



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

December 29, 1983

MEMORANDUM FOR: DPRP Technical Staff
DE Technical Staff
OSC Technical Staff

FROM: James G. Keppler, Regional Administrator

SUBJECT: "IMPORTANT TO SAFETY" VS "SAFETY RELATED"

Enclosed for your information and use is a letter from Mr. Denton distinguishing between the terms "important to safety" and "safety related."

Note that a copy of this letter has been provided reactor utility owners.

James G. Keppler
James G. Keppler
Regional Administrator

Enclosure: As stated

cc w/enclosure:
A. B. Davis

B408150626 B40718
PDR FOIA
RICE84-96 PDR



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

DEC 19 1983

PRINCIPAL STAFF	
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<input type="checkbox"/>	SCS
<input type="checkbox"/>	ML
<input type="checkbox"/>	File <i>W.A.</i>

T. S. Ellis, III, Esq.
 Hunton & Williams
 707 East Main Street
 P.O. Box 1535
 Richmond, Virginia 23212

Dear Mr. Ellis:

The Executive Director for Operations has asked me to respond to your letter of August 26, 1983, in which you express concern, on behalf of the Utility Safety Classification Group, over the NRC use of the terms "important to safety" and "safety-related." Your concern appears to be principally derived from recent licensing cases in which the meaning of these terms in regard to NRC quality assurance requirements has been at issue, and my memorandum to NRR personnel of November 20, 1981.

I agree that the use of these terms in a variety of contexts over the past several years has not been consistent. In recognition of this problem I attempted in my 1981 memorandum to NRR personnel to set forth definitions of these terms for use in all future regulatory documents and staff testimony before the adjudicatory boards. As you are aware, the position taken in that memorandum was that "important to safety" and "safety-related" are not synonymous terms as used in Commission regulations applicable to nuclear power reactors. The former encompasses the broad scope of equipment covered by Appendix A to 10 CFR Part 50, the General Design Criteria, while the latter refers to a narrower subset of this class of equipment defined in Appendix A to 10 CFR Part 100 Section VI(a)(1) and, more recently, in 10 CFR 50.49(b)(1). Based on such a distinction between these terms, it generally has been staff practice to apply the quality assurance requirements of Appendix B to 10 CFR Part 50 only to the narrower class of "safety-related" equipment, absent a specific regulation directing otherwise.

More importantly, however, this does not mean that there are no existing NRC requirements for quality standards or quality assurance programs for the broader class of nuclear power plant equipment which does not meet the definition of "safety-related." General Design Criterion 1 requires quality standards and a quality assurance program for all structures, systems and components "important to safety." These requirements, like those of Appendix B to 10 CFR Part 50, are "graded" in that GDC-1 mandates the application of quality standards and programs "commensurate with the importance of the safety functions to be performed," and expressly allows the use of "generally recognized codes and standards" where applicable

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DEC 27 1983

and sufficient. Documentation and record keeping requirements for such equipment are likewise graded. Pursuant to our regulations, permittees or licensees are responsible for developing and implementing quality assurance programs for plant design and construction or for plant operation which meet the more general requirements of GDC-1 for plant equipment "important to safety," and the more prescriptive requirements of Appendix B for "safety-related" plant equipment.

This distinction between the terms "important to safety" and "safety-related" has been accepted in two recent adjudicatory decisions where the issue was squarely faced. In the Matter of Metropolitan Edison Company, et. al. (Three Mile Island Nuclear Station, Unit 1), ALAB-729, NRC (May 26, 1983): In the Matter of Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), LBP-83-57, NRC (September 21, 1983). Moreover, the Commission itself recognized and endorsed a distinction between the terms in promulgating the Seismic and Geologic Siting Criteria for Nuclear Power Plants (see Section VI(a)(1) and VI(a)(2) of Appendix ~~A to~~ 10 CFR Part 100) and the Environmental Qualification Rule (see ~~Supplementary~~ Information and 10 CFR 50.49(b)). Also, in preparing this response, members of the licensing staff and legal staff reviewed all of the material on this subject provided by your letter, and have also reviewed numerous other regulatory documents, including both staff and Commission issuances over the past several years in which the terms "safety-related" and "important to safety" are used. While it is apparent that some confusion continues to exist with regard to the distinction between the terms, the staff is convinced that the position it has previously taken remains correct.

The final point which I considered in responding to your letter is the consistency of NRC staff practice over the years with our position on this issue, and the technical basis for that practice. While previous staff licensing reviews were not specifically directed towards determining whether in fact permittees or licensees have implemented quality assurance programs which adequately address all structures, systems, and components important to safety, this was not because of any concern over lack of regulatory requirements for this class of equipment. Rather, our practice was based upon the staff view that normal industry practice is generally acceptable for most equipment not covered by Appendix B within this class. Nevertheless, in specific situations in the past where we have found that quality assurance requirements beyond normal industry practice were needed for equipment "important to safety," we have not hesitated in imposing additional requirements commensurate with the importance to safety of the equipment involved. We intend to continue that practice.

T. S. Ellis

-3-

We note that in a more recent letter on this subject (comments dated October 27, 1983 on the Advanced Notice of Proposed Rulemaking on Backfitting Requirements) you have stated that ... "industry as a whole has generally applied design and quality standards to non-safety related structures, systems and components in a manner commensurate with the functions of such items in the overall safety and operation of the plant." The principal difference, then, between the NRC Staff position discussed above and that expressed in your letters appears to be your view that such actions by the industry are purely voluntary, with no regulatory underpinning; whereas, we have been and remain convinced that such actions are required by General Design Criterion 1.

