

MIDLAND - CHRONOLOGY OF EVENTS SINCE JULY 1981 HEARINGS

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10/05/81 CPCo met with NRC to discuss organizational improvements

10/14/81 Hearing reconvened to deal with Geo-Technical issues

01/07/82 General QA Plan and Quality Plans for underpinning and Q-list activities proposed by CPCo

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02/02/82 Testified at Midland soils hearing re: recent QA reorganization

03/30/82 CPCo/NRC Meeting (Norelius; Adensam)

04/13/82 NRC Public Meeting in Midland on Underpinning Activities

04/26/82 Midland SALP 2 meeting

04/28/82 Stop Work Order issued by CPCo against Mergentime (dug into 4160 volt power supply)

04/30/82 ASLB Order on soils with certain conditions/restraints imposed

05/07/82 ASLB Order clarification, within the bounds of Drawing C-45(Q)

05/14/82 CPCo/NRC Meeting to discuss overview of electrical inspections

05/20/82 ACRS Subcommittee briefed re: Midland QA for construction

05/25/82 NRR approval of MPQP

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06/03/82 Full ACRS briefed re: Midland QA for construction

06/04/82 ACRS meeting re: Midland QA

06/08/82 ACRS report requested a broader assessment of design adequacy and construction quality

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- 12/03/82 CPCo proposes to increase TERA scope to include three additional systems; Emergency Power (DG System), Safeguards Chill Water, and Containment Isolation Systems
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- 01/10/83 CPCo submitted proposed CCP with third party overview included in the proposal
- 01/18/83 Enforcement Conference with CPCo management re: diesel generator building inspection. Boos investigation report, enforcement meeting
- 01/21/83 Final exit on diesel generator building inspection, concluding continued misuse of IPIN's and improper use of Attachment 10 firms
- 02/02/83 NRC/CPCo meeting to discuss CCP (collect info.)
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21/83 } Caseload Forecast Panel at Midland; Public Meeting 4/19 and 4/21/83

04/21/83 Stone and Webster CIO personnel onsite

04/22/83 CPCo response to NRC letter of 3/29/83, re: CCP Additional Information

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05/18/83 TERA submitted modification to the Engineering Program Plan (EPP) to include the two additional systems; Emergency Power and Control Room HVAC

06/01 - }
10/83 } ASLB Hearing - QA

06/06/83 Commissioner Gilinsky visited the Midland site

06/15/83 Commission briefing on Midland QA and soils

06/16/83 Congressman Udall Hearing on Midland

06/20/83 RIII authorization to begin underpinning activities under safety-related structures (pier 8 E/W grillage)

06/20/83 RIII concurred in CCP, allowed CPCo to begin team training

06/22/83 RIII requested to D. Miller - S&W scope be increased to include all safety-related soils work

06/23/83 RIII RFW memo to NRR/IE for CCP review and comments

06/24/83 RIII memo to NRR (Novak) completing RIII review of TERA's Expanded Engineering Program Plan, two additional systems

06/27/83 RIII letter to CPCo, preliminary approval of CCP; authorization to begin team training

06/27/83 RIII response to M. Sinclair letter of April 18, 1983

06/27/83 Memo Eisenhut to Keppler/Vollmer requesting concerns (Landsman) on DGB being structurally sound

06/28/83 RIII input to Chilk for Dircks re: Information for Commissioner Gilinsky; recent significant QA problem since August 1980 reorganization by CPCo (issued 06/29/83)

06/28/83 RIII response to Lone Tree Council re: IDCVP and CIO

06/29/83 Zack welding activities released by NRC, after released to CPCo

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07/01/83 } ASLB Hearings in session

- 07/01/83 Response to letter for Dircks to Senator C. Levin (Mr. Miller,
Lone Tree Council)
- 07/05/83 JGK/NRR/IE/ELD met with CPCo (Selby/Cook) to discuss CCP status,
caseload dates, delays by NRC
- 07/07/83 Letter CPCo (Mooney) to S&W (Lucks) expanding S&W scope to all
safety-related backfill within the bounds of Drawing C-45(Q)

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HISTORY OF THE MIDLAND PROCEEDING PRIOR TO
THE 12-6-79 ORDER MODIFYING CONSTRUCTION PERMITS

