



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

April 28, 1983

MEMORANDUM FOR: Thomas A. Rehm, Assistant for Operations, Office of
the Executive Director for Operations

FROM: James G. Keppler, Regional Administrator

SUBJECT: RESPONSE TO SENATOR CARL LEVIN (EDO 13026)

The enclosed response is submitted for Mr. Dircks' signature.
The enclosure to the letter refers to four inspection reports being
enclosed. These reports should be available in Headquarters.

James G. Keppler
for James G. Keppler
Regional Administrator

cc w/encl:
R. DeYoung, IE
H. Denton, NRR
G. Cunningham, ELD
L. Underwood, RM/BMA

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

The Honorable Carl Levin
United States Senate
Washington, D.C. 20510
Attention: Ms. Leslie Powell

Dear Senator Levin,

I am pleased to respond to your letter to Mr. Carlton Kammerer dated April 11, 1983, requesting the NRC to look into the concerns of Mr. David Beckrow of Bay City, Michigan, one of your constituents. Mr. Beckrow raised several questions in his January 24, 1983, letter on the Midland Nuclear Power Station construction site. Answers to Mr. Beckrow's questions are contained in an Enclosure to this letter.

Mr. Beckrow is critical of the NRC's activities involving the Midland site, stating in his letter that the NRC is "grossly lacking" in fulfilling its role of protecting the public health and safety.

We disagree with that view. The NRC staff has been most diligent in its regulation of the Midland facility. Because of continuing quality assurance problems at the construction site, the NRC's Region III Office established a special section for inspecting construction at Midland in mid-1982. The section includes a supervisor, two region-based inspectors, and two resident inspectors; additional inspection personnel from the regional office are also available for Midland inspections, as necessary.

Beyond the NRC inspection program the NRC staff is requiring Consumers Power Company to undertake three independent reviews of construction activities at Midland: A quality assurance program review for the repair and modification activities for the soil and foundation problems; a review of ongoing construction and Consumer's Power Inspection activities, and a design and construction review of specific safety systems in the plant. Stone and Webster Engineering Co. has been approved by Region III for the soil and foundation work review; review organizations for the other two tasks have not yet been approved.

Further, Consumers Power Company stopped a major portion of safety-related construction at Midland in December 1982, partially as a result of NRC inspection findings which identified a number of quality assurance and construction problems in the diesel generator building. The inspection findings resulted in a \$120,000 fine.

The Honorable Carl Levin

Consumers Power has developed a Construction Completion Program which involves a reinspection of completed safety-related construction by site personnel, changes in the quality assurance organization, and retraining and recertification of quality control inspectors. NRC Region III is still reviewing the details of this program, and the construction activities stopped in December have not been resumed.

The NRC staff has made an effort to keep the public fully informed on activities at Midland. For example, a public meeting was held February 8, 1983, in Midland to review the utility's Construction Completion Program, and an evening session was scheduled to respond to questions from Midland area residents. Some 200 persons attended the meeting.

I hope this explanation, along with the response to the specific questions, will allay Mr. Beckrow's concerns. If we can be of further assistance, please let us know.

Sincerely,

William J. Dircks
Executive Director for
Operations

Enclosure: Response to Questions

ENCLOSURE

Question 1: Why has the NRC allowed work to begin on the underpinning work to correct the soil settlement problem without the quality assurance implementation audit requested by the ACRS?

Answer 1: The ACRS Interim Report on Midland Plant, Units 1 and 2 dated June 8, 1982, stated in part:

"In view of the overall concern about Midland quality assurance the NRC should arrange for a broader assessment of Midland's design adequacy and construction quality with emphasis on installed electrical, control, and mechanical equipment as well as piping and foundations. We wish to receive a report which discusses design and construction problems, their disposition, and the overall effectiveness of the effort to assure appropriate quality."

The requested report was sent by the NRC staff to the ACRS by letter dated November 19, 1982.

Question 2: Why has the investigation into the Government Accountability Project (GAP) allegations not been completed?

Answer 2: GAP submitted ten affidavits to the NRC in June and July 1982. Six had to do with heating, ventilation, and air conditioning (HVAC) work conducted at the site by the Zack Company. A special inspection of the HVAC system is expected to be completed by September, 1983; higher priority work prevented an earlier inspection. The inspection of one of the remaining affidavits has been completed and is documented in Inspection Report No. 50-329/83-03; 50-330/83-03. One affidavit has been turned over to the NRC's Office of Inspector and Auditor because it involved allegations of wrongdoing by NRC employees. We have not been able to complete our inspection of the allegations in one affidavit because the alleged has to date refused to share specific information with the NRC and we have not to date been able to secure his presence on site to accompany our inspectors to point out his specific concerns. Allegations made by one individual have been looked at previously and the results documented in Inspection Reports No. 50-329/82-04, 50-330/82-04 and 50-329/82-12, 50-330/82-12. However, the NRC is still trying to make arrangements to bring the alleged on site so that he can point out specific concerns. Copies of these reports are attached.

