS), Washington, D. C. The purpose of GAP's three clinics -- Federal Government, Citizens Clinic and Nuclear Clinic -- is to broaden the understanding of the vital role of the public employee, private citizen and nuclear worker in preventing waste, corruption or health and safety dangers. GAP also offers legal and strategic counsel to whistleblowers, provides a unique legal education for law student interns, brings meaningful and significant reform to the government workplace, and exposes government actions that are repressive, wasteful or illegal, or that pose a threat to the health and safety of the American public. Presently, the Project provides a program of multi-level assistance for government employees, citizens and corporate employees who report illegal, wasteful or improper actions. GAP also regularly monitors governmental reforms, offers expertise to Executive Branch

offices and agencies, state and local governmental bodies, and responds to requests by Congress and state legislatures for analysis of legislation to make government more accountable to the public.

In March 1982 GAP's Citizens Clinic became actively involved with the Midland Nuclear Power Plant. A local citizens organization asked GAP to pursue allegations from workers of major problems at the Midland plant. After our preliminary investigation, we compiled six affidavits which we filed with the NRC on June 29, 1982. Since then we have filed four additional affidavits resulting from the heating/ventilation/air conditioning (HVAC) system's quality assurance breakdown revelations. We are also preparing an expanded affidavits from one of our original witnesses, Mr. E. Earl Kent, who has alleged serious welding construction problems at the Midland site. Other alarming allegations, ranging from security system breakdowns to worker safety problems, have come to our attention recently. As a result, we have expanded our investigation of the Midland plant.

As we are all painfully aware, the most serious problem at Midland is a construction flaw unprecedented within the nuclear industry. The Midland site is plagued by a foundation soil settlement problem that has left the diesel generator building cracked, the auxiliary building unstable, and other safety structures in serious jeopardy of shifting or settling. The result has been a massive construction boondoggle, which has not yet been, and may never be, solved. It has been characterized recently as "corporate mismanagement on a massive scale" by the CBS National News.

The history of the soil settlement problems speaks all too clearly to the disregard Midland's management has demonstrated. Not only did Consumers and Bechtel take a risk by using improper fill and inadequate compacting techniques that led to the foundation problems, they also misled the NRC about the risk they took. In 1979, the NRC cited Consumers Power for a material false statement "in that the fill used at the site was not the type stated in the FSAR as having been used." In the strongly-worded recommendation from the Director of the Division of Reactor Construction Inspection (RCI), IE (now Nuclear Reactor Regulation (NRR)) for enforcement action, Mr. Thornburg accurately described Bechtel's error in submitting the FSAR as "in careless disregard of the facts." (September 27, 1979 memorandum.)

Although the NRC responded to the discovery of the soil settlement problems decisively with a stop-work order on December 6, 1979, Consumers Power Company and its contractor managed to find a legal loophole by which they could continue work. By requesting a public hearing, using the process intended to protect the public, Midland management has succeeded in protecting the utility's timetable in disregard of the public health and safety.

In fact, the NRC staff's own observations about how Bechtel and the utility responded to unprecedented structural problems at a nuclear power plant raises extreme apprehension among all of us. One such observation was that:

CP and Bechtel are proceeding with construction of remedial measures on the foundation of the plant without any review by the NRC staff and without any committal by the NRR as to the feasibility or suitability of the proposed actions.

(January 21, 1980 Letter from E. J. Gallagher to G. Fiorelli, Chief, Reactor Construction and Engineering Support Branch, re: Meeting with Consumers Power Company.) Unfortunately for the residents of Michigan, Midland's sensational soil settlement problems are not a unique and unusual occurrence for the owners and builders of the facility. Instead, these problems stem from a corporate attitude that has disregarded the laws that regulate atomic power and de-emphasized quality assurance from the beginning of this project.

In fact, the original Midland licensing appeal panel members felt so strongly about the QA violations discovered in a November 1973 IE inspection that Mr. L. Manning Muntzing, then Director of Regulations, wrote a prophetic letter. He pointed out that even though the Appeals Board could not take action on the IE findings,

...the members of the Midland Appeals Board feel constrained to record (1) their extreme dismay respecting this latest development; and (2) their firm belief that more drastic action against Consumers Power and its architect-engineer should be promptly considered. In this connection, had the construction permit proceeding still been before our Board at the time that the results of the November 6-8 inspection were announced, it is a virtual certainty that we would have ordered forthwith a cessation of all construction activities....

