

**GOVERNMENT ACCOUNTABILITY PROJECT**  
 Institute for Policy Studies  
 1901 Que Street, N.W., Washington, D.C. 20009

*File  
 Midland GAP*

*response to this  
 drafted 7/16/83*

(202) 234-9382

March 10, 1983

PRINCIPAL STAFF	
CA	
D/RA	WANSUS 3
A/R	
ORRP	
DE	
MI	
OL	

Mr. James E. Keppler  
 Director, Region III  
 Inspections and Enforcement  
 Nuclear Regulatory Commission  
 799 Roosevelt Road  
 Glen Ellyn, Illinois

Dear Mr. Keppler:

On March 7, 1983 I attended a meeting with Mr. Darrell Eisenhut, Mr. Daryl Hodd, Mr. Tom Novack, Ms. Elinor Adamson of the Office of Nuclear Reactor Regulation (NRR), and Mr. Robert Warnick of your staff. Mr. Warnick confirmed a number of items of great concern to the Government Accountability Project (GAP) in regards to the Midland Nuclear Power Plant.

More specifically, Mr. Warnick confirmed that you and members of your staff have been meeting with management officials of Consumers Power Company ("Consumers") to iron out the details of the Construction Completion Plan (CCP). It was our understanding from your public statements at the February 8, 1983 public meeting that you intended to open up the CCP evaluation process for more public overview and comment. Yet it is clear the meetings that you and your staff have been having are on the very points that most need public input.

I am personally distressed that you have not responded to the overwhelming public concerns about the credibility of Consumers and the Bechtel Corporation. Surely you cannot expect the public to continue to trust the utility and its contractor to be able to allay public fears about their self-examination. This is the solution that the CCP is proposing.

GAP is not prepared to spend the next year haranguing over the methodological details of a third-party review that has not had the basic opportunity to review the condition of the plant. The inspection of the Diesel Generator Building clearly indicates that Midland is not, and never has been, in the condition that the utility would have us all believe. It is inconceivable that the NRC could even consider a solution to the problems without first having a legitimate, independent, competent third party identify the actual condition of the plant.

Mr. Warnick identified a number of areas of discussion and debate surrounding the details of the CCP, these included such major items as whether there should be 100% inspection or sampling,

what the reporting structure would be for the Quality Assurance/Quality Control personnel within the teams, how the teams would be established, etc. These are items which betray the position that your Regional office has taken in the absence of either public input or analysis, or even the courtesy of a preliminary announcement.

If you intend to approve the Construction Completion Plan that draws its legitimacy from the third-party reviews (See CCP, Figure 3-1) of the plant --including the identification of the problems on site -- than please do so immediately.

If you intend to close the public input into the process of reviewing the acceptability and adequacy of the plan that Consumers has offered, than please make such an announcement.

If you have no intention of even considering having a third-party determine the extent of the problems on site, than you have effectively undermined the entire promise that you made to the residents of Midland.

Please answer the following questions concerning the steps that you have taken since the February 8, 1983 meeting concerning the CCP:

(1) What meetings ( either personally or by conference call) have you, Mr. Robert Warnick, or members of the Midland Team had with management officials of Consumers Power Company regarding the CCP?

(2) For every meeting identified, what was the topic of discussions?

(3) What directives, policy statements, verbal approvals, tentative approvals, or strong indications have been given to Consumers as to the acceptability of the CCP?

(4) What approvals have been given by your staff in regards to any work on site going forward? (This excludes, of course the on-going soils work, and the steam turbine work.)

(5) What official holds - if any - have you placed on Consumers Power which would restrict its initiating work on the site when it saw fit?

(6) What plans does the staff have for its own determination of the "as-built" condition of the plant, either prior or subsequent to a third-party/Consumers review?

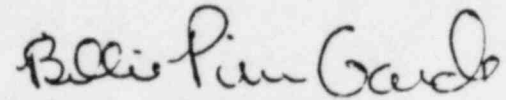
Mr. James Keppler

- 3 -

March 10, 1983

I look forward to your response within the next few days.