- 1/13/69 - application for construction permits.
- 6/21/71 - 7/23/71 - C.P. safety hearing.
- 5/17/72 - 6/15/72 - C.P. environmental hearing.
- 12/14/72 - C.P. Initial Decision - 5 AEC 214.
- 12/15/72 - construction permits issued.
- 3/26/73 - the Appeal Board issued ALAB-106, 6 AEC 182, commenting adversely on QA at Midland and imposing reporting QA requirements.
- 5/18/73 - ALAB-123, 6 AEC 331 - decision on the merits of the construction permit proceeding.
- 5/23/73 - construction permits amended with respect to QA reporting requirements.
- 7/16/74 - 7/18/74 - Show Cause proceeding - QA and cadwelding
- 9/25/74 - Initial Decision in the show cause proceeding. There is reasonable assurance that QA will be in compliance with the Commission requirements. LBP-74-71, 8 AEC 584.
- 7/21/76 - Aeschliman v. NRC, 547 F.2d 622. Intervenor's appeal of the December 14, 1972 Licensing Board Initial Decision authorizing the issuance of construction permits. For a variety of reasons, the Aeschliman court remanded the case to the NRC.
- 11/30/76 - 5/13/77 - the "suspension proceeding" which was held to determine whether to continue, modify or suspend the construction permits pending the outcome of the "remand proceeding" ordered in Aeschliman. The "remand proceeding" was to address the merits of the issues remanded in Aeschliman.
- 9/23/77 - LBP 77-57, 6 NRC 482, the licensing board decision related to

the "suspension proceeding" - no suspension was ordered "pending the outcome of the remand proceeding." In this decision the Licensing Board referred to evidence that the licensee had considered conducting its share of the suspension proceeding in such a way as to not disclose important facts to the Board.

2/14/78 - ALAB-458, 7 NRC 155, affirmed LBP-77-57. The Appeal Board stated its "expectation" that the matters referred to by the Licensing Board in LBP-77-57 would be "fully aired and resolved."

4/3/78 - Vermont Yankee v. NRDC, 435 U.S. 519, reversed and remanded the July 1976 Aeschliman decision but had no impact on the "expectation" expressed by the Appeal Board in ALAB-458.

July 1978 - soil settlement problem discovered by Consumers Power Company.

August 1978 - NRC was advised by CPC of the settlement problem.

7/2/79 - 7/31/79 - the "remand proceeding" which "aired" the matter referred to by the Appeal Board (ALAB-458) involving possible license misconduct.

12/6/79 - Order Modifying Construction Permits.

9/9/82 - ALAB-691 affirmed Licensing Board decision not to impose sanctions.

SIGNIFICANT EVENTS DURING THE MIDLAND OL-OM EVIDENTIARY PROCEEDING

- December 6, 1979 Order Modifying Construction Permits
(This is the Order that started this Proceeding)
- October 24, 1980 Prehearing Conference Order ruling on contentions and on consolidation of proceedings. OM/OL proceedings are consolidated. Stamiris admitted to OM proceeding. Sharon Warren also admitted into OM proceeding with three contentions. (She later withdrew from proceeding.) Mr. Marshall's admission in OM proceeding denied but as a party to the OL proceeding was permitted to participate in OM proceeding to the extent the two proceedings were consolidated.
- February 27, 1981 Prehearing Conference Memorandum (conference held January 28-29, 1981). Sets schedules for discovery, motions for summary dispositions and hearings.
- May 5, 1981 Prehearing Conference Order (conference held April 27, 1981). Ruled on Applicant's motion to defer consideration of seismic issues until the OL, Recognized Sharon Warren's withdrawal as an intervenor.
- June 12, 1981 Memorandum and Order resolving discovery disputes between Applicant and Ms. Stamiris and establishing deadline for filing TMI-related contentions.
- July 7-17, 1981 Evidentiary hearing on Intervenor contentions.
- August 4-13, 1981 Evidentiary hearing on Intervenor contentions.
- October 13-16, 1981 Evidentiary hearing on Midland site specific response spectra, stability of cooling pond dikes slopes.
- October 27, 1981 Licensing Board memorandum and order granting Applicant's request that hearing scheduled for November 16-24, be postponed until 1982.
- December 1-3, 1981 Evidentiary hearing involving remedial measures for the auxiliary building and feedwater isolation valve pits.
- Dec. 14-17, 1981 Evidentiary hearing involving the dynamic and static models for Category I structures founded on fill material. Testimony on the SALP program and testimony on QA program.

