

GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

1901 Que Street, N.W., Washington, D.C. 20009

(202) 234-9382

June 13, 1983

Honorable Chairman Nunzio Palladino
Honorable Victor Gilinsky
Honorable John Ahearne
Honorable James Asseltine
Honorable Thomas Roberts
United States Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Commissioners:

On behalf of the Lone Tree Council, concerned citizens of central Michigan, and numerous nuclear workers on the Midland Nuclear Power Plant site, the Government Accountability Project (GAP) through its' Citizens Clinic requests that the Nuclear Regulatory Commission (NRC) take immediate action to protect the future public health and safety of central Michigan residents through the following actions:

(1) Modify the Construction Permit (Midland Nuclear Power Plant, Units 1 and 2) to include mandatory "hold points" on the balance-of-plant (BOP) work and incorporate the current Atomic Safety and Licensing Board (ASLB or Board) ordered "hold points" on the soils remedial work into the Midland construction permit.

(2) Require a management audit of Consumers Power Company (CPCo) by an independent, competent management auditing firm that will determine the causes of the management failures that have resulted in the soils settlement disaster and the recently discovered Quality Assurance breakdown.

(3) Reject the Construction Completion Plan (CCP) as currently proposed, including a rejection of Stone and Webster to conduct the third party audit of the plant. Instead a truly independent, competent, and credible third party auditor should be selected with public participation in the process.

(4) Remove the Quality Assurance/Quality Control function from the Midland Project Quality Assurance Department (MPQAD) and replace them with an independent team of QA/QC personnel that reports simultaneously to the NRC and CPCo management.

(5) Increase the assignment of NRC personnel to include additional technical and inspection personnel as requested by the Midland Section of the Office of Special Cases (OSC); and,

(6) Require a detailed review of the soils settlement resolution as outlined in the Supplemental Safety Evaluation Report, incorporating a technical analysis of the implementation of the underpinning project at the current stage of completion.

6/14..To EDO for Direct Reply....Suspense: June 28.....Cpys to: Chm, Cmr
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I. BACKGROUND

The Government Accountability Project is a project of the Institute for Policy Studies, Washington, D.C. The purpose of GAP's Citizens and Legal clinics are to broaden the understanding of the vital role of the public employee, corporate employee, and private citizen in preventing waste, corruption or health and safety concerns. GAP also offers legal and strategic counsel to whistleblowers, provides a unique legal education for law student interns and public policy students, 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, GAP provides a program of multi-level assistance for government employees, corporate employees, and private citizens who report illegal, wasteful or improper actions. GAP also regularly monitors governmental reforms, offers expertise to Executive Branch offices and agencies, and 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 Citizen Clinic became actively involved with the Midland Nuclear Power Plant. The Lone Tree Council had requested 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 that time we have filed five additional affidavits. We are also preparing an expanded affidavit of one of our original witnesses, Mr. E. Earl Kent, concerning welding construction problems at the Midland site and four additional affidavits from current and former workers. Other alarming allegations continue to come to our attention from a large number of current workers who believe that reprisals and harassment will follow any revelations of construction problems to either their own management or the NRC. As a result of the intense "chilling effect" on the Midland site GAP is re-evaluating our normal investigation process in an attempt to determine a possible solution to the problem.

Since the fall of 1982 GAP has also been active in the evaluation of Consumer Power Company's proposals for a number of audits requested or required by the NRC in an attempt to determine and establish the quality of the work, the implementation of the Quality Assurance/Quality Control plan for the soils remedial work, and an independent design and construction verification (IDCV) of three plant systems. GAP has submitted several analysis letters which revealed substantial weaknesses in the programs, inadequate information to judge program adequacy, and basic lack of independence of the proposed main independent review contractors.

In late November the NRC Region III OSC's Midland Section completed an extensive inspection of the hardware and materials in the nuclear plants' diesel generator building. This inspection subsequently led to a \$120,000.00 fine against CPCo for a quality assurance

breakdown. The inspection of the DGB building revealed an extensive backlog of quality assurance/quality control documentation, inability to provide materials traceability, unqualified and/or uncertified welders, and an In-Process Inspection Notification (IPIN) system that turned non-conforming items back to construction instead of documenting quality failures on the appropriate Non-Conformance Reports(NCR).

In spite of the major revelations of inadequate construction practices the NRC Staff permitted the critical soils remedial work to begin in mid-December. It is GAP's position, well known to the Staff, that this premature approval violates the June 1982 request of the Advisory Committee on Reactor Safeguards(ACRS) to Chairman Palladino. GAP also believes that the NRC approval to commence the irreversible soils underpinning work makes a mockery out of the Atomic Safety and Licensing Board (ASLB) hearings currently in progress to determine whether or not the soils work should be allowed to continue.

Since February 1983 GAP has continued its attempt to determine the seriousness of the situation and the adequacy of the proposed solutions for the Midland plant. Our efforts at working with the administration of the Office of Inspection and Enforcement have been frustrating. For example, although NRC letters and public presentations were informative, they failed to provide the key methodology necessary to assess the adequacy of the proposed third-party 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 Public Meeting, Bethesda, Maryland, November 5, 1982.) Subsequently, GAP repeated the request in its November 11, 1982 letter. Over two-and-one-half months after the original request, GAP finally received the NRC's response: "You may wish to request access to the documents from Consumers Power." (December 14, 1982 letter from James G. Keppler to Billie P. Garde.) Our request to CPCo was, of course, turned down.

Our February 8, 1983 analysis of the proposed Construction Completion Program (CCP) requested a number of considerations by the NRC, including the modification of the construction permit to maintain suspension of all safety-related work until the entire third-party review program--including the third-party selection, scope, and methodology -- was approved and incorporated into the construction permit. Our March 7, 1983 letter to the NRC raised further questions about the CCP generally, and particularly about the "closed-door" meetings that continued between CPCo and NRC Region III administration. In both a March 7, 1983 meeting with Nuclear Reactor Regulation(NRR) staff and IE staff and a March 10, 1983 letter to Mr. James Keppler we asked for an immediate response to allegations that we had received about negotiations over the details and acceptability of the CCP.

Mr. Keppler's response confirmed the fears of our internal sources. He stated that the NRC did not plan to hold a public meeting to hear comments on the independent third-party proposed by CPCo for the CCP overview, nor did they plan to review the methodology or the scope of the third-party review unless it was necessary. (March 28, 1983 and April 5, 1983 letters from Mr. James G. Keppler to Billie Garde.)