Sincerely,

A handwritten signature in cursive script that reads "Billie Pirner Garde".

BILLIE PIRNER GARDE  
Director, Citizens Clinic

BPG/bl



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

APR 05 1983

~~OK~~  
② file - LTV

Government Accountability Project  
Institute for Policy Studies  
ATTN: Ms. Billie P. Garde  
Director  
Citizens Clinic for Accountable Government  
01 Que Street, N. W.  
Washington, D. C. 20009

Dear Ms. Garde:

Your letter of March 7, 1983, commenting on issues presented at the February 8, 1983, public meeting and regarding Consumers Power Company's (CPCo) Construction Completion Program (CCP) for Midland Units 1 and 2 described in a January 10, 1983 letter from CPCo, is being answered in part by Mr. Eisenhut. He has requested Region III to respond to those portions of your letter addressing matters which are the responsibility of Region III.

You expressed concern that the responsibility for the on-site inspectors and the Midland Section has been transferred to the Regional Administration and Washington-based NRC officials. Let me assure you that the responsibility for the Midland resident inspectors and the Midland Section inspectors has not changed. They still report to me through first and second line supervision. Likewise, the Regional NRC inspection responsibility for the Midland plant has not changed since it was assigned to the Office of Special Cases in July 1982.

In your comments you expressed concern that there have been a number of incidents within the last several months where Regional personnel have indicated one answer pertaining to construction work, and then other action was taken after approval from NRR. We disagree with your characterization of the facts. Our position on each of your three examples is as follows:

1. While it is true that Ross Landsman was not included in the conference call of February 8, 1983 regarding pier load test sequencing, his input was subsequently provided to both CPCo and NRR. At that time he agreed with the conclusions and decisions reached during the previous February 8 phone call.
2. Region III (RIII) personnel gave approval for doing the Feedwater Isolation Valve Pit (FIVP) jacking and they were aware of the licensee's schedule when they gave their approval. The RIII personnel who were at the ASLB hearing (the same ones who gave the approval) do not remember making the statement you attributed to them; however,

830411054

APR 05 1983

they have stated that any references made by them concerning FIVP work activities commencing in March or April pertained to the actual drifting under the FIVP to pier 9 and not to the FIVP jacking work. The drifting actually commenced on February 28, 1983.

3. The NRC staff believes that "no major discrepancies" have been found in the actual underpinning work. In reference to the cracks identified during FIVP jacking operations, the licensee submitted a report to the NRC which concludes that the cracks were not indicative of any structural damage having occurred to the FIVP. The NRC is currently reviewing this report and no discrepancies have been identified thus far. In reference to the February 15, 1983 memorandum from Ross Landsman to R. F. Warnick, the three issues identified in the memo were not considered to be major discrepancies. The three issues have been satisfactorily addressed by the licensee.

With respect to another of your concerns, RIII personnel who were involved in the initial contacts with the Stone and Webster (S&W) organization do not believe that anything they said or did prior to February 24, 1983, the date S&W was approved, could have given the impression that S&W's onsite activities had been approved by the NRC.

You also expressed concern about the "as-built" condition of the plant and who will identify the problems at the plant. In this regard, RIII expects the licensee's drawings and documents to reflect the plant as-built condition. The special inspection of the diesel generator building performed by the Midland Section identified differences between drawings and actual construction. We expect the licensee to identify existing differences and other problems at the plant. In the CCP the licensee has committed to do this. The NRC is requiring CPCo to expand the CCP overview to include the licensee's identification of problems. After the licensee has completed their problem identification process, the Office of Special Cases plans to conduct additional inspections to determine whether the licensee's inspection effort has been acceptable. The NRC has also required that a third party conduct an independent construction verification program after the CCP has identified the problems. This should provide a second means of determining the acceptability of the licensee's inspection effort.