- February 2, 1982 A one day session limited to addressing the recent reorganization of the Midland project quality assurance department.
- Feb. 16-19, 1982 Evidentiary hearing involving remedial measures for the borated water storage tanks (BWST); static and dynamic bearing capacity of the footings of the borated water storage tanks; long term settlement of the tanks under design load; evaluation of borated water storage tanks for stresses incurred under uneven support with conditions resulting from soils settlement and consequent distortion of the ring walls that support the BWSTs; the present condition of the underground seismic Category I piping at the Midland plant regarding the ability of the piping to withstand postulated design conditions, including design basis SSE and regarding the ability to monitor the piping over the life of the plant.
- April 30, 1982 Memorandum and Order resulting in construction permits being amended to require that the permit holder obtain explicit prior approval from the NRC Staff before proceeding with certain soils-related activities and that these activities shall be controlled by a staff-approved quality assurance plan.
- June 29, 1982 NRC Staff counsel's letter to the Licensing Board advising that it was Region III's opinion that the Staff's QA testimony of the summer of 1981 must be supplemented.
- July 7, 1982 Memorandum and Order reopening the record on QA matters and establishing schedule for prehearing conference and discovery with respect to either newly proposed OL contentions or contentions to be rewritten after discovery.
- August 14, 1982 Prehearing Conference Order ruling on new contentions.
- Nov. 15-23, 1982 Evidentiary hearing involving the bearing capacity, seismic shakedown of the DGB, piping (corrosion) the service water pump structure, liquifaction and dewatering.
- Dec. 6-10, 1982 Evidentiary hearing involving the adequacy of the diesel generator building.
- December 30, 1982 Memorandum and Order ruling on rewritten contentions of Mary Sinclair. (Originally submitted in the OL proceeding and considered by the Board in its

February 23, 1979 OL prehearing conference order).

- Feb. 14-18, 1983 Evidentiary hearing involving Judge Harbour's questions concerning quality assurance in the underpinning; drilling incidents; loose sands; seismic shakedown of auxiliary building; and seismic Category 1 analysis of duct banks.
- March 8-11, 1983 Evidentiary hearing involving 2 OL issues: 1) cooling pond thermal performance and the effects of fogging and icing, and 2) water hammer.
- March 28 -
April 1, 1983 Evidentiary hearing involving 2 OL issues: 1) severe accident evaluation, and 2) steam tube integrity.
- April 27 -
May 6, 1983 Evidentiary hearing involving supplemental testimony of Cook, Gardner, Landsman and Shafer with respect to quality assurance and the testimony of James G. Keppler with respect to quality assurance (this is the testimony that the Staff filed on October 28, 1982 and supplemented again on March 25, 1983 with respect to the reopened quality assurance hearings).
- June 1-10, 1983 Evidentiary hearing involving the continuation of the testimony of Landsman, Cook, Gardner and Shafer. Also, the testimony of Gilray, Landsman and Shafer with respect to MPQP 1 and MPQP 2 QA program, specifically with respect to remedial soils. On June 4, 1983 CPC testimony concerning MPQP 1 and MPQP 2 and the testimony of James Mooney to describe third party overview of QA and to bring up to date the current status of soils construction. On Wednesday, June 8, 1983 NRC began testimony with respect to the cable pulling or instrumentation and whether or not the NRC was misled by the statements of Bechtel employee Boos.



Consumers
Power
Company

Handwritten initials/signature

James W Cook
Vice President - Projects, Engineering
and Construction

General Offices: 1945 West Parnall Road, Jackson, MI 49201 • (517) 788-0453

February 6, 1984

PRINCIPAL STAFF	
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ENF	FTTG

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Mr Richard C DeYoung
Director, Office of Inspection and Enforcement
US Nuclear Regulatory Commission
Washington, DC 20555

MIDLAND ENERGY CENTER
MIDLAND DOCKET NOS 50-329, 50-330
RESPONSE TO CONFIRMATORY ORDER
FILE 0505.2 SERIAL 28406

Dear Mr DeYoung

This is in response to your letter of January 12, 1984 to Mr John Selby of Consumers Power Company and the attached Confirmatory Order. The Order confirms the Company's commitment, made during a meeting of October 25, 1983, to provide for an independent appraisal of management of the Midland project. Accordingly, the Company does not contest entry of the Order. We are currently in the process of developing a proposal for the required independent appraisal and of choosing a consultant to carry it out, and will submit a plan for such an independent appraisal by March 7, 1984, as required under Section 5 of the Confirmatory Order.