(November 26, 1973 Letter from L. Manning Muntzing, Director of Regulations, re: Quality Assurance Deficiencies Encountered at Midland Facility, p. 2.) Mr. Muntzing's warning in 1973 should have served as notice to both Bechtel and Consumers Power to resolve their QA problems. Quite to the contrary, however, they ignored the notice. So did the NRC staff! The QA problems at Midland continued unabated.

Both the 1979 and 1980 Systematic Assessment of Licensing Procedure (SALP) reports give notice of further and expanded problems at Midland. The problems identified then (lack of qualifications of QC inspectors, continuation of work prior to corrective action) are similar to those cited as causes in the recent stop-work order. (Attachments 1 and 2, re; Midland Stop-Work Orders, Dec. 82)

The reports also included acknowledgements of excessive QA backlogs and lack of timeliness. (SALP Report 1980.) Consumers Power Company's failure to learn from its mistakes passed the stage of accidental oversight long ago.

The lack of quality assurance at Midland has been a continuous concern of the Regional Administrator, James G. Keppler. In the spring of 1982 at the release of the 1981 SALP rating, Mr. Keppler publicly reported that he was going to have to change his previous testimony before the Atomic Safety Licensing Board in which he gave his "reasonable assurance" that the plant would be constructed in accordance with nuclear construction regulations. His revised testimony was submitted October 27, 1982. Although Mr. Keppler did not withdraw or modify his original testimony substantially, he did refer to and attach a number of revealing staff memoranda. I have attached these, as well as several articles surrounding Mr. Keppler's testimony for your own review (Attachment #3). It is clear that virtually all of the NRC staff working on Midland have strong opinions about the lack of quality performance of Consumers Power Company and its contractor, the Bechtel Corporation.

In July 1982 your committee issued its interim approval for the remedial soils work on the Midland plant. As you are well aware, that approval comes after a lengthy and controversial debate regarding Consumers Power Company and Bechtel's ability to implement the complex and exacting underpinning construction that successful completion of this project will require.

It was my understanding that before any work began on the underpinning efforts that your committee would have the opportunity to review the independent audit that would ascertain the proper implementation of Consumers' Quality Assurance Plan. Further, it was my understanding that the audit methodology of this critical work was to be reviewed publicly, allowing for citizen and public interest comments about procedures to be used by the auditor in insuring compliance with Consumers' QA plan. Certainly, at a minimum, I understood that the ACRS had retained the authority to approve the actual beginning of soils work. It appears that I was mistaken.

In perhaps one of the most arrogant NRC staff moves GAP has had the misfortune to observe, the Region III staff has allowed the irreversible soils underpinning work to begin. (See Attachment 4.) Not only does this action represent a total disregard for the ACRS's prudent position as set forth in its July letter, it also indicates a total failure to respect the seriousness of the problems of public mistrust of the Midland plant.

It is simply too much to expect the public to retain any confidence after the NRC's own revelations about "shoddy construction practices," "poor management," and "slipshod workmanship" (Attachment 3), and the necessity of a subsequent major stop-work order resulting from

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an NRC investigation that revealed a quality assurance breakdown, construction flaws, unqualified/uncertified welders, questionable material traceability (Attachment 3), and the flip-flop "reasonable assurance" of the Regional Administrator. These events of the past few months follow a decade of construction failures, cost overruns and major setbacks -- all attesting to the questionable integrity and ability of the licensee to safely construct a nuclear power plant.

It is clear that the major questions concerning the underpinning work undertaken by Consumers, as well as the extent of the damage already done to the diesel generator building and auxiliary building, cannot be answered until they are a "fait accompli". Unfortunately for the residents of Central Michigan, Mr. Keppler's statement from the Operating License hearing carries heavy consequences:

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 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. (Atch. 3, at 6)

Mr. Keppler's ideological views of his role in protecting the public health and safety are disquieting however when those views are translated into his staff's refusal to honor their legislative mandate. It is imperative that your committee respond swiftly.

You asked to review the audit plan, and Mr. Keppler made a commitment to allow public review. Apparently Mr. Keppler has decided to relegate the public meeting to a press relations charade. For example, on October 22, 1982, and again on November 11, 1982, GAP analysts prepared extensive comments about the independent audit that the ACRS required. Although letters and public presentations were informative, they failed to provide the key methodology needed for GAP to assess the adequacy of the program. When GAP investigators attempted to pursue the questions at the public meeting, they were told "to allow the NRC time to ask for those documents." (NRC Open Meeting, Bethesda, Maryland, November 5, 1982.) Subsequently, GAP repeated the request in a November 11, 1982 letter (Attachment 5). Last week GAP received the NRC's response, over two-and-a-half months after the original request: "You may wish to request access to the documents from Consumers Power." (See Attachment 6.)