I want to make it very clear that NRC regulatory jurisdiction involving a safety matter is not controlled by the use of the terms such as "safety related" or "important to safety."

A copy of your letters and this response are being sent to all permittees and licensees for information.

Sincerely,

Original signed [initials]
H. R. Denton

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

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- MGarver (EDO 13487)
- ~~MBridgers~~
- PDR
- LPDR

All changes from draft provided by EDO on 12/15 OK'd by Vic Stello on 12/16 Durr, or Keith E.C. JW

MODIFIED TO INCORPORATE COMMENTS FROM THE EDO

OFFICE	NRR ✓	NRR					
SURNAME	EGCase:kb	HRDenton					
DATE	12/15/83	12/16/82					



**Consumers
Power
Company**

Midland Project: P O Box 1963, Midland, MI 48640 • (517) 631-8650

December 22, 1983

Mr S W Baranow
Stone & Webster Michigan, Inc
P O Box 1963
Midland, MI 48640

MIDLAND ENERGY CENTER GWO 7020
HANGER REINSPECTION

File: B1.1.7, 0655 UFI: 99*08, 53*50*04 Serial: CSC-7115

Attached are copies of memos written by J Christy, MPQAD on November 21, 1983 and December 6, 1983. These should clarify the meeting note in Report No 23 regarding reinspection of 500 large bore hangers. Please advise us if more information is needed to resolve this issue.

K. Jean Deamme

DLQ/DDJ/klp

cc: JGKepler, NRC w/a
JHarrison, NRC w/a
RJCook, NRC w/a
RAWells, MPQAD w/a
BHPeck, MEC w/a
NIReichel, MEC w/a

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✓ A/RA	DRMSP
✓ RC	DRMA
FAO	SCS
SGA	ML
ENF	File

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DEC 30 1983

TO RAWells

FROM JTChristy *JTChristy*

DATE November 21, 1983

SUBJECT MIDLAND ENERGY CENTER PROJECT
PROJECT CONCERNS RELATIVE TO DESIGN CONTROL -
REDLINE REINSPECTION IMPACT ON THE HANGER
REINSPECTION PROGRAM

Consumers
Power
Company

INTERNAL
CORRESPONDENCE
QC-JTC-83-62

CC MEPlumb
HPLeonard
WJFriedrich

The following data is submitted to support the required decision on the action plan for the subject Project Concern:

- 1) 1768 hangers have been reinspected using the P-2.30 PQCI.
- 2) Based on a survey of the closed P-2.30s, between 69 and 73 percent were inspected using redlines (LH, SH or FRL drawings). This is a population of approximately 1250 reinspections.
- 3) Of the 1250 reinspections in 2), approximately 450 will have to be reinspected due to problems with disapproved, illegible or "approved with comment" redlines.
- 4) Approximately 50% of all reinspections will require another inspection due to the decision to remove paint and rust from welds.
- 5) All large bore hangers will require reinspection for the location criterion.

The data in 1-5 above can lead to the following conclusion concerning reinspection after redline incorporation:

Completed P-2.30s using redlines (2)	minus	P-2.30s using unacceptable redlines which must be reperformed (3)	minus	P-2.30s which used redlines which probably require weld reinspection (50% of (2))
<u>1250</u>		<u>450</u>		
minus		P-2.30s which used redlines which are part of population (3) (50% of (3)) <u>225</u>	=	Number of hangers which will have to be reinspected as a result of the subject proposed action plan. <u>400</u>

This does not account for possible decisions related to NDE issues or IE Bulletin 79-14 issues.

If you have any questions concerning this data please see me.

JTC:mlt

To JChristy
FROM MEPlumb
DATE December 6, 1983
SUBJECT MIDLAND ENERGY CENTER PROJECT -
HANGER REINSPECTION PROGRAM
CONSOLIDATED APPROACH TO RESTART
MEP-83-52
CC CPaulsen MMcClain
LMouring BWilliams
CAnderson WJFriedrich
FSchulmeister

Consumers
Power
Company

INTERNAL
CORRESPONDENCE

The following recommended actions deal with the restart of the Hanger Reinspection Program. These actions were discussed and agreed upon by the MPQAD personnel listed below.

M Plumb F Schulmeister
C Paulsen M McClain (NDE only)
L Mouring B Maycheck (NDE only)
C Anderson

Redlines A: For all inspections completed after the lifting of stop work order #FSW-34, only drawing/ISO's for which all redlines have been incorporated will be used.

B: All P-2.30's which were completed using redline drawings will be reinspected for orientation and configuration using a drawing/ISO with incorporations completed.

Paint/Rust: Welds are being inspected with all paint and heavy rust removed. Any weld inspected previously through paint or rust will be inspected again after cleaning.

Location: Due to stress calculation requirements for large bore hangers, locations for all large bore hangers will be inspected to the H-ISO location.

Drawing

Conflicts A: There has been a conflict between H-ISO for pipe configuration. The known cases have been corrected. Any future cases will be documented on an NCR for indeterminate location and class break.

B: The ATMS will be completely updated by 12/9/83 per Document Control. When FSW-34 is lifted the ATMS will be the controlling document to determine drawing revision status.