The Company's position as to the circumstances of the alleged Board Order violations discussed in the Confirmatory Order have previously been made known to you, and our position before the Licensing Board concerning the subject matter of the Confirmatory Order remains as stated in our recently submitted proposed findings of fact and conclusions of law, dated January 27, 1984.

Thank you for your attention.

James W. Cook

JWC/JEB/sib

CC JGKepler, Administrator, Region III
RJCook, Midland Resident Inspector
DSHood, Project Manager, US NRC
SLewis, Region III
OM/OL Service List

8400090255

OC0184-0742B-MP04-TM30

FEB 9 1984

OM/OL SERVICE LIST

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 Attorney General of the
 State of Michigan
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 Assistant Attorney General
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Mr Wendell H Marshall
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Mr Charles Bechhoefer, Esq
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 Washington, DC 20555

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 Washington, DC 20555

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1901 Q Street, NW
Washington, DC 20009

CONSUMERS POWER COMPANY
Midland Units 1 and 2
Docket No 50-329, 50-330

Letter Serial 28406 Dated February 6, 1984

At the request of the Commission and pursuant to the Atomic Energy Acts of 1954, and the Energy Reorganization Act of 1974, as amended and the Commission's Rules and Regulations thereunder, Consumers Power Company submits a response to a Confirmatory Order of January 12, 1984.

CONSUMERS POWER COMPANY

By /s/ James W Cook
James W Cook, Vice President
Projects, Engineering and Construction

Sworn and subscribed before me this 6th day of February 1984.

 /s/ Beverly A. Avery
Notary Public
Jackson County, Michigan

My Commission Expires January 16, 1985

(S E A L)

Docket No. 50-329
Docket No. 50-330
EA 83-118

January 12, 1984

PRINCIPAL STAFF		
SA	Jos	DRRP
D/RA		DE
A/RA		DRASP
PC		DRMA
FAO		SCS
SGA		PL
ENR		File Jos

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Mgt. Audit Order

Consumers Power Company
ATTN: Mr. John D. Selby
President
212 West Michigan Avenue
Jackson, MI 49201

Gentlemen:

This refers to the investigation conducted by the Office of Investigations during the period January 3 through August 8, 1983, of activities at the Midland Nuclear Plant authorized by NRC Construction Permit Nos. CPPR-81 and CPPR-82. An enforcement conference was held with your staff regarding this matter on October 11, 1983.

This investigation revealed that Consumers Power Company (CPCo) had excavated soil material from below the deep "Q" duct bank and initiated fireline relocation activities in "Q" soils without prior NRC authorization. Further, the excavation of soil material below the deep "Q" duct bank was contrary to previous directives of the NRC staff which instructed the licensee that such excavation was not authorized. These actions violated paragraph 2.G of the Midland Construction Permits, as amended on May 26, 1982.

The violation described in the enclosed Confirmatory Order has been categorized as a Severity Level III violation as described in the General Policy and Procedure for NRC Enforcement Actions (Appendix C to 10 CFR Part 2). No civil penalty is being proposed for this violation. However, the attached Confirmatory Order is being issued.

In accordance with Section 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosures will be placed in the NRC's Public Document Room.

The response directed by this Order is not subject to the clearance procedure of the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, PL 96-511.

Sincerely,

Original Signed

R. C. DeYoung

Richard C. DeYoung, Director
Office of Inspection and Enforcement

Enclosure: Confirmatory Order

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

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1/6/84 1/ /84

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1/ /84

ES:J
JAxelrad
1/ /84

IE:DD
JTaylor
1/ /84

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RDeYoung
1/ /84

JAN 16 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
) Docket Nos. 50-329
) 50-330
CONSUMERS POWER COMPANY)
(Midland Plant, Units 1 and 2))

CONFIRMATORY ORDER

I

Consumers Power Company (the licensee) is the holder of construction permits CPPR-81 and CPPR-82 issued by the Atomic Energy Commission (now the Nuclear Regulatory Commission (the Commission)), which authorize the construction of the Midland Plant, Units 1 and 2 (the facility). The facility is under construction in Midland, Michigan.