Since that time the NRC Staff and Mr. Keppler himself have testified before the ASLB in Midland, Michigan. His staff has gone on record with a deep distrust of CPCo as well as a lack of confidence in their ability to adequately build a nuclear power plant. Construction problems continue to surface, even with the safety-related work remaining halted. As recently as May 24, 1983 Mr. Thomas Novack, Assistant Director for Licensing notified the ASLB of a VIOLATION OF HOLD TAG DURING REMEDIAL UNDERPINNING CONSTRUCTION. (Exhibit T)

The alleged solution to problems stemming from a "poor management attitude" (testimony of Dr. Ross Landsman on April 28, 1983, ASLB) to the unknown extent of hardware problems is the CCP. Yet as late as June 3, 1983 CPCo was still submitting eleventh hour editions of this plan that continue to ignore basic programmatic flaws. Further, it is clear that the NRC Staff plans to evade or ignore public requests for the minimum necessary information to complete a responsible review of the proposed audit and completion plans.

Our experiences at the William H. Zimmer nuclear power plant in Ohio and at the LaSalle plant in Illinois have led us to be extremely skeptical of the NRC Staff's conclusion about the safety of nuclear power plants under construction. In those cases the Staff either ignored or missed major QA/QC violations at plants 97% and 100% complete, respectively. To illustrate, after the Staff virtually ignored GAP analysis and granted approval for full power operations at LaSalle, the plant was able to operate for less than 24 hours before being shut down due to a hardware breakdown. At Zimmer, the Staff-approved Quality Confirmation Plan was so ineffective that on November 12, 1982 the Commission suspended all safety-related construction.

As a result there is no basis for confidence in an NRC-approved CCP on faith. The basis for this extraordinary remedy must be fully disclosed, as well as the methodology for an independent review. The modification of the construction permit will be the first step in the right direction.

II. LEGAL BASIS

A. Legal Requirements

The law gives the Commission broad discretion to revoke, suspend, or modify the construction permit of an NRC licensee. 42 U.S.C. §2236 states that:

A license or construction permit may be revoked, suspended or modified in whole or in part, for any material false statement in the application for license or in the supplemental or other statement of fact required by the applicant; or because of conditions revealed by the application for license or statement of fact or any report, record, inspection, or other means which would warrant the Commission to refuse to grant a license on an original application; or for

failure to construct or operate a facility in accordance with the terms of the construction permit of license or the technical specifications in the application; or for the violation of or failure to observe any of the terms and provisions of this chapter or of any regulation of the Commission.

Part 50.100 of Title 10 of the Code of Federal Regulations states the same criteria for the revocation, suspension or modification of a construction permit.

The NRC has a mandatory duty to exercise this authority when necessary. According to the decision in Natural Resources Defense Council vs. U.S. Nuclear Regulatory Commission, 528 F. 2d 166(2nd Cir.1978), under the Atomic Energy Act of 1954, the NRC is required to determine that there will be adequate protection of the health and safety of the public. The issue of safety must be resolved before the Commission issues a construction permit. (Porter City Ch. cf Izaak Walton League vs. Atomic Energy Commission, 515 F. 2d 513, 524 (7th Cir. 1975).)

B. Criteria to Exercise Discretion

According to 10 C.F.R. §2.202, the NRC "may institute a proceeding to modify, suspend or revoke a license or for such other action as may be proper by serving of the licensee an order to show cause which will: (1) allege the violations with which the licensee is charged, or the potentially hazardous conditions or other facts deemed to be sufficient ground for the proposed action." As interpreted by the Proposed General Statement of Policy and Procedure for Enforcement Action, published in the Federal Register, 44 FedReg. 66754, Oct. 7, 1980 (10 C.F.R. §2.202, 2.204), suspending orders can be used to remove a threat to the public health and safety, the common defense and security or the environment. More specifically, suspension orders can be issued to stop facility construction when further work would preclude or significantly hinder the identification and correction of an improperly constructed safety-related system or component; or if the licensee's quality assurance program implementation is not adequate and effective to provide confidence that construction activities are being properly carried out. Moreover, orders can be issued when the licensee has not responded adequately to other enforcement action or when the licensee interferes with the conduct of an inspection or investigation or for any reason not mentioned above for which the license revocation is legally authorized. In order to help determine the significance of violations within this list, the Commission established "severity categories" ranging from the most serious structural flaws (Severity I), to minor technicalities (Severity VI). 44 Fed Reg, at 66758-59.

C. Specific Bases for Suspension

The Commission clearly has both the duty and the discretion to

modify the Midland Construction Permit.

In November 1982 Mr. Thomas Novack, the Assistant Director for Licensing issued to Dr. Paul Shewmon, the Chairman of the Advisory Committee of Reactor Safeguards the "Report on Midland Design and Construction Problems, Their Disposition, and Overall Effectiveness of the Effort to Assure Appropriate Quality." This report covered Midland's problems from the start of construction through June 30, 1982. It is attached as Exhibit 2. A review of this report indicates that the "Summary and Conclusions of Overall Effectiveness" is charitable in its observations.

The report contains the following statement:

Consumers Power has on repeated occasions not reviewed problems to the depth required for full and timely resolution. Examples are: (1) rebar omissions (1976); (2) tendon sheath location errors (1977); (3) Diesel Generator Building Settlement (1978); and (4) Zack Company HVAC deficiencies (1980). In each of these cases the NRC, in its investigation determined that the problem was of greater significance than the first reported or that the problem was more generic than identified by Consumers Power Company.

The Region III inspection staff believes problems have kept recurring at Midland for the following reasons: (1) Over-reliance on the architect-engineer, (2) failure to recognize and correct root causes, (3) failure to recognize the significance of isolated events (4) failure to review isolated events for their generic application, and (5) lack of an aggressive quality assurance attitude

In fact, each of the examples given above demonstrates conclusively that CPCo has long since lost control of the Midland Project. To illustrate, although the Diesel Generator Building settlement is quietly tucked into a list of examples of common construction problems at nuclear sites across the country it is far from that. The DGB settlement issue starts with a Material False Statement (see ACRS Interim Report, at 16-17) submitted to the NRC in the FSAR. It continues as one of the most massive construction experiments in the history of construction. Whether or not it is possible to tunnel underneath a nuclear power plant and build a foundation after-the-fact remain a subject of heated debate.