C-1.52's: All hangers with open C-1.52's will have to be closed. QA will rewrite the PQCI and training will be provided to certify inspectors.

IE Bulletin 79-14: A copy of the hanger sketch will be marked up as an as-built drawing during the P-2.30 re-inspection. This drawing will be retained by MPQAD-QC. This will continue until a commitment to 79-14 is made by MPQAD.

QARs/NCRs Against M-326 & C-304: Because of the undispositioned QAR's and NCR's against these specifications, PQCI P-2.30 will be revised to meet the minimum requirements of the FSAR and codes referenced in the FSAR. Note: A) Undercut requirements under the new revision to P-2.30 are going to be revised. B) Skewed fillet weld criteria is going to be revised.

Recommendations: Request a freeze of P-2.30 inspection criteria until the HRP program has reached a stabilized level. At that time changes would be discussed and added with concurrence of the assistant superintendent.

Summary: During the restart and for the completion of the HRP, and to facilitate the above actions, all hangers within the program will have a Rev. 5 IR for P-2.30 opened. This could be only for a statement that none of the criteria changes affects this hanger to a detailed inspection. The scope of the IR would be the governing factor for the amount of reinspection to the later rev. Items needing reinspection will be determined by the AQAES for inspection attributes and the Assistant PFOCE for the individual hangers.

MP 12-6-87



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

December 20, 1983

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D/RA	DRMSF	
A/RA	DRMA	
RC	SCS	029-3-
PAO	WL	
SGA	File	
ENF		

Docket Nos: 50-329
 and 50-330

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

Dear Mr. Cook:

Subject: NRC 1983 Schedule for Midland

Your letter of October 28, 1983, recommends deferring further Case Load Forecast Panel (CFP) meetings for Midland Plant, Units 1 and 2 pending completion of your new Unit 2 schedule shortly after the first of the year. You note that Dow's termination and delays in approval of the CCP have invalidated the plan set forth and reviewed with the CFP in April 19-21, 1983. You provide no estimate when your decision for Unit 1 will be available.

Based upon the information and observations as of April 19-21, 1983, the staff concluded that some months beyond the second quarter of 1986 was the earliest date that completion of Unit 2 could reasonably be expected, and that Unit 1 was expected to be completed about 6 to 9 months thereafter. The staff's 1983 projection assumed approval of the Construction Completion Plan in May 1983. The actual approval occurred on October 6, 1983. Subsequently, several stop work orders were issued by CPCo which are currently impacting all safety-related construction.

In a November 9, 1983, press release, CPCo announced preliminary indications that commercial operation of Unit 2 may be delayed until mid-1986, rather than February 1985, based upon the study to be completed by the end of 1983.

Accordingly, for our planning purposes, we intend to use September 1986 as our planning date for completing the licensing review process for Unit 2. We will reevaluate our projection in 1984.

Sincerely,

Thomas M. Novak, Assistant Director
 for Licensing
 Division of Licensing

cc: See next page

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DEC 23 1983

MIDLAND

Mr. J. W. Cook
Vice President
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1945 West Parnall Road
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Mr. Paul A. Perry, Secretary
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Mr. Walt Apley
c/o Mr. Max Clausen
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James G. Keppler, Regional Administrator
U.S. Nuclear Regulatory Commission,
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Mr. J. W. Cook

- 2 -

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

December 15, 1983

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SGA		ML	
ENF		File	PRK

Charles Bechhoefer, Esq.
 Administrative Judge
 Atomic Safety and Licensing Board
 U.S. Nuclear Regulatory Commission
 Washington, D. C. 20555

Dr. Jerry Harbour
 Administrative Judge
 Atomic Safety and Licensing Board
 U.S. Nuclear Regulatory Commission
 Washington, D.C. 20555

Dr. Frederick P. Cowan
 Administrative Judge
 6152 N. Verde Trail
 Apt. B-125
 Boca Raton, Florida 33433

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

Dear Administrative Judges:

Enclosed are the following:

- (1) Confirmatory Order for Modification of Construction Permits (Effective Immediately), dated October 6, 1983.
- (2) Director's Decision, dated October 6, 1983, granting in part and denying in part a request for action filed pursuant to 10 C.F.R. § 2.206, by Billie Pirner Garde on behalf of the Lone Tree Counsel and others.

Pursuant to 10 C.F.R. § 2.206(c), the Director's Decision is pending before the Commission for its possible review.

Sincerely,

Michael N. Wilcove
 Counsel for NRC Staff

cc: See page 2

~~8312300267~~

DEC 19 1983

cc: Frank J. Kelley
Ms. Mary Sinclair
Ronald G. Zamarin, Esq.
James E. Brunner, Esq.
James R. Kates
Wayne Hearn
Myron M. Cherry
T. J. Creswell
Steve J. Gadier
Frederick C. Williams
Lynne Bernabei
Docketing and Service Section

Steward H. Freeman
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Atomic Safety and Licensing Board
Atomic Safety and Licensing
Appeal Board Panel
Samuel A. Haubold, Esq.
Howard A. Levin



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

OCTOBER 6 1993

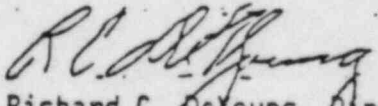
Docket No. 50-329
50-330

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

4310200375

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-83-709

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.