II

Since the start of construction, the facility has experienced significant quality assurance (QA) problems. Although the licensee took corrective actions in each case, problems continue to be experienced in the implementation of its QA program.

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On October 6, 1983, the Director of Inspection and Enforcement issued a "Confirmatory Order for Modification of the Construction Permits" which required that the licensee adhere to the Construction Completion Program (CCP), dated August 26, 1983, for the duration of the construction of the facility. 48 FR 46673 (October 13, 1983). As more fully described in that order, the development of such a program was necessary to verify the adequacy of prior construction and to insure the adequacy of future construction in view of the identification of widespread QA problems in late 1982, the facility's history of QA problems, and the ineffectiveness of previous corrective actions to fully resolve these problems. An important aspect of the CCP is the third party overview by Stone and Webster Engineering Corporation which is required until the Regional Administrator, Region III, finds that the overview is no longer necessary to provide reasonable assurance that the facility can be constructed in accordance with Commission requirements. One element in any decision regarding the relaxation of the overview requirement will be a finding of confidence in the ability of the licensee's management to properly construct the facility in accordance with Commission requirements without a third party overview. Such a finding cannot now be made.

III

On December 6, 1979, the Director of the Office of Inspection and Enforcement and the Director of the Office of Nuclear Reactor Regulation issued jointly an Order Modifying Construction Permits for the Midland plant. The order was based in part on a breakdown in quality assurance related to soils work at the Midland plant which had led to excessive settlement of the facility's diesel generator building. The licensee demanded a hearing on the order, and the proceeding on the order was eventually consolidated with the proceeding on Consumers Power Company's application for operating licenses for the Midland plant. During the course of the proceeding, the Atomic Safety and Licensing Board issued an order that authorized the Director of the Office of Nuclear Reactor Regulation to amend the Midland construction permits to incorporate certain limitations on remedial soils work at Midland. See Consumers Power Co. (Midland Plant, Units 1 & 2), LBP-82-35, 15 NRC 1060, 1072-73 (April 30, 1982). In accordance with the Board's order, the construction permits were amended on May 26, 1982 to include the Board-ordered conditions.

Among the restrictions imposed by the Board's order and the permit amendment was a condition that the licensee "shall obtain explicit prior approval from the NRC staff...before proceeding with the following soils-related activities...: any placing, compacting, excavating, or drilling soil materials around safety-related structures and systems."

Construction Permit Nos. CPPR-81 & CPPR-82, ¶ 2.G.(1) & 2.G.(1)a; compare LBP-82-35, supra, 15 NRC at 1072-73. On July 28, 1982, an NRC inspector discovered that the licensee had excavated soil from below the deep "Q" duct bank and had initiated relocation of the fireline in "Q" soils without prior NRC authorization. Excavation below the deep "Q" duct bank had begun on July 23rd and relocation of the fireline had begun on July 27th. Neither activity had received explicit prior approval from the NRC staff as required by the construction permits. In fact, excavation of soil material below the deep "Q" duct bank was contrary to prior directives of the NRC staff which instructed the licensee that such excavation was not authorized. Thus, excavation of the deep "Q" duct bank and relocation of the fireline by the licensee constituted violations of the construction permits.

IV

The history at this site demonstrates that management has not been effective in providing the attention to detail and high quality standards necessary to the proper construction of this facility. In view of this history, including the violation identified in section III of this order, I have determined that a management appraisal is required at this time. The licensee, in a meeting on October 25, 1983 with the Director of the Office of Inspection and Enforcement and the Regional Administrator, Region III, and in a subsequent meeting on January 4, 1984 with the

Regional Administrator, agreed to submit a management appraisal program to the Commission. It is appropriate to confirm the licensee's commitment by order.

V

In view of the foregoing, pursuant to Sections 103, 161(i), 161(o) and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Part 2 and 10 CFR Part 50, IT IS HEREBY ORDERED THAT:

Within 30 days of the effective date of this Order, the licensee shall submit to the Region III Administrator for review and approval a plan for an independent appraisal of site and corporate management organizations and functions that would develop recommendations where necessary for improvements in management communications, controls, and oversight. Upon approval of the plan, the plan shall be implemented and the scheduled milestone completion dates shall not be extended without good cause and the concurrence of the Region III Administrator.