Regarding matters which you identified as generic problems, such as QA/QC documentation, training and recertification of HVAC welders, unidentifiable electrical cables, untrained QC inspectors, and material traceability inaccuracies, the RIII inspectors have or will address each one. Our practice,

when the NRC identifies a generic problem, is to require the licensee to determine whether or not that generic problem exists in other areas of their plant and if it does, what actions they have taken or will take to address the generic concerns. Our inspectors review the licensee's response and assess the acceptability of it. The following specific actions have or will be taken to address each of the above listed concerns.

1. The RIII staff is currently reviewing the HVAC welder qualification issue. We will begin our review of other HVAC (Zack) issues in the near future.
2. The NRC required the licensee to reinspect electrical cables to make sure the correct cables are installed. As of March 24, 1983, seven cables were found by the licensee to be other than that specified by design requirements out of 8,148 cables inspected.
3. QC inspector training has been reviewed and the licensee has been required to improve QC inspector training.
4. We have required the licensee to address the material traceability problems identified to date.

We are not aware that what is and what is not "Q" soils remedial work is a subject of controversy. As of March 10, 1982, all remedial soils work was determined by all parties to be "Q". This determination was further clarified by the May 7, 1982 ASLB order which adopted use of drawing C-45. This drawing clearly identifies "Q" remedial soils boundaries.

The following information is presented in response to your questions regarding the approval and work of Stone and Webster in their soils overview.

1. We judged the adequacy of the initial S&W work by whether or not our inspectors found problems with the licensee's work that we would have expected the overviewer to find. We also based our judgement on the adequacy of their reports.
2. We have not reviewed S&W methodologies and do not plan to unless we find significant problems which they have missed.
3. We have not reviewed the revised contract regarding the assessment of underpinning work on safety-related structures.

Regarding the procedure to be used to approve the independent third party to overview the CCP, the Region will follow basically the same procedure as we used in approving Stone and Webster for the soils overview. A

Ms. Billie P. Garde

4

APR 05 1983

meeting was held in Midland on February 8, 1983 to discuss the CCP and to hear comments from members of the public. Selection of the overviewer will be proposed by the licensee and that selection will be submitted to the NRC for approval. We do not plan to hold a public meeting to hear comments on the independent third party proposed by the licensee to perform the CCP overview; however, we will consider all written comments received before our decision.

If you have any questions regarding this response, please contact Mr. Robert Warnick (312/932-2575).

Sincerely,

Original signed by  
A. Bert Davis

James G. Keppler  
Regional Administrator

cc: DMB/Document Control Desk (RIDS)  
Resident Inspector, RIII  
The Honorable Charles Bechhoefer, ASLB  
The Honorable Jerry Harbour, ASLB  
The Honorable Frederick P. Cowan, ASLB  
The Honorable Ralph S. Decker, ASLB  
William Paton, ELD  
Michael Miller  
Ronald Callen, Michigan  
Public Service Commission --  
Myron M. Cherry  
Barbara Stamiris  
Mary Sinclair  
Wendell Marshall  
Colonel Steve J. Gadler (P.E.)

RIII  
RNB  
Gardner/jp  
3/31/83

RIII  
Landsman

RIII  
Shafer  
4/4/83

RIII  
KFW  
Warnick  
4/4/83

Comments  
by someone  
incorporated.  
R/FW  
IE/NRR  
4/4  
RIII  
for Lewis  
4/4

RIII  
Davis  
4/4

RIII  
for Keppler  
4/4

## GOVERNMENT ACCOUNTABILITY PROJECT

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

(202) 234-9382

March 7, 1983

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

Dear Mr. Eisenhut:

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

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

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

### I. REQUESTS FOR FURTHER INFORMATION

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

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

8303210279



March 7, 1983

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

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

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

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

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

<sup>1/</sup>Memorandum from R. J. Cook to R. F. Warnick, July 23, 1982.

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

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

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

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

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

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

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

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

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

March 7, 1983

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

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

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

## II. COMMENTS CONCERNING THE THIRD-PARTY REVIEWS

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

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

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

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

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

March 7, 1983

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

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

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

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

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

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

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

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

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

Sincerely,

BILLIE PIRNER GARDE  
Director, Citizens Clinic