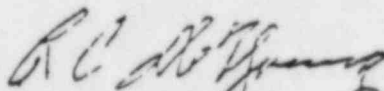
V

The license 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

Docket Nos. 50-329
50-330

OCTOBER 6 1983

(10 CFR 2.206)

Ms. Billie Pirner Garde
Government Accountability Project
Institute for Policy Studies
1091 Que Street, N.W.
Washington, D.C. 20009

Dear Ms. Garde:

This is in response to your letter of June 13, 1983 on behalf of the Lone Tree Council and others, requesting that the Commission take a number of actions with respect to the Midland Plant. Your letter was treated as a request for action under 10 CFR 2.206 of the Commission's regulations.

For the reasons set forth in the enclosed "Director's Decision" under 10 CFR 2.206, your request has been granted in part and denied in part. A copy of the decision will be referred to the Secretary for the Commission's review in accordance with 70 CFR 2.206. For your information, I have also enclosed a copy of the notice filed with the Office of the Federal Register for publication.

Sincerely,

*Original Signed By
R. C. DeYoung*

Richard C. DeYoung, Director
Office of Inspection and Enforcement

Enclosures: as stated

cc w/encl.:
Consumers Power Company
Michael Miller, Esq.

~~8406040326~~

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF INSPECTION AND ENFORCEMENT
Richard C. DeYoung, Director

In the Matter of

CONSUMERS POWER COMPANY

(Midland Nuclear Power Plant,
Units 1 and 2)

Docket Nos. 50-329
50-330

(10 CFR 2.206)

DIRECTOR'S DECISION UNDER 10 CFR 2.206

Introduction

By letter to the Nuclear Regulatory Commission (NRC) dated June 13, 1983, Billie Firmer Garde of the Government Accountability Project, on behalf of the Lone Tree Council and others (hereinafter referred to as the petitioners), requested that, among other relief, the NRC take immediate action with regard to the Midland project. The letter was referred to the Director of the Office of Inspection and Enforcement for treatment as a request for action pursuant to 10 CFR 2.206 of the Commission's regulations.

On July 22, 1983, Edward L. Jordan, Acting Director of the Office of Inspection and Enforcement, acknowledged receipt of the petition and informed the petitioners that their request for immediate action was denied. Mr. Jordan noted that safety-related work at the Midland site had been stopped, with the exception of certain specified activities, and that the NRC staff was closely

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following the current activities at the Midland site. Mr. Jordan further noted that Consumers Power Company had agreed not to proceed with implementation of a construction completion program until such a program had been reviewed by the NRC. The staff expected to be able to complete its evaluation of the request before final action was taken on that program. Consequently, Mr. Jordan concluded that "continuation of currently authorized activities at Midland should not affect the staff's ability to grant the requested relief." Letter from Edward L. Jordan, Acting Director, Office of Inspection and Enforcement to Billie Pirner Garde (July 22, 1983). The staff has now completed its evaluation of the petition, and for the reasons stated herein, the request is granted in part and denied in part.

Issues Raised

Petitioners requested that the following six actions be taken by the Commission:

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 (sic).

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.

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.

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.

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.

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.

Petition at 1. The fifth issue relates to a matter of internal Commission organization and staffing, namely the allocation of staff to inspection of facilities. The staff is expecting to augment inspection personnel available to work on Midland. However, the creation of positions within the Office of Special Cases is a matter that will be determined by the Commission budget process. For these reasons, the staff is not considering this aspect of the request in this decision.

Background

The Consumers Power Company (CPCo or licensee) holds Construction Permits No. CPPR-B1 (Unit 1) and No. CPPR-B2 (Unit 2), issued by the Atomic Energy Commission in 1972, which authorized construction of the Midland Plant.

The Midland nuclear plant is located in Midland, Michigan, and consists of two pressurized water reactors of Babcock and Wilcox design and related facilities for use in the commercial generation of electric power.

Since the start of construction, Midland has experienced significant construction problems attributable to deficiencies in implementation of

its quality assurance (QA) program. ^{1/} Following the identification of these problems, the licensee took action to identify the cause and correct each problem. Steps were also taken to upgrade the Midland QA program. Nevertheless, the licensee continued to experience problems in the implementation of its quality assurance program.

In 1980, the licensee reorganized its QA department so as to increase the involvement of high level CPCo management in onsite QA activities. Among its other tasks, the reorganized QA department, called the Midland Project Quality Assurance Department (MPQAD), was given the responsibility for quality control (QC) of heating, ventilation and air conditioning (HVAC) work in place of the HVAC contractor, Zack Company.

In May 1981, the NRC conducted a special, in-depth team inspection of the Midland site to examine the status of implementation and effectiveness of the QA program. Based on this inspection, Region III concluded that the newly

1/ Significant construction problems identified to date include:

- 1973 - cadweld splicing deficiencies
- 1976 - rebar omissions
- 1977 - bulge in the Unit 2 Containment Liner Plate
- 1977 - tendon sheath location errors
- 1978 - discovery of soil settlement problem
- 1980 - Zack Company heating, ventilation, and air conditioning deficiencies
- 1980 - reactor pressure vessel anchor stud failures
- 1981 - piping suspension system installation deficiencies
- 1982 - electrical cable misinstallations

Several of these deficiencies resulted in the Commission taking escalated enforcement action.

organized QA program was acceptable. See Inspection Reports 50-329/81-12; 50-330/81-12. The special team did, however, identify deficiencies in previous QC inspections of piping supports and restraints, and electrical cable installations.^{2/} QC functions were further reorganized by the licensee's integration of the QC organization of its architect-engineer, Bechtel Power Corporation, into MPQAD in September 1982. This reorganization reflected the recommendations of the NRC staff. As part of this change, the licensee also undertook to retrain and recertify all previously certified Bechtel QC inspectors.