Another example is contained in an in-depth look at the problems of the Zack Company on the Midland site. Not only did the \$38,000.00 fine levied in 1980 for CPCo's failure to control a subcontractor not catch the attention of CPCo, it seems to have forced them to extraordinary bumbling. In April of 1982 the Quality Assurance Supervisor of the Zack Company came to Consumers Power Company management with solid evidence of a serious QA/QC breakdown on-going in the Zack headquarters. Not only did CPCo

ignore the serious warnings of the QA/QC supervisor, Mr. Albert Howard, they did not warn two other utilities receiving suspect material, they did not notify the NRC according to the requirements of 10 C.F.R. Part 21, and they revealed the confidentiality of Mr. Howard who was subsequently dismissed --with his staff--from the Zack Company. Since July 1982 when the Zack employees came to GAP for assistance CPCo has had to lay off unqualified Zack welders, (Exhibit 3), reinspect 100% of the HVAC equipment on the site, and reorganize the Zack QA/QC function again as recently as June 9, 1983 (Exhibit 4). Unfortunately, the reorganization reveals that CPCo has still not caught on to the seriousness of the problems, they have allowed the same supervisor responsible for the Zack problems for the past two year to be promoted to the General Superintendent of Plant Assurance Division of the Midland Project Quality Assurance Department.

Further, since the issuance of the November report the DGB inspection confirms that CPCo continues its tradition of construction mishaps. After 14 years and an estimate of \$4.43 billion dollars the Commission has ample bases to take immediate action to ensure that the public health and safety will be adequately protected.

III. SPECIFIC CRITICISMS OF THE CONSTRUCTION COMPLETION PROGRAM^{1/}

In the February 8, 1983 analysis of the CCP submitted to the public, the NRC, and CPCo GAP requested that the multiple audits/third-party reviews be combined into one comprehensive independent review. Specifically, the GAP staff took exception to the CCP as being inadequate because it:

- (1) relied heavily on and incorporated an INPO-type audit by the Management Analysis Corporation (MAC) which had been rejected by the NRC staff as not independent;
- (2) failed to provide any significant details of the methodology by which either third parties or CPCo would identify problems in the as-built condition of the plant;
- (3) was permeated by an inherent conflict-of-interest;
- (4) institutionalizes a lack of organizational freedom for the quality assurance/quality control function;
- (5) was not comprehensive; and,
- (6) failed to specify evaluation criteria and construction procedures that would guarantee quality of construction

^{1/} The CCP documents incorporated in our analysis include (1) Letters from Mr. J.W. Cook to Mr. J.G. Keppler, NRC, dated Jan. 10, 1983, April 6, 1983, April 22, 1983, and June 3, 1983; (2) Letters from Mr. J.G. Keppler to Mr. J.W. Cook, CPCo, dated Dec 30, 1982, March 28, 1983; and (3) public meetings with the NRC and CPCo on CCP.

Following the submittal of the original CCP (January 10, 1983) and the February 8, 1983 public meeting in Midland the NRC requested further specific information in their March 28, 1983 letter. The questions from the Regional Staff seek specific details about the scope of the proposed CCP and the methodology of its implementation. CPCo's responses, April 6, 22, and June 3, 1983, provide more details --in some instances explicit details--yet continue to evade or avoid the key questions about the adequacy of the CCP to restore the NRC and the public's confidence in the safety of the Midland plant.

Our analysis of the submittals indicates that CPCo has provided a plan that will meet only the minimum specified requirements of the NRC. The plan remains structurally flawed at the outset. First, it proposes a third party for the audit function that fails a prima facie test for independence, whose competence is questionable given the most charitable review of the past experiences with quality assurance breakdowns, and whose third-party methodology is too superficial to even evaluate. Finally, the proposed auditor, the Stone and Webster construction firm, is suggesting a staff of only nine auditors to provide assurance about the work done by a construction force of over 5,000. (Midland site tour, June 5, 1983)

The NRC administrative staff continues to ignore both the pleadings of the public and the advice of their own technical and inspection staff about the appropriate regulatory action at the Midland plant. The Regional Administrator has blatantly refused to include the public in any serious consideration of the solution to the problems at the Midland site. The continued refusal of the region to assuage the concerns of the public coupled with the intense scrutiny that the Midland plant is receiving from Congress, the press, and local and state government officials is inexcusable.

The ASLB hearings, on going at this time in response to a request from CPCo for a hearing, continue through the laborious process of a judicial hearing. Although the hearing, in theory, will resolve the issue of safety for the central Michigan residents-- in fact, it will be the Staff that controls the critical day-to-day overview of the plant. For this reason GAP is turning directly to the Commission. We have exhausted our efforts to work with the Regional Administration to insure that the CCP is adequate. At the Site Tour Mr. Warnick and Mr. Davis, Region III, confirmed that the CCP would be approved with "10 days to two weeks." With the approval of the CCP safety-related construction activities can commence immediately. It is critical that the Commission review the decision of the Staff and recognize the serious step backwards that this action represents for the third party auditor concept.

A. Modify the Construction Permit to include mandatory "hold points" on the balance-of-plant (BOP) work and incorporate the current Board ordered "hold points" on the soils remedial work into the construction permit for the Midland Plant, Units #1 and #2.

On April 8, 1981 Region III management overruled its investigative staff's recommendations to suspend construction at the William H. Zimmer Nuclear Power Station near Cincinnati, Ohio. Instead, the NRC issued an Immediate Action Letter which, inter alia, required the Cincinnati Gas and Electric Company to develop a Quality Confirmation Program (QCP). On November 12, 1982 the utter failure of the QCP forced the Commissioners to suspend all safety-related construction at Zimmer. Unfortunately CPCo's Construction Completion Plan (CCP) proposed for Midland bears a striking resemblance to the key flaws that doomed the QCP. In some cases, the CCP exacerbates the mainful mistakes of Zimmer.

More specifically, the Construction Completion Plan is doomed to failure if the following specific problems are not resolved prior to the resumption of construction on the site.^{1/}

1. Inherent Conflict of Interest

The foundation of the CCP is to complete "integration of Bechtel QC functions into the Midland Project Quality Assurance Department (MPQAD) under Consumers Power Company management..." (CCP Executive Summary, 1-10-83, at 3.) That has been completed according to the 6-3-83 CPCo letter to the NRC, at 17.