The plan shall include at least the elements itemized below:

- (1) An appraisal conducted by an independent management consultant organization retained by the licensee to evaluate the licensee's

current organizational responsibilities, management controls, communications systems and practices, both at the Midland site and between the corporate office and the site. The appraisal shall include a review of the licensee's site and corporate construction management and supervisory personnel involved in the Midland project to determine their capability and competency for managing construction activities consistent with regulatory requirements.

- (2) A description of the appraisal program, the qualifications of the appraisal team, a discussion of how the appraisal is to be documented, and a schedule with appropriate milestones.
- (3) The provision of recommendations for changes in the areas mentioned in Item 1 that will provide assurance that the licensee will implement NRC requirements.

The licensee shall direct the approved organization to submit to the Region III Administrator a copy of the report of the appraisal and recommendations resulting from the appraisal, and any drafts thereof, at the same time they are sent to the licensee or any of its employees or contractors. Prior notice shall be given the Administrator of any meeting between the licensee and the organization to discuss the results, recommendations, or progress made on the appraisal. In addition, the licensee shall consider the recommendations resulting from the appraisal

and provide to the Region III Administrator an analysis of each such recommendation and the action to be taken in response to the recommendation. The licensee shall also provide a schedule for accomplishing these actions.

The Administrator of Region III may relax or terminate in writing any of the preceding conditions for good cause.

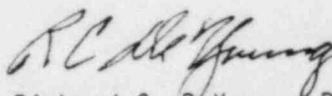
VI

The licensee may request a hearing on this Order. Any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 within 25 days of the date of this order. A copy of the request shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

If a hearing is to be held concerning this Order, the Commission will issue an order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

This Order shall become effective upon the licensee's consent or upon expiration of the time within which the licensee may request a hearing or, if a hearing is requested by the licensee, on the date specified in an order issued following further proceedings on this Order.

FOR THE NUCLEAR REGULATORY COMMISSION



Richard C. DeYoung, Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland
this 12 day of January 1984.



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

OCTOBER 6 1983

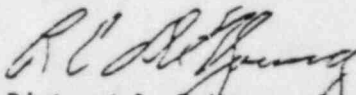
Docket No. 50-329
50-330

Mr. James W. Cook
Vice President
Consumers Power Company
1945 West Parnall Road
Jackson, Michigan 49201

Dear Mr. Cook:

Enclosed please find a Confirmatory Order for Modification of Construction Permits (Effective Immediately) for the Midland Plant issued this day. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the NRC's Public Document Room.

Sincerely,


Richard C. DeYoung, Director
Office of Inspection and Enforcement

Enclosure: Confirmatory Order

cc: Michael Miller, Esq.
Billie Pirner Garde,
Government Accountability Project

~~8310200375~~

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OCTOBER 6 1983

Docket No. 50-329
50-330

Mr. James W. Cook
Vice President
Consumers Power Company
1945 West Parnall Road
Jackson, Michigan 49201

Dear Mr. Cook:

Enclosed please find a Confirmatory Order for Modification of Construction Permits (Effective Immediately) for the Midland Plant issued this day. In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," Part 2, Title 10, Code of Federal Regulations, a copy of this letter and the enclosure will be placed in the NRC's Public Document Room.

Sincerely,

*Original Signed By
R. C. DeYoung*

Richard C. DeYoung, Director
Office of Inspection and Enforcement

Enclosure: Confirmatory Order

cc: Michael Miller, Esq.
Billie Pirner Garde,
Government Accountability Project

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DATE	:10/4/83	:10/ 4/83	:10/ 4/83	:10/ 5/83	:10/ 6/83	: 10/4/83

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

In the Matter of
CONSUMERS POWER COMPANY
(Midland Plant Units 1 and 2)

}
}
}

Docket No. 50-329
50-330
EA-83-109

CONFIRMATORY ORDER FOR MODIFICATION OF
CONSTRUCTION PERMITS (EFFECTIVE IMMEDIATELY)

I

Consumers Power Company (the "licensee") is the holder of construction permits CPPR-81 and CPPR-82 issued by the Atomic Energy Commission (now the Nuclear Regulatory Commission, hereafter "Commission"), which authorize the construction of the Midland Plant, Units 1 and 2 (the "facility"). The facility is under construction in Midland, Michigan.