Nevertheless, construction difficulties continued to be identified at the Midland site. An inspection conducted during the period of October 1982 through January 1983 found significant problems with equipment in the diesel generator building. The subsequent identification of similar findings by CPCC in other portions of the plant prompted the licensee to halt the majority of the safety related work activities in December 1982. In view of the history of QA problems at the Midland plant and the lack of effectiveness of corrective actions to implement an adequate quality assurance program, the NRC indicated to the licensee that it was necessary to develop a comprehensive program to verify the adequacy of previous construction activities and to assure the adequacy of future construction. In view of the licensee's performance history, such an

^{2/} As a result of staff discussions about the seriousness of such findings and of similar indications of deficiencies as identified in the Systematic Assessment of Licensee Performance Report issued in April 1982, a special Midland Section in Region III was formed in July 1982. The Midland Section devoted increased attention to inspection of the Midland facility, including upgrading the QC program of the project's constructor, the Bechtel Power Corporation.

effort was necessary to restore staff's confidence in CPCo's ability to properly construct the Midland plants.

Consequently, CPCo discussed with the NRC the concept of a construction completion program which would address the concerns raised by the staff. These discussions were followed by a formal submittal of the Midland Construction Completion Program (CCP).

The CCP is the licensee's program for the planning and management of the construction and quality activities necessary for its completion of the construction of the Midland facility. An important aspect of the CCP is the third party overview, which is designed to provide additional assurance as to the effectiveness of the CCP. In response to comments from the NRC and members of the public, the CCP underwent several revisions. As revised and submitted by the licensee on August 26, 1983,^{4/} the CCP includes: (1) NRC hold points; (2) the requirement for 100% reinspection of accessible installations; (3) the integration of Bechtel's QC program with MPQAD; (4) the retraining and recertification of QC inspectors; (5) the general training of licensee and contractor personnel in quality requirements for nuclear work, requirements of the CCP, safety orientation and inspection, and work procedures; (6) the revision, as necessary, of Project Quality Control Instructions (PQCI's); (7) CCP team training; and (8) an independent third party overview of CCP activities.

^{4/} The Petition was apparently based upon the June 3, 1983 version of the CCP. Subsequent versions of the CCP, as described in this decision, address a number of issues raised by petitioners.

The CCP is divided into two phases. Phase 1 consists of a systematic review of the safety-related systems and areas of the plant. This review will be conducted on an area-by-area basis and will be done by teams with responsibility for particular systems. Phase 1 is intended to provide a clear identification of remaining installation work, including any necessary rework and an up-to-date inspection to verify the quality of existing work.

Phase 2 will take the results of the Phase 1 review and complete any necessary work or rework, thereby bringing the project to completion. The teams organized for Phase 1 activities will continue as the responsible organizational units to complete the work in Phase 2.

It should be noted that the CCP does not include the remedial soils program, nuclear steam supply system installation, HVAC installation, and the reinspection of pipe hangers and electrical cable. The remedial soils activities are being closely inspected under the conditions of the construction permits which implement the Atomic Safety and Licensing Board's April 30, 1982, order and under a work authorization procedure. Therefore, the staff does not consider it necessary to require the remedial soils activities to be included in the CCP. Controls over the soils work have been implemented under a separate program. Similarly, reinspection of the pipe hangers and electrical cable were not included in Phase I of the CCP because that reinspection is being done under a separate commitment to the NRC. See letters from James G. Keppler, Regional Administrator, NRC Region III to James W. Cook, Consumers Power Company (August 30, September 2, 1982). Nuclear Steam Supply System installation and HVAC installation were not drawn into question by the diesel generator building inspection.

The staff has not developed facts to indicate that installation of these systems should be included in the CCP. However, these activities will be included in the construction implementation overview to be conducted by the third party overviewer.

The CCP is designed to address the generic applicability of the problems identified by the NRC's inspection of the diesel generator building. The objective of the CCP is to look at the plant hardware and equipment, identify existing problems, correct these problems and complete construction of the plant.

Consideration of Issues Raised

1. Modification of Midland Construction Permits

Petitioners request that the Commission modify the Midland construction permits in two respects: 1) require "hold points" at various stages of the construction completion process; and, 2) incorporate those hold points concerning remedial soils work previously authorized by the Atomic Safety and Licensing Board panel with jurisdiction over the Midland proceeding.

The hold points are fundamental elements of the Midland CCP. As used by both the staff and petitioners, hold points refer to predetermined stages beyond which activities cannot proceed until authorized. Only when such prior work is found to be satisfactory will new work be authorized under the CCP. In this regard, the petitioners requested that three specific hold points be incorporated into the CCP to require NRC or third party review prior to continuation of work.