If the CCP adequately recognized that it is the MPQAD management that has failed to supervise and control the Engineer/Contractor throughout the life of the Midland Project perhaps the CCP would have a chance to resolve the quality problems. But the "QA/QC Organization Changes" outlined in part 3.0 of the 6-3-83 submittal simply legitimizes the very structure that has failed to implement the past QA/QC reorganization plans.

As stated on Page 11 of Part 3.0 of the 6-3-83 CCP it is the MPQAD Executive Manager who holds the key contact position with Bechtel QA/QC personnel. This individual, Mr. Roy Wells, confirmed that the burden of change for the Midland Plant was on his shoulders at the February 8, 1983 public meeting. He maintained that it was his personal decision to not replace the top Bechtel QC personnel underneath his supervision, even in the face of direct NRC requests and public skepticism. If there was any doubt that MPQAD intended to bring in new personnel to change the Midland Project around it is dispelled under the "Objectives" of the QA/QC Reorganization:

3. Use qualified personnel from existing QA and QC departments and contractors to staff key positions throughout the integrated organization. (6-3-83, at 11)

^{1/} All safety-related work was halted by CPCo on December 3, 1982 following the results of the NRC OSC inspection of the DGB. That "stop work" remains in effect for safety-related construction except the soils work, HVAC, NSSS and electrical cables. (CCP letters)

2. Failure to Specify Inspection Procedures and Evaluation Criteria

The original proposal (1-10-83, at 8-9, 12) promised to develop and revise the procedures that will be used to conduct the reinspections. Neither the procedures nor the evaluation criteria for the inspections were specified beyond vague reference to professional codes. According to the 6-3-83 proposal the QA/QC Reorganization still fails to include or explain the critical Quality Control inspection plans, (6-3-83, at 12).

The technical content and requirements of such plans are promised at some undisclosed future time, although QC will be responsible for implementing these unknown, unexplained methodologies which hold the key to future quality at the Midland plant. (6-3-83, at 12)

MPQAD even plans to continue to use Bechtel's Quality Control Notices Manual (QCNM) and Quality Assurance Manual (BQAM) "as approved for use on the Midland Plant." (6-3-83, at 12) The solution may be convenient, but it fails to explain how a QA/QC system that produced the In-Process Inspection Notification (IPIN) and Deficiency Report (DR) system could be adequate for a new Midland commitment to quality.

As recently as May 27, 1983 the first monthly report of the TERA Corporation that is conducting the Independent Design and Construction Verification (IDCV) program discovered yet another Quality Control process that has failed. Confirmed Item report Number C-031 (Attached as Exhibit 5) reports the significance of their finding that four hangers field measured by TERA were out of installation tolerance limits. The report states simply:

The construction deviation control process is not functional.

Other TERA confirmed items include hangers installed three feet from its design location (C-032 and C-033), spring hangers located the wrong side of a 90° elbow, construction deviation information not forwarded for approval and processing by engineering as required by procedures (C-034), hangers at elevations which do not match design elevations (C-035), offset dimensions, and drawings that have been signed but not checked (C-036), serious FSAR errors that "could lead to the utilization of improper input to the design process." (C-037), improper power supply to the AFW pump which could result in "(f)ailure to provide minimum flow " and could cause damage to the AFW turbine driven pump during the station blackout (C-038). In all TERA reported 46 confirmed items. ^{1/}

^{1/} TERA's monthly summaries contain Open, Confirmed and Resolved(OCR) Item reports, Finding Reports and Finding Resolution Reports. Confirmed items will be further reviewed and either dispositioned or reported closed or tracked.

The TERA IDCV plan is not a part of the CCP activities. However, the examples stated above clearly indicate that there is a strong need for a comprehensive inspection of the plant according to specified and defined procedures.

In Section 4.0 "Program Planning," the Procedure for Control and Release of New Work exemplifies the lack of information given to the NRC and the public to judge the adequacy of the CCP. Although Section 4.5.3 (named above) allegedly provides the basis for ensuring that the requirements of the CCP are met prior to initiation of new work, in reality these procedures are in something called the Construction Work Plans (CWPs). The CWPs will not be developed until after a list is prepared or the Phase I activities are carried out. In other words the CCP will make up the answers as it goes along--because no one, particularly CPCo and Bechtel, know the questions yet.

Similar to the CWPs are the Quality Work Plans (QWPs) which will be written to match the CWPs. The CWP/QWP packages obviously will provide the critical guidance to construction and quality control personnel. Any variation on the CCP simply must contain NRC inspection "hold points" to review the CWP/QWP packages prior to the initiation of any Phase Two work on the site.

The "hold point" requested above between completion of Phase I and Phase II activities is consistent with the commitments made by Mr. Keppler to the Midland public at the February 8, 1983 public meeting during which he committed to taking a "hard look at the Midland Project." (Public Meeting, February 8, 1983, Midland, Michigan)

3. Program Implementation Weaknesses

Historically it has been the implementation of any QA/QC program that has been CPCo's Achilles heel at the Midland Plant. Similarly it is the implementation of the current edition of the CCP that concerns GAP staff working on the Midland project.

In Section 5.0 Program Implementation the key solution apparently is the management involvement at every stage of implementation activities. As we have previously stated we believe that this management influence will render the CCP ineffective, regardless of the commitment of construction personnel.

Section 5.0 calls for a management review prior to the initiation of team activities for Phase I work. This review will, of necessity, review training and recertification of QA/QC employees. They will also "cover the process for both (1) the verification of completed inspection activity and (2) the installation and inspection status activity.

GAP believes that these reviews are critical to the credibility of

the safety of the construction on the Midland site. We request that a NRC "hold point" and a third party "hold point" be incorporated at the Management Review stage prior to the beginning of any Phase 1 work."

Installation of a "hold point" at this juncture would require that the Management Release discussed on page 27 as Section 5.3 would be a responsibility transferred to the third-party team, with NRC review and approval.

Under Phase 2 Implementation the following statement raises serious concern about the CPCo commitment to following its own professed work plan:

Correction of identified problems will be given priority over initiation of new work, as appropriate, and the completion teams will schedule their work based on these priorities, (emphasis added).

