



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

March 12, 1984

MEMORANDUM FOR: Stephen H. Lewis  
Regional Counsel, RIII

FROM: Dan M. Berkovitz *DMB*  
Office of the General Counsel

SUBJECT: DOW LITIGATION (MIDLAND)

OGC has decided that it is in the agency's best interest not to permit any informal interviews with NRC employees by Dow Chemical. The attached letter to Carol Rice of Kirkland and Ellis, attorneys for Dow, explains our reasoning. NRC employees therefore should not speak informally with representatives of or attorneys for Dow Chemical or Consumers Power in connection with this lawsuit.

As a result of our decision to prohibit informal interviews, we anticipate that the NRC employees listed in your March 1, 1984 memorandum to me (Shafer to Maxwell) will be subpoenaed for formal testimony. Additional personnel familiar with Midland may also be subpoenaed. Carol Rice stated to me that Dow probably will try to take these depositions within the next several months. We shall try to avoid any undue burden on the agency by requiring a discovery plan as outlined in our letter.

Although NRC personnel can expect to be called to testify formally, at this point they should not spend any time in preparation for such an event. The extent to which persons should prepare for depositions in this private litigation will be determined when we have a better idea of the scope of NRC's involvement.

Attachment:  
Ltr, 3/9/84, Berkovitz  
to Rice

cc: J. Lieberman, ELD  
R. Hartfield, RM  
G. Lear, SGEB, DE  
E. Adensam, LB, DOL  
J. Zerbe, OPE  
R. Lewis, RII

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