II

Since the start of construction, the facility has experienced significant quality assurance ("QA") problems. Although the licensee took corrective actions in each case, problems continued to be experienced in the implementation of its QA program.

An NRC Region III inspection, commenced in October 1982 and completed in January 1983, identified significant problems with the QA inspection process and with the conformance to design documents of installed components in the Diesel Generator Building ("DGB"). These findings were identified to the licensee in an exit meeting following the inspection in November 1982. The licensee subsequently made similar findings in other areas of the facility. In view of 1) the widespread nature of the problems identified, 2) the history of QA problems at the facility,

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and 3) the ineffectiveness of past corrective actions to resolve these problems, the NRC staff requested the licensee to develop a comprehensive program to verify the adequacy of previous construction and to assure the adequacy of future construction. On December 2, 1982, the licensee directed that the majority of safety related work at the site be halted and presented to the staff the outlines of a Construction Completion Program ("CCP"). By letter dated December 30, 1982, the NRC confirmed the licensee's stopping work and other commitments undertaken by the licensee. In accordance with those commitments, the CCP was formally submitted to the staff on January 10, 1983.

The CCP is a program to provide guidance in the planning and management of the construction and QA activities necessary for completion of the facility in accordance with Commission regulations. The CCP has undergone revisions in response to questions and comments raised by the staff and by members of the public and was submitted in final form on August 26, 1983.

Part of the CCP is a Construction Implementation Overview ("CIO") to be conducted by an independent third party. The CIO effort is described in the CCP and documents provided to NRC on April 6 and 11, May 19, August 30 and September 9, 1983.

The CIO was necessitated by the NRC staff's loss of confidence in the licensee alone to implement an effective QA program. In response to this concern, the licensee has committed to keep the CIO in effect until the licensee has demonstrated to the NRC staff that a third party overview is no longer necessary to provide reasonable assurance that the facility can be constructed in compliance with the Commission's QA criteria (10 CFR Part 50, Appendix B). The licensee has proposed and the staff has approved, by letter dated September 29, 1983, Stone and Webster Engineering Corporation to perform the CIO.

III

The NRC staff has conducted a review of the CCP and has concluded that it constitutes a program which provides reasonable assurance that the facility can be satisfactorily completed in accordance with Commission requirements. I have concluded that the activities halted by the licensee on December 2, 1982, may resume provided they are conducted in accordance with the CCP. I, therefore, find that the public health, safety and interest requires that any continuation of construction be in accordance with the CCP and that the CCP be confirmed by order made immediately effective.

IV

Accordingly, pursuant to Sections 103 and 161i of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50, Construction Permits CPPR-81 and CPPR-82 are hereby modified to include the following provisions:

- a. The licensee shall adhere to the Construction Completion Program, dated August 26, 1983, for the duration of construction of the facility.

- b. The licensee shall maintain in effect the Construction Implementation Overview provision of the Construction Completion Program with the Stone and Webster Engineering Corporation as the third party overviewer until the Regional Administrator, NRC Region III, finds in writing that the third party overview is no longer necessary to provide reasonable assurance that the facility can be constructed in compliance with 10 CFR Part 50.

- c. The licensee may make changes to the Construction Completion Program provided such changes (1) do not decrease its effectiveness, (2) are submitted to the Regional Administrator with appropriate justification, and (3) are approved in writing by the Regional Administrator prior to their implementation.

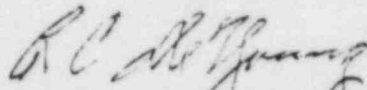
V

The licensee may request a hearing on this Order within 25 days of the date of this Order. Any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory

Commission, Washington, D.C. 20555. A copy of the request shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF SECTION IV OF THIS ORDER.

If a hearing is to be held concerning this Order, the Commission will issue an order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

FOR THE NUCLEAR REGULATORY COMMISSION



Richard C. DeYoung, Director
Office of Inspection and Enforcement

Dated at Bethesda, Maryland,
this 6th day of October, 1983