There is no discussion of who will decide what is and what is not appropriate to correct before new work is started, nor how that determination will be made. Those critical decisions simply must be made by someone other than CPCo and their Bechtel Engineer/Contractor.

Finally, GAP takes exception to the "catch all" provided for in the CCP. Section 10.0, CHANGES TO THE CONSTRUCTION COMPLETION PROGRAM, provides a procedure which could undermine the entire CCP. If CPCo follows its historical path of disguising all unauthorized work as a "misunderstanding" or "lack of clear communication," than this Section provides a legitimate channel for "obtaining approval to initiate activities that do not meet the requirements of the CCP."

4. Lack of Organizational Freedom for the Quality Assurance Department

The organizational premise of the CCP is a "team" concept that integrates construction, engineering and quality assurance personnel. The "team members will be located together to the extent practicable..." (1-10-83, at 8) The NRC recognized the lack of organizational freedom in the March 28, 1983 letter from Region III to CPCo. (3-28-83, at 1), and asked CPCo to provide a description the measures the utility intends to institute to "assure that QC reinspection will be sufficiently independent of team controls."

CPCo's response as documented in their April 22, 1983 letter on Page 7 indicates that QC personnel assigned to the teams will be under the Administrative controls of MPQAD. It states that actual QC inspections will be conducted in accordance with the PCQIs and IRs approved by MPQAD. Further explanation is provided in the 6-3-83 CCP, Section 4.0, PROGRAM PLANNING and 4.2 TEAM ORGANIZATION. These sections detail both team organization and training/recertification

Many of the details concerning retraining and recertification appear to be not only adequate, but surpass the commitments made by other utilities with similar problem. In particular GAP believes that if implemented as planned, and reviewed at a Phase I retraining "hold point" the training process will produce construction and quality control personnel with sufficient skills to perform their jobs.

However, even the best trained work force must still have supervisors who are committed to quality work instead of cost and schedule pressures. To date MPQAD has demonstrated neither the ability to implement any quality plan, nor the commitment to do so.

GAP reserves judgement on the operation on the "team concept" as an appropriate construction concept for nuclear power plants until such time as a utility can demonstrate that there can be organizational freedom for QA functions.

5. Lack of Comprehensiveness

CCP reinspections will cover only "accessible" completed construction, (1-10-83, at 10; 4-22-83, at 1; and 6-3-83, at 21). The Regional staff has indicated that this is acceptable to them. (3-28-83 letter, at 1) Although there is no indication in any of the submittals of the percentage of work that is not accessible Section 4.3 Quality Verification (6-3-83, at 21-22) majority of the work performed prior to December 1982.

Further the CCP continues to define out from CCP coverage the soils work, the HVAC work, the electrical cable reinspection, the NSSS work, and other problem areas that have required individual programs to resolve deficiencies.

This piecemeal approach effectively surrenders any pretensions that the CCP will provide a definitive answer to the Midland QA problems, even if the program were otherwise legitimate. The necessity for reinspection results from the inaccuracy of current quality records in the first place. Paperwork reviews are simply not dependable at the Midland Project.

It is critical that either a third party or NRC "hold point" be contained in the reinspection Phase I activities to determine the adequacy of the "accessible systems" approach. Clearly if reinspections find items of non-conformance the inspection scope needs to be increased to include both Non-Destructive Examination techniques as well as other means available to the utility to determine the as-built condition of the plant.

The STATISTICAL SAMPLING PLAN, Appendix C, Rev.1 of the 6-3-83 CCP is being reviewed by a industrial statistician at this time. The initial review of the sampling plan indicates that it is consistent with appropriate sampling techniques. We also request

that Mr. Rubenstein of the Office of Nuclear Reactor Regulations (NRR) review this plan for acceptability prior to NRC approval.

6. The CCP fails to require the minimum of a credible reinspection of the as-built condition of the plant.

At the February 8, 1983 public meeting Mr. Keppler said that the NRC "told them that comprehensive programs needed to be developed and put into place in order to: (1) Provide assurance that completed construction work was sound, and (2) Provide assurance that future work would be effectively controlled." (Opening Remarks, Mr. Keppler, attached as Exhibit 6)

Evidently Region III's assurance will come from CPCo's own audit of the plant. Since February GAP staff members have tried every reasonable approach to convince Region III that their philosophical view of industry self-examination has failed at Midland. Although Mr. Keppler boldly maintains that his "reasonable assurance" of the Midland plant can only now be maintained with adequate third-party reviews, in fact, the third party review amounts to nine professionals overseeing the work of over 5,000 construction employees.

The meat of the reinspection program is the Quality Verification Program. This Program is explained in detail in Appendix I of the 6-3-83 CCP submital. Our analysis is on going, however, there are a number of obvious flaws. These include, but are not limited to:

- Exclusion of 31,890 questionable closed Inspection Records (IRs) for HVAC and soils work. Cable routing and identification and ASME hanger programs, (App I, at 7),
- Incomplete review by the NRC of the PQCI's to be used for reinspection, (App I at 8),
- Non-compliance with the 100% reinspection request (3-38-83 letter from RIII to CPCo, at 1), substituting a 100% reinspection effort based on a "systems/area orientatiog," and supplemented by a "random plant-wide inspection" to provide a valid quality baseline on an expeditious basis. (In other words manipulate the requirement to get beyond the 100% hardware inspection as quickly as possible.),
- Exemptions for rebar, components, and other materials that are inaccessible but indeterminate because of materials traceability problems. (App I, at 13)
- Excessive responsibility for the Executive Manager of MPQAD to have overall responsibility for the QVP, (App I, at 16),
- Critical PQCI's to be verified by Review of documentation only Appendix B.

Clearly the CCP is not adequate to assure public health and safety in central Michigan. Installation of mandatory "hold points" to review the training and recertification of personnel, the adequacy of the PQCIs, and the appropriateness to proceed from Phase I to Phase II in this massive project is called for.

GAP urges the Commissioners to review the materials which comprise the CCP and critically consider the extraordinary requirements that will bring the Midland project into conformance with 10 CFR.

B. Require a management audit of Consumers Power Company (CPCo) by an independent, competent management auditing firm that will determine the causes of the management failures that have resulted in the soils settlement disaster and the recent Quality Assurance breakdown.