It is clear to us that the Nuclear Regulatory Commission staff plans to evade or ignore requests made by GAP for the minimum

information it will take to enable us to complete a responsible review of the proposed independent audit. Currently, we are involved in a Freedom of Information Act suit against the NRC for withholding documents that would have significantly altered the conclusions of an NRC investigation of the Zimmer case. Congressman Udall voiced his own request for an explanation of that affair. (See Attachment 7.)

Likewise, the NRC's handling of the Midland investigation demands further explanation:

--Why did Mr. Keppler give his "reasonable assurance" that all was well at the Midland site when he was fully aware that there were numerous major ongoing investigations, unresolved allegations of false statements by Consumers Power to the NRC, and serious quality assurance deficiencies?

--Why did the NRC staff allow work to begin on the underpinning work when it had already committed itself to a quality assurance implementation audit and had not approved the audit methodology or audit contractor?

--Why has the investigation into the GAP allegations taken six months so far, with no projected completion before the end of March 1983?

--Why has the NRC failed to produce the results of an October-November inspection that resulted in a major work stoppage?

--Why did Mr. Keppler override his staff's concerns and recommendations in October about the Midland problems and grant his "reasonable assurance" that quality assurance was under control?

--Why has the NRC failed to release the "Secret Stipulation" reached between Mr. Keppler and Consumers Power in Spring 1981? (It was originally requested by Ms. Barbara Stamaris, the citizen intervenor in the soil settlement hearings, and denied. A decision on appeal of the denial is now overdue by almost 30 days.)

These questions about the Midland plant, and similar questions about other plants, form the basis for growing public skepticism about the Nuclear Regulatory Commission's ability to regulate adequately nuclear power. In Central Michigan this uneasiness and distrust have led previously inactive citizens and local government bodies to become involved in their own protection. In fact, every single hearing or license associated with the nuclear power plant going into operation is being contested.

The Ingersoll Township and the Saginaw City Council, along with various other citizen organizations, unions and individuals, have signed or passed a resolution opposed to the plant. The Tittabawassee

Township Board is opposing Consumers Power Company's waste water discharge permit. The Michigan Attorney General is an intervenor in the rate case in opposition to allowing Midland in the rate base. Citizen intervenors Mary Sinclair and Barbara Stamaris continue to struggle upstream in a hearing process that has been characterized as "the New York Jets against your local high school football team."*

The entire NRC process has grown so absurd that Ms. Stamaris is re-evaluating the benefit of her efforts within the hearing process. (See Attachment 8.) GAP has turned to Congress for assistance in obtaining answers to questions the NRC staff cannot or will not answer. Nuclear workers have become more and more disenchanted with the ability or willingness of the NRC staff to investigate their allegations, turning instead to GAP, Congress, the media or law enforcement agencies. One such worker, whose affidavit I have attached as Attachment 9, turned in his allegations to the NRC through GAP in June 1982. He waited for over five months for an OI inspector.

The February 6-8, 1969 summary of the 106th ACRS Meeting on the Midland plant states:

The Committee considers the site proposed to be unacceptable for use with reactor plants designed and analyzed as presently described in the PSAR. However, it believes that the site may be acceptable for use with reactor plants of the proposed power rating if:

- (1) The facility is equipped with adequate engineered safety features and protective systems;
- (2) the facility is analyzed sufficiently conservatively - particularly in respect to: determination of exclusion area and low population zone; assurance of low potential doses at short distances from the reactor in the unlikely event of a serious accident; evaluation of the number and location of people who could be safely and quickly evacuated in such an event; and, use of assumptions, for example those related to meteorology, in dose calculations;
- (3) the facility is designed, constructed, and utilized sufficiently conservatively; and
- (4) the facility is provided with thoroughly structured, effective emergency plans, including evacuation plans.

Thirteen years later this ACRS is faced with one of the five worst nuclear plants in the country (see William Dircks testimony before Congress, May, 1981), unprecedented construction flaws, a massive quality assurance breakdown, a pattern of false statements and broken trust, and -- as of yet -- undeveloped evacuation plans.

*Judge Louis Carter's testimony in front of the Subcommittee on Energy Conservation and Power of the Committee on Energy and Commerce, September 24, 1982. Judge Carter was the Administrative Judge in the ASLB hearings surrounding the Indian Point Nuclear Power Plant.

Dr. Chester Siess, Acting Chairman
Midland ACRS Subcommittee

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January 11, 1983

We urge you to act according to your mandate and aggressively pursue a leadership role in holding Consumers Power Company accountable for public safety.

Sincerely,

BILLIE PIRNER GARDE
Director, Citizens Clinic for
Accountable Government

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Attachments