Based on their review of an early version of the CCP, petitioners asserted that the Midland project had been detrimentally affected by the lack of organizational freedom for its QA staff. See Petition at 13. Accordingly, the petitioners requested that a hold point be incorporated into the CCP whereby the success of the proposed program for the retraining and recertification of QA/QC personnel would be evaluated before any actual work was authorized under Phase 1 of the CCP. Id. at 13, 15. Subsequent to its initial discussions with the staff concerning development of a comprehensive construction completion program,^{5/} the licensee began preliminary work, such as team training and recertification of QC inspectors in preparation for its anticipated Phase 1 activities, quality verification program and status assessments. The NRC was informed when training and recertification of QA/QC personnel and CCP team training would begin, and conducted a review of the licensee's actions. The staff suggested that the licensee undertake additional work before proceeding with some of its training effort. Consequently, the retraining hold point requested by petitioners has already been satisfied by the staff.

5/ On December 2, 1982, when CPCo first discussed a construction completion plan with the NRC staff, CPCo was informed by Region III staff that it would be necessary to incorporate NRC hold points. The staff identified four points at which it would require NRC inspectors to review completed work before the next activity could be undertaken. These hold points were identified as:

1. Review and approval of training and recertification of QC inspectors before beginning Phase 1;
2. Review and approval of CCP team training before beginning Phase 1;
3. Review and approval of the Quality Verification Program (QVP) and status assessments before beginning Phase 1;
4. Review and approval of the program for rework or systems completion work before beginning Phase 2.

The petitioners also viewed the proposed CCP as lacking in comprehensiveness. To remedy this deficiency, petitioners proposed that "either a third party or NRC 'hold point' be contained in the reinspection Phase I activities [of the CCP] to determine the adequacy of the 'accessible systems' approach."^{6/} Petition at 13.

As described in section three, infra, a third party will be conducting an extensive overview of the CCP and other construction completion activities. The fact that the third party overviewer will also have hold point controls over the licensee should provide additional assurance that construction is proceeding in accordance with all applicable requirements. See Consumers Power Company, Construction Completion Program (August 26, 1983) at 34. The NRC and the third party will monitor the reinspection activities. The staff believes that these monitoring activities will provide the control sought by the petitioners in their request to establish a hold point during Phase 1 reinspection to determine the adequacy of the accessible systems approach.

The third hold point requested by petitioners derives from another criticism of the proposed CCP - the failure of that plan to specify inspection procedures and evaluation criteria. See Petition at 10-11. Accordingly, petitioners request a systematic and thorough review of the construction and quality work packages which will be completed as a prerequisite to initiation of new construction work under Phase 2 of the CCP. Id. at 11.

^{6/} The accessible systems approach refers to the extent of reinspection under the CCP. Inaccessible areas of the plant will be reinspected by utilizing a records review and destructive and non-destructive testing as required. See Consumers Power Company, Construction Completion Program (August 26, 1983) at 22-23.

The CCP requires that representative construction and quality work packages be reviewed to assure that any completed work is consistent with statements made by the licensee in both its Final Safety Analysis Report and Quality Assurance Topical Report. In addition, the third party overviewer will be using sampling techniques and reviewing selected work and quality packages prior to and during Phase II. Should the results of this sampling approach identify inadequate work packages, the sampling size will be increased as necessary to provide the needed assurance that work packages are adequately reviewed. Moreover, the NRC staff, in performing its inspection activities, will overview this entire process, including reviewing selected quality and work packages.

In summary, the staff believes that those hold points it has incorporated into the CCP, when viewed in the aggregate, substantially satisfy the hold points requested by petitioners. The licensee is required to adhere to these hold points as part of the CCP in conformance with the Confirmatory Order for Modification of Construction Permits (Effective Immediately).

With respect to the second aspect of the requested relief, incorporation of NRC hold points authorized by the Licensing Board's April 30, 1982, Memorandum and Order, the petitioners' request has been satisfied by previous action of the Commission. By amendment dated May 26, 1982, the hold points ordered by the Board were incorporated into the construction permits. See 47 Fed. Reg. 23999 (June 2, 1982). Accordingly, the construction permits already prohibit CPGCo from performing the following activities without "explicit prior approval" from the staff:

- (a) any placing, compacting, excavating, or drilling soil materials around safety-related structures and systems;

- (b) physical implementation of remedial action for correction of soil-related problems under and around safety-related structures and systems, including but not limited to:
- (i) dewatering systems
 - (ii) underpinning of service water building
 - (iii) removal and replacement of fill beneath the feedwater isolation valve pit areas, auxiliary building electrical penetration areas and control tower, and beneath the turbine building
 - (iv) placing of underpinning supports beneath any of the structures listed in (iii) above
 - (v) compaction and loading activities;
- (c) construction work in soil materials under or around safety-related structures and systems such as field installation, or rebedding, of conduits and piping.

Construction Permits No. CPPR-81 and CPPR-82, Amendment No. 3 (May 26, 1982).