Even if the methodology of the reinspection program and the installation of mandatory "hold points" in the balance of plant work and soils work were adequate it is impossible to have any faith in the current Midland management team. These are the same people responsible for the problems in the first place!

The evidence on the public record is clear -- the corporate management of the Midland project simply cannot build a nuclear power plant according to the laws of the Atomic Energy Act as outlined in the Code of Federal Regulations, Part 10. Our conclusion is based on the testimony of NRC staff inspectors, investigators, technical experts internal sources as well as the attitude and actions of CPCo management officials. For 14 year CPCo has bumbled from one extraordinary breakdown to another, and they have continued a pattern of blaming their woes on the NRC, the intervenors, the State Attorney General, and hard times. CPCo has lacked the initiative to make adequate modifications to their construction boondoggle, to recognize the most obvious problems, and to resist regulatory incentives to improve.

In testimony before the Atomic Safety and Licensing Board (ASLB or Board) NRC inspectors testified that they still do not know the cause of the problems at the Midland site. (Exhibit 7) Recently, however, one inspector testified that he believed the plant would "run a lot easier without them [CPCo officials] there." (Exhibit 8)

Similarly memos written to Regional Administrator Keppler during the summer of 1982 give significant insight into the reasons for the problems at the Midland site. (Contained as Exhibit 9). These memos include insight into the technical inadequacies, communication breakdowns, and staff recommendations about solution to the problems on the site. Several examples of these types of comments are listed below:

--On April 27, 1983 Dr. Ross Landsman, OSC-RIII, testified before

- the ASLB that he did not trust CPCo because there were too many examples of them putting "cost and scheduling ahead of quality." (Exhibit 10).
- On May 6, 1983 Mr. Wayne Shaffer, OSC-RIII, former head of the the OSC-Midland Section said that he didn't have any faith in CPCo ability. (Exhibit 11)
- On June 1, 1983 Dr. Landsman testified that MPQAD Executive Manager, Mr. Roy Wells; Superintendent of MPQAD soils work, Jim Meisenheimer; and the Section Head for the Soils QA work, Dick Oliver should be replaced because they are unqualified or have attitude problems. (Exhibit 8)
- In a June 21, 1982 memo from Mr. Charles Norellius and Mr. Spessard stated the following about Mr. James W. Cook, the CPCo Vice-President in charge of the Midland Project:
- (He) may actually be contributing to some of the confusion which seems to exist. The staff views that he is too much involved in details of plant operations and there are times when the working level staff appear 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,..."
- The Norellius/Spessard memo further suggests that the NRC "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."
- Finally the same memo questions whether the NRC should consider that CPCo "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.
- An NRC July 23, 83 memorandum from R.J. Cook to R.F. Warnick states that CPCo has a history of not responding to NRC concerns, giving misleading statements to the NRC, not having control of their contractor, continuous deficiencies in material storage conditions, a practice of inspecting -rather than building- quality into the plant, slipshod workmanship, an attitude which precludes quality workmanship, and an unwillingness of the constructor to share information with the NRC. (Exhibit 9).
- The Cook memo further states that CPCo uses "tunnel vision," in the identification of problems, has a gag order on their employees to prevent them from talking to the NRC, and remains "argumentative" toward the NRC when they must discuss regulatory concerns.

The Cook memo concludes with the following insight:

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 the indicators are what have been observed in approximately the last six months. If 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.

Clearly the problems on the site warranted aggressive management attention. Yet evidence obtained by GAP under the Freedom of Information Act demonstrates that the solutions to Midland's problems have consistently had to be initiated, developed and structured by the NRC in a series of painful regulatory negotiations. Just as CPCo cannot "inspect quality into the Midland plant," the NRC cannot regulate integrity into CPCo management. Both quality construction and competent, trustworthy management depend on a basic respect for voluntary disclosure of quality control or assurance problems.

It is perhaps easier to understand the lack of candor on the part of the CPCo Midland management team after reviewing the statements of CPCo President John Selby in recent news articles. In particular GAP brings to the attention of the Commissioners a recent Detroit News article (April, 83) in which Mr. Selby admits that they "have bet the company on the Midland plant."

His statement, coupled with the actions of his top-level management, is one explanation of the panic management that permeates the Midland project. It is Mr. Keppler's view, as expressed during his ASLB testimony, that if CPCo can't build Midland he would have to pull their operating license for Big Rock and Palisades. We disagree with his conclusion--Palisades and Big Rock are plants that are already in the rate base. Midland is not. Its' \$4.43 billion dollar price tag, and questionable completion date have almost destroyed the company. Common sense can explain the lack of confidence that has developed as a result of the conflicting pressures of cost/scheduling and safety at the Midland site

Yet Mr. Keppler maintains that neither he nor his staff have yet discovered the reason for Midland's management problems. Since May 1982 the Regional Director has been looking for an answer. At this point GAP believes that the answer is clearly evident in the testimony of his own inspectors. The root causes for the management breakdown can be best discovered at this point by an independent management audit that has the authority to recommend solutions to poor judgement and colossal cost overruns as well as construction flaws unlike any other nuclear construction project.

C. Reject the CCP as currently proposed, including a rejection of Stone and Webster to conduct the third party audit of the plant. Instead a truly competent, credible, and independent third party auditor should be chosen with public participation in the process.

To date the NRC has announced that there will be no response to public concerns about CPCo's selection of S&W as the third party auditor. Nor will there be an opportunity to review the methodology by which S&W is to perform its function. Instead, according to an April 5, 1983 letter from Mr. Keppler to Billie Garde, the S&W work will be looked at only after a problem is found:

We have not reviewed S&W methodologies and do not plan to unless we find significant problems which they have missed. (Exhibit 12, at 3.)

The letter confirms that there will be no public meeting to consider public comments about either S&W or to review the adequacy of their plan. This continues the long history of regulation by default at Midland. Unfortunately for the public this theoretical approach to governmental regulation is both dangerous and expensive. At this stage Region III is as guilty as CPCo in a serious conceptual breakdown that prohibits implementation of any realistic solution to Midland's problems.

These problems are at least as serious as Diablo Canyon and Zimmer. They touch on every area of design and construction. For almost 14 years there has been a total lack of commitment to a QA program which has left the plant 85% complete in an indeterminate state. The long trail of continuing revelations, potential safety problems, hardware problems, design flaws, major construction defects, astronomical price increases, and broken promises have totally eroded the public confidence in CPCo and in the NRC to ensure the quality of the plant's construction.