Question 3: Why has the NRC failed to produce results of an October - November 1982 inspection that resulted in a major work stoppage?

Answer 3: The results of the October 12 - November 25, 1982, and January 19-21, 1983 inspection of the diesel generator building are documented in Inspection Report No. 50-329/82-22; 50-329/82-22, which was issued February 8, 1983.

Question 4: Why did Mr. Keppler forgo his staff's recommendations in October [1982] about Midland's problems and state that quality assurance was under control?

Answer 4: Mr. Beckrow is apparently referring to testimony submitted by Mr. Keppler to the Atomic Safety and Licensing Board (ASLB) dated October 29, 1982. In that testimony Mr. Keppler stated the following conclusion:

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

Mr. Keppler did not ignore his staff's recommendations about the problems at Midland --- to the contrary the recommendations, made in response to his request, were given careful consideration. It was these recommendations that led to the position that ongoing work needed to be monitored by a third party and that the quality of completed work needed to be evaluated.

The Region III staff (of which Mr. Keppler is the Administrator) reviewed this testimony and was in agreement with it.

Mr. Keppler's testimony was not heard by the ASLB and did not become a part of the evidentiary record, since that phase of the hearing was postponed. Since the preparation of that testimony, most safety-related work has been stopped by the licensee and updated testimony will be submitted by Mr. Keppler and heard in an evidentiary session scheduled for the week of May 2, 1983.

Question 5: Why has the "Secret Stipulation" reached between Consumers and Mr. Keppler in the spring of 1981 not been released?

Answer 5: Mr. Beckrow does not identify the document which he refers to as the "Secret Stipulation" between Consumers Power Company and Mr. Keppler allegedly reached in the spring of 1981 but not released. That term has, however, been used by an intervenor in the Midland proceeding to refer to a proposed stipulation presented to the NRC staff by Consumers Power, but rejected by the staff. A stipulation was reached between the staff and Consumers on the basis of which Consumers agreed not to contest that there had been a Quality Assurance breakdown in the construction of the plant. That stipulation is a public document and was proposed to the ASLB, which accepted it in part and rejected it in part (Joint Exhibit 1, Tr. following 1187, July 8, 1981).

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United States Senate
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Rec'd 4/29
@ 11:00
S. Villan

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Sincerely,

William J. Dircks
Executive Director
for Operations

Enclosure:
Response to Questions

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Attachments:

Inspection Report No. 50-329/83-03, 50-330/83-03
Inspection Report No. 50-329/82-04, 50-330/82-04
Inspection Report No. 50-329/82-12, 50-330/82-12

QUESTION 3: Why has the NRC failed to produce results of an October -
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inspection of the diesel generator building are documented in Inspection
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Attachment:

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ANSWER:

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

March 25, 1983

Docket Nos: 50-329
and 50-330

PRINCIPAL STAFF	
<i>[Signature]</i>	ENF
<i>[Signature]</i>	SCS
A/RA	PAO
DPRP	SLO
DRMA	RC
DRMSP	
DE	
ML	
OL	FILE <i>[initials]</i>

MEMORANDUM FOR: *[Redacted]*, Regional Administrator
Region III

FROM: Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

SUBJECT: MARCH 7, 1983, LETTER FROM MS. BILLIE GARDE

My response to Ms. Billie Garde's letter of March 7, 1983, is enclosed. In it, I have responded to those points which are directly applicable to NRR. The remaining portions of her letter regard matters best addressed by RIII, and I request that your office provide the appropriate response. Mr. R. Warnick attended the meeting of March 7, 1983, with Ms. Garde and can provide you with the March 7 letter.

[Signature]
Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

Enclosure:
As stated

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UNITED STATES
 NUCLEAR REGULATORY COMMISSION
 WASHINGTON, D. C. 20545

March 25, 1983

Docket Nos: 50-329
 and 50-330

PRINCIPAL STAFF	
RA	ENF
D/RA	SCS
A/RA	PAO
DPRP	SCO
DRMA	RC
DRMSP	
DEP	
ML	
OL	FILE

Ms. Billie Garde
 Government Accountability Project
 Institute for Policy Studies
 1901 Que Street, N.W.
 Washington, D. C. 20009

Dear Ms. Garde:

Thank you for your letter of March 7, 1983, commenting on issues presented at the February 8, 1983, public meeting and regarding the associated "Construction Completion Program" for Midland Plant, Units 1 and 2 described in a January 10, 1983, letter from Consumers Power Company. I am pleased to respond to that portion of your letter addressing matters which are the responsibility of the Office of Nuclear Reactor Regulation.