2. Management audit of CPCo

The petitioners request that the NRC require a management audit of CPCo's performance on the Midland project. The staff does not believe that a management audit is necessary at this time as a condition for going forward with the CCP. The staff expects that the CCP, with its built-in hold points and third party overview, should provide an effective process to satisfactorily complete construction at Midland, without the previous quality assurance problems. The third party overview together with the planned staff inspection activities should provide information to determine the adequacy of the licensee's implementation of the CCP. Nevertheless, the staff will continue to review information concerning the licensee's performance in other areas to determine whether an audit is required.

activities in which they were previously involved. See Letter from Chairman Palladino to Representatives Ottinger and Dingell (Feb. 1, 1982), Attachment 1, at 1. Petitioners stated that S&W's role as the overseer of remedial soils work at Midland prohibits that organization from serving in the same capacity for the CCP. The staff disagrees. Since the remedial soils activities are outside the scope of the CCP, S&W will not be called upon to review its own work. Consequently, the staff does not agree that S&W's overview activities will conflict with the established independence criteria.^{7/}

7/ The petitioners questioned why TERA was disqualified from consideration as the overseer under the CCP while S&W was not disqualified on the ground of independence. See Petition at 19. TERA's disqualification was based on the potential for conflict that could be raised by TERA's overview under the CCP of determinations that TERA had previously made under the Independent Design and Construction Verification Program (IDCVP) of the adequacy of the construction of the Auxiliary Feedwater System, the onsite emergency AC power supplies and the HVAC system for the control room. Since TERA has been approved by the NRC to perform the IDCVP, the staff determined that TERA would not satisfy the Commission independence criteria for the third party overview of the CCP. See letter from James G. Keppler, Regional Administrator, Region III to James W. Cook, Consumers Power Company (March 28, 1983) at 3.

The written program documents being utilized to directly control and implement the Construction Implementation Overview (CIO) program^{8/} and the applicable S&W corporate master program documents^{9/} have been reviewed by the staff. These documents are representative of the scope and depth of the S&W overview. The NRC staff also met with S&W on August 25, 1983, in Midland, Michigan in order to gain additional insight into the total S&W program. Based upon its document review and discussions with S&W at the August 25, 1983, meeting, the staff has found the S&W proposal to constitute an acceptable third party overview program. To provide additional assurance that the third party audit is being properly implemented, the CIO program will also be audited independently by the S&W corporate quality assurance staff. NRC inspectors will also monitor the adequacy of the CIO program.

8/ The documents written expressly for the CIO include:

1. CIO Program Document dated April 1, 1983.
2. CIO Quality Assurance Plan.
3. Third Party CIO Plan.
4. CIO Assessment Procedure, 10.01.
5. Nonconformance Identification and Reporting Procedure, 15.01.
6. A detailed attribute checklist for each CPCe Project Quality Control Instruction (PQCI).
7. A detailed checklist to review generic types of requirements (for non-PQCI activities); e.g., QA Audits and Surveillances.
8. Additional Quality Control Instructions needed to provide adequate overview control.

9/ The following S&W corporate master program documents will also be utilized for the CIO, as required:

1. QA Topical Report SWSQAP 1-74A, S&W Standard Nuclear Quality Assurance Program.
2. S&W Quality Standards; e.g., for quality sampling.
3. S&W Quality Assurance Directives.

Of particular concern to the petitioners was the number of personnel which S&W had assigned to the Midland overview. See Petition at 18. The number of qualified people will vary with the demand of the work activities to be overviewed. S&W's CIO staffing plan currently has nine people assigned at the Midland site and there are planned increases to 32 people as work activities progress. These numbers, however, are only estimates and S&W has represented that it will commit whatever personnel are necessary to conduct the CIO. Furthermore, the number of personnel utilized by S&W is not subject to limitation by CPCo.

S&W has already begun to review preliminary activities of the licensee in preparation for initiation of the CCP.^{10/} This effort has identified various concerns and one nonconformance that required CPCo action to resolve. The NRC staff has reviewed the CIO activities performed to date and has found this overview, including actions taken by CPCo, to be of the quality expected of a third party overview.

^{10/} The activities being overviewed have included the following CCP and non-CCP activities:

- Program and Procedure Reviews.
- Review of PQCI's.
- Review of MPQAD QA/QC personnel training and certification.
- Review of general training of CPCo and Bechtel personnel, including construction craftspersons.
- Review of CCP Management Reviews.
- Review of System Interaction Walkdowns.
- Review of Design Documents.

The purpose of the independent third party overview is to provide additional assurance that the CCP is adequate and will be properly implemented. This overview requirement was necessitated by the loss of NRC staff confidence in CPCo to successfully implement a quality assurance program for the Midland project. The CIO will remain in place at the Midland site until the necessary level of confidence in the ability of the licensee to construct the Midland project has been restored to the satisfaction of the NRC staff.^{11/} Given that the third party overview is expected to continue until NRC confidence in the Midland project is restored, petitioners' criticism that the CIO is of insufficient duration appears unfounded.

Opportunity has been provided to the public to participate in the selection of S&W as the third party overviewer, and to comment on the CCP itself. A meeting was held on February 8, 1983, between CPCo and the staff to discuss the CCP. On August 11, 1983, the staff met with the intervenors, representatives of the Government Accountability Project (GAP) and the Lone Tree Council to discuss the CCP and the CIO. Subsequently, on August 25, 1983, the staff met with S&W to discuss the CIO. These meetings were conducted in Midland, Michigan and were open to public observation. Evening sessions to receive public comments regarding the CCP were held on February 8, and August 11, 1983. Similarly, public comments were received following the August 11 and August 25, 1983, meetings. Several additional meetings between the staff, intervenors and a representative of GAP to discuss the CCP and CIO have also been held.

^{11/} The staff anticipates that the third party overview will be a long term effort.