Only a truly independent, comprehensive audit will assuage the public's well-founded fears that Midland is not safely constructed.

1. Evaluation of the Stone and Webster Proposal

The concerns about S&W's independence would be somewhat academic if S&W had presented a minimally adequate audit proposal to address the scope of the QA breakdown. But it didn't. Although the plan is too sketchy to evaluate -- a brief 3 page outline -- the number of personnel planned for the audit removes any doubt about credibility or dependability. S&W proposes nine auditors for the Midland project!

At a minimum, the NRC should recognize that any CCP must be based on the results of completed third-party findings, as well as commitment for the duration of the project. The third party program must provide a comprehensive view of the as built condition of the plant by an independent auditor, as well as an independent assessment of all future construction -- the CPCo CCP and S&W plan do not do either.

The only truly substantive part of the Stone and Webster audit is the Construction Implementation Overview (CIO), described in the 6-3-83 submittal at 30. Like the soils audit the S&W program commits to stay only until CPCo and the NRC have confidence in the adequacy of the implementation of the QA Program for the Midland plant. This is not a third party audit by any stretch of the imagination.

2. Lack of Independence

Midland needs, and the Region has committed to a verification program by a truly independent company with no stake in the outcome of its audit. This independent third party is not serving a client's requirements, but rather the public interest in ensuring the quality of construction at the plant.

Stone and Webster fails under both a literal and realistic reading of the Commission's primary financial criteria, that the third party not have any direct previous involvement with the Company. S&W directly fails this test. In September 1982 S&W was hired by CPCo to be the overviewer on the soils QA implementation. If the Commission's independence criteria are to be taken seriously they must be applied.

Ironically, it is the independence criteria that NRR uses as a basis to reject the other CPCo nomination, the TERA Corporation (see March 28, 1983 letter from NRC to CPCo, at 3).

3. Lack of Public Participation in the Selection Process

Even if the independence criteria could be met for S&W the lack of public participation in the selection process destroys its legitimacy.

Although the February 8, 1983 meeting attracted several hundred Midland residents there was no discussion or input from the public about the third party auditor, or the methodology by which the audit would be conducted. Instead Mr. Keppler and Mr. Eisenhut firmly informed the public that an independent audit would determine the adequacy of the Midland plant. Within days the NRC and CPCo were in "closed door" sessions over the acceptability of the CCP, the auditor, and the various scopes and methodologies.

Unless Mr. Keppler and the Commission have rewritten the policies of the agency the Diablo Canyon model set the basis for increased public participation in resolving the issues of how the Commission chooses independent auditors.

At Midland, by contrast, Region III has chosed to ignore the seriousness of the situation by eliminating many of the most useful means of public participation employed at Diablo Canyon. When GAP protested the series of "closed door" meetings pertaining to the independent audit we were told that there would be no public meetings about S&W, but that all written comments would be considered (Exhibit 12,

at 3). Instead of the NRC acting to allay the fears of the public Mr. Keppler's position of "resisting shared decision making" (Exhibit 13) has only served to reinforce the fears of an already skeptical public in central Michigan.

Stone and Webster may be capable of addressing the problems at Midland, but neither S&W nor CPCo have bothered to acknowledge that importance of public credibility for the third party auditor. S&W's selection would completely undermine the NRC's reform action for Midland.

D. Remove the Quality Assurance/Quality Control Function from the Midland Project Quality Assurance Department (MPQAD) and replace them with an independent team of QA/QC personnel that report simultaneously to the NRC and CPCo.

A licensee's quality assurance program is its internal structure of checks and balances to ensure safe operations. Every applicant for a construction permit is required by the provisions of 10 C.F.R. 550.34 to include in its preliminary safety analysis report a description of the quality assurance program to be applied to the design, fabrication, construction and testing of the structures, systems and components of the facility. Quality assurance comprises all those planned and systematic actions necessary to provide adequate confidence that a structure, system or component will perform satisfactorily in service. Each structure, system or component must be documented, inspected and periodically audited to verify compliance with all aspects of the quality assurance program. The cause of the safety defects described above is an inadequate quality assurance program, which has been in shambles for a decade. In fact, in 1973 the original Midland licensing appeal board members felt so strongly about QA violations that the Director of Regulations pointed out that even though the Appeals Board could not take action on the IE findings--

(H)ad 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.)

The 1973 warning should have served as notice to both Bechtel and

and Consumers Power Company to resolve their QA problems. Quite the contrary, however, they ignored the notice. So did the NRC staff. The problems at the Midland plant have continued unabated.

Both the 1979 and 1980 Systemic Assessment of Licensee Performance (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. The reports also include acknowledgements of excessive QA backlogs and lack of timeliness. (SALP Report 1980.) Consumers' 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 to Region III. In the spring of 1982 at the release of the 1981 SALP rating, Mr. Keppler publicly reported that it was necessary to change previous testimony before the ASLB which had provided a "reasonable assurance" that the plant would be constructed in accordance with nuclear construction regulations. The revised testimony was not modified substantially, it is clear that QA problems at Midland were resolved.

According to testimony by the NRC staff as early as September 1982 the Midland special section was so concerned about the problems of QA implementation that at least one of them recommended stopping work at the Midland facility. Subsequently the Diesel Generator Building inspection confirmed that in fact, there had been a quality assurance breakdown on the site. The solution to resolving the QA breakdown is the CCP.

Unfortunately the Region III management seems satisfied with the basis upon which the CCP is developed: put Consumers in charge of the program.

The public already has had an opportunity to preview the results of Consumers' internal policy with the Zack debacle over the past three years. Its performance has been disappointing, at most.

Although the NRC fined CPCo \$38,000 for Zack's non-compliance with federal regulations and forced a major QA reorganization, further actions by the utility revealed a determination to hide problems. Currently an Office of Investigations probe is being conducted into the most recent Zack problems. The findings of the probe are already documented in the NRC inspections of the Zack QA breakdown at the LaSalle Plant. A December 22, 1982 NRC IE report about the revelations acknowledges the critical role that CPCo played in response to the 1979 citation:

On September 2, 1981, the services of a Senior Quality Assurance Engineer from Project Assistance Corporation (consultants) were retained by CPCo for assignment at Zack for the purposes of establishing a formal document

control system and performing an indepth review of the conditions described by Zack in their September letter (Zack notified CPCo of a 10 CFR 50.55(e) on August 28, 1981).