First of all, we would like to assure you that the divisions of responsibility and authority within the NRC are already well established and are recognized by the nuclear community. A major responsibility of NRR is to perform licensing review of an application for a license to operate a nuclear power plant, while the Regional office is charged with the responsibility for inspection and enforcement of such licensed activities. Therefore, we conclude that any difficulty on the part of any applicant to understand these divisions is not due to the absence of established lines of authority within the NRC. In addition, in the case of Midland, my office and the Regional office have maintained good communication lines to keep abreast of each others' activities. These informal lines, however, do not override our established procedures and decision-making authorities. Requests for assistance between offices do occur on a routine basis. These are controlled and in all cases any changes in authority and responsibility is fully delineated prior to any action taking place.

You also expressed concern over the way the TERA Corporation was "approved" by NRR. As I indicated to you on March 7, 1983, our decision concerning approval of TERA has not yet been reached. We are presently reviewing the qualification of TERA with respect to their ability to conduct the proposed independent design and construction verification (IDCV) tasks. Our review to date is supportive of a decision that TERA has both the independence and competence to accomplish the tasks in an acceptable manner. We expect to reach our final decision on TERA's acceptability within two weeks.

With respect to your comments concerning the third-part reviews, we are reviewing the Engineering Program Plan from TERA for the IDCV Program and your comments and questions will be factored into our review.

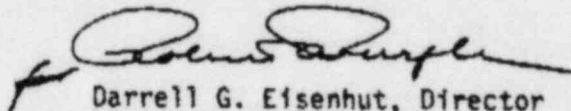
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Regarding the nomination and selection of the reviewer for the independent third-party assessment of the construction completion program (CCP), the staff presently plans to follow the same procedure used in the cases of TERA and Stone & Webster for their respective third-party reviews on Midland. Under that procedure, selection of the reviewer was made by CPCo and that selection was then submitted to the NRC for approval. The staff approval of Stone & Webster was indicated by letter dated February 24, 1983, and the decision on TERA, as noted above, will soon be reached. We welcome public comments on the independent third-party for the assessment of the CCP selected by CPCo. To be most useful, these comments should be provided in writing prior to the staff making a decision on the acceptability of the third-party review.

With regard to your comments addressing positions and actions taken by Region III, I have requested that RIII respond to the appropriate portions of your letter which refer to Region III activities. You will recall that Mr. R. Warnick of RIII was present during our meeting of March 7, 1983.

Finally, I share your observations regarding the heightened interest of the Midland community in regards to the nuclear facility. I am encouraged by the participation and attendance at the February 8, 1983, public meeting and recognize the increased significance of NRR's communication responsibilities to this end. Further meetings with the public will be scheduled as appropriate progress in points of interest are achieved in the licensing process.

Sincerely,



Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation



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

APR 05 1983

① RFW
~~② JLR~~ - GAP

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,

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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,

APR 05 1983

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

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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 Callan, Michigan
Public Service Commission
Myron M. Cherry
Barbara Stamiris
Mary Sinclair
Wendell Marshall
Colonel Steve J. Gadler (P.F.)

RIII
Gardner/jp
3/31/83

RIII
Landsman

RIII
Shafer
4/4/83

RIII
Warnick
4/4/83

Comments
by Stone & Keck
incorporated.
RFW
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

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March 7, 1983

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

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

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

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

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

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

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

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

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

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

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

II. COMMENTS CONCERNING THE THIRD-PARTY REVIEWS

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

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

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

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

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

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 similiar "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

Kepple

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

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

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

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EW

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Ross

Ross

March 7, 1983

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RW

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Wayne
~~Ross~~

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Sincerely,

BILLIE PIRNER GARDE
Director, Citizens Clinic

GOVERNMENT ACCOUNTABILITY PROJECT

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

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(202) 234-9382

Warnick has for action

March 10, 1983

by 3/14

PRINCIPAL STAFF	
SA	ENE
D/RA	SCS <i>W</i>
R/RA	PRO
D/REP	SLD
D/CA	RC <i>W</i>
CRMSPI	
DE	
ML	
OL	PTLG <i>W</i>

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 Hood, 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,

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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?

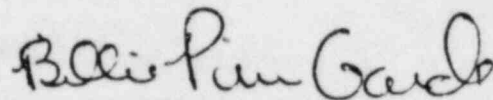
Mr. James Keppler

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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