CPCo MPQAD employees and management knew about the new QA breakdown on the Midland site, yet they failed to notify the NRC or take any other action.

Likewise, the infamous soils settlement problems, began with pre-notification to the Midland management team through the settlement of the Administration building in 1977. That settlement occurred a year prior to the beginning of construction of the Diesel Generator Building. That building is now cracked and sinking. The technical debate over the building itself and and its ultimate safety remains little more than a judgement call between experts.

Finally, the a recently released NRC Investigation (83-13) into the possible "false statement" of CPCo management official Mr. Boos concerning the status of work completed on the site during a 1982 NRC meeting shatters any doubts that CPCo is a utility that seeks to be candid and open with the regulators.

Recent testimony into the 83-13 Investigation report led to an "in camera" session after an NRC IE Inspector acknowledged that at least one CPCo official at the March 82 meeting knew that the NRC had been seriously misled. (Exhibit 13)

These examples of the utility's resposne to the discovery of any major problems completely undermine the assumption upon which the CCP is based -- voluntary disclosure of QA violations.

Clearly a completion and reinspection program that places faith in a management team that has lost the confidence and trust of NRC inspectors, and a QA Department that has notoriously and blatantly disregarded 10 CFR Appendix B, is inappropriate.

Only a new QA/QC team, with no stake in the outcome of their work, can ever restore quality work to the Midland facility. GAP recognizes this is an extraordinary request for relief, but it is clearly warranted at the Midland Project. After 14 years of bumbling and \$4.43 billion dollars of construction cost there must be a time when the Commissioners intervene to protect the public affected by this out-of-control project. The Region and the utility have stopped short of realistic regulation, and appropriate controls for the remainder of the construction phase. Hopefully, the Commissioners will intervene.

E. Increase the assignment of NRC personnel to include additional technical and inspection personnel.

Region III is currently understaffed and critically overworked.

The new Office of Special Cases is handling two of the most troubled nuclear plants under construction in the country. The intense inspection effort has provided the only acceptable solution to both the Zimmer and Midland crisis. The teams of NRC Inspectors assigned to the Office of Special Cases has been, for the most part, of high quality and extremely conscientious. They have requested, through memorandum and testimony the assignment of additional personnel to assist on the Midland project. We strongly support the assignment of additional technical and inspection personnel to the Region to augment the OSC teams.

F. Require a detailed review of the soils settlement resolution, as outlined in the Supplemental Safety Evaluation Report, incorporating a technical analysis of the implementation of the underpinning at the current stage of completion.

As a further structural check on the independence and performance of the third-party program at Diablo Canyon, in 1982 the NRC staff commissioned Brookhaven National Laboratory ("BNL") to study particular aspects of the seismic design of the plant. BNL raised questions about many of the mathematical models used by PG&E to determine the seismic design response spectra for the plant. The BNL study revealed that the Teledyne audit was not complete and comprehensive "enough" and that broad access to the audit process by outside consultants can significantly enhance the value and credibility of the third-party review process.

In light of the concerns by a number of the technical disagreements of several NRC staff members, GAP believes it appropriate for the NRC commissioners to request another study of the design deficiencies of the Midland nuclear power plant. In particular we request another review of the Diesel Generator Building by a non-nuclear construction consultant.

If these basic questions cannot be answered then no matter what the numerous third party auditors do to restore confidence in the balance of the plant the residents of central Michigan will never know whose technical judgement was correct.

IV. CONCLUSIONS

In the fall of 1982 an NRR staff person recorded (in a log recently obtained by GAP through FOIA requests) the following summary of the ACRS request-formalized through their June 8, 1982 letter to Chairman Palladino; and NRR management response.

The ACRS asked for a report of design quality and construction adequacy. They are looking for assurance that with all the QA problems at Midland in specific areas that we have not overlooked problems in other areas that have not yet reared their head. Is CPCo addressing this only through the AFW review?

June 13, 1983

But the INPO effort addresses "work in progress" only!

BUT WHEN INTEGRATED WITH TERA EFFORT, YOU GET _____ (undecipherable)

Only for the AFW system!

SERVES AS A "SAMPLE" (AUDIT)

But it doesn't answer Oakrent's problem-with hidden problems. INPO goes from today and does only address forward fit. They do not investigate what happened previously.

TERA LOOKS BACKWARD TOO.

But only for the AFW system; (We've come full circle).Exhibit 14,at5.

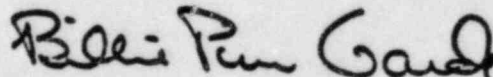
Dr. Oakrent's problem with hidden problems is the same as GAP's concern about hidden problems. In the past year both CPCo and the NRC have managed to avoid the key question about the Midland Plant -- What is really out there? Until that question is answered completely, competently, and credibly there can be no assurance about the safety of the Midland plant.

We urge the Commissioners to request a management audit of CPCo; to replace MPQAD with an independent firm; to install "hold points" in the construction permit, and to require all the necessary changes to the proposed Construction Completion Plan which will enable the public to know the facts about the cost and safety of the Midland plant.

Like Zimmer, the traditional approach of licensee control at Midland can be accomplished only at the expense of undue risks to public health and safety. We trust that the ASLB will reach a fair and just decision about the Midland Plant when it reviews the long record that has been established by Citizen Intervenors, the Staff, and the utility. But, the approval of the CCP without substantial modification will have the effect of allowing CPCo to continue its long out-of-control nuclear plant virtually independent of the third-party audit that the central Michigan public expects to be established.

We look forward to your prompt response.

Sincerely,



BILLIE PIRNER GARDE
Citizens Clinic Director

cc: Service List

BPG/dk

Myron M. Cherry, P.C.
Peter Flynn, P.C.
Cherry & Flynn
Three First National Plaza
Suite 3700
Chicago, Illinois 60602

*Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

*Atomic Safety and Licensing
Appeal Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Steve J. Gadler, P.C.
2120 Carter Avenue
St. Paul, MN 55108

Frederick C. Williams, Esq.
Isham, Lincoln & Beale
1120 Connecticut Avenue, N.W.
Washington, D.C. 20036

*William D. Paton, Esquire
Office of Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Billie Pin Gaud

*Delivered through the NRC internal mails.