The petitioners' reference in its request to "closed door" meetings appears to refer to working level meetings that have been held principally between the Midland section of the Region III staff and CPCo site personnel, and, in some cases, S&W onsite personnel. See Petition at 19. Such meetings continue to be necessary to enable the NRC staff to achieve a full understanding of the CCP, including the CIO, and to discharge its inspection duties.

For the reasons set forth above, petitioners' request to reject the selection of S&W to conduct the CIO, and to reject the CCP, is denied. 12/

4. Removal of the Licensee from Primary Responsibility for the Midland Quality Assurance Program

The petitioners request that MPQAD be relieved of responsibility for the QA/QC function at the Midland plant and that an independent team of QA/QC personnel be created which would report simultaneously to the NRC staff and CPCo. In support of their request, petitioners cite much of the same history of QA/QC deficiencies that the staff summarized in the background section of this decision. See Petition at 20.

12/ The staff has approved S&W to conduct the CIO. See Staff Evaluation of Consumers Power Company Proposal to Use Stone and Webster Michigan, Inc. to Conduct the Third Party Construction Implementation Overview of the Midland Nuclear Plant (Sept. 29, 1983).

The changes that CPCo has most recently instituted through development of the CCP should improve its capability to discharge its responsibility under applicable Commission regulations, such as 10 CFR-50.34(a)(7) and Appendix B to 10 CFR Part 50, which require the establishment and execution of a QA/QC program. While Criterion I of Appendix B permits a construction permit holder to delegate to other organizations the detailed execution of the QA/QC program, the history of the Midland project makes it clear that the licensee has retained too little control over the QA/QC program. CPCo seems to be proceeding in a positive direction by integrating the implementation of the QC function formerly under the control of Bechtel into the MPQAD. This consolidation of quality control and quality assurance functions should reinforce the separation between the QC function, which will be assumed by MPQAD, and the construction function, which will remain with Bechtel.

While it might be permissible under Appendix B to 10 CFR Part 50 for CPCo to retain an independent organization to execute the QA/QC program, the licensee remains ultimately responsible for the establishment and execution of the program. As stated above, the staff considers the strengthening of MPQAD to be a positive step in improving CPCo's capability to assure the quality of construction of the Midland facility. In view of the relatively short existence of the MPQAD, there does not currently exist any justification for requiring CPCo to retain an outside organization to execute the QA/QC program. Therefore, this aspect of petitioners' request is denied.

Petitioners also requested that the independent QA/QC team report simultaneously to the NRC and to CPCo management. The petitioners apparently intended that

the NRC would be involved in making management decisions regarding construction of the facility based upon the reports of the independent QA/QC team. There appears to be no basis for this extraordinary departure from the NRC's regulatory function. Accordingly, this aspect of the petition is denied.

5. Detailed Review of Soils Settlement Resolution

The petitioners requested that the staff conduct a detailed review of the resolution of the soils settlement problems, including a technical analysis of the implementation of the underpinning project at the current stage of completion. Petition at 23. In its supporting discussion, the petition focused upon the questionable structural integrity of the diesel generator building.

A detailed review of the program for resolution of the soils settlement problem has previously been conducted by the NRC staff and its consultants. In 1979 the U.S. Army Corps of Engineers was contracted to assist the staff in the safety review of the Midland project in the field of geotechnical engineering. After the soils problem became known, additional assistance to the staff in specialized engineering fields (structural, mechanical, and underpinning) was obtained from the U.S. Naval Surface Weapons Center, Harstead Engineering Associates, Geotechnical Engineers, Inc., and Energy Technology Engineering Center. These consultants assisted in the review of technical studies, participated in design audits, visited the site, provided input to the Safety Evaluation Report, and provided expert testimony before the Atomic Safety and

Licensing Board. Thus, the approach to the resolution of the soils settlement issue has been thoroughly studied by the staff and its consultants.

The implementation of the remedial soils activities is being closely followed as part of the NRC's inspection program. This inspection effort includes ongoing technical review of the remedial soils program and its implementation by a Region III soils specialist. Technical expertise to evaluate implementation is also provided by the NRC's Office of Nuclear Reactor Regulation. Additionally, the NRC is utilizing Geotechnical Engineers Inc. in assessing aspects of the remedial soils and underpinning activities. In addition, the soils settlement question has been in litigation for over two years before an Atomic Safety and Licensing Board. Consequently, the relief requested with regard to the soils settlement issue has been substantially satisfied by prior action of the Commission.

Along with review of the soils settlement issue, petitioners requested that another study of the seismic design deficiencies of the Midland plant, with emphasis on the diesel generator building, be conducted. The petitioners further requested that this review would be conducted by a "non-nuclear construction consultant." See Petition at 23.

The NRC staff has initiated a task force study by consultants from Brookhaven National Laboratory (BNL) and NRC structural engineers to evaluate concerns about the structural integrity of the diesel generator building raised by a NRC Region III inspector in testimony before the Subcommittee on Energy and the Environment of the House Committee on Interior and Insular Affairs. Following their review, a report will be issued addressing the concerns raised by the inspector. Decisions on whether further actions are required will be

made based upon that report. Additional details on the task force were provided to the Government Accountability Project by letter dated August 10, 1983, and in Board Notifications 83-109 and 83-142, which were transmitted to GAP on July 27 and September 22, 1983, respectively.

As to the request that a review of the diesel generator building be conducted by a "non-nuclear construction consultant", BNL has established an expert team to resolve the concerns raised by the Region III inspector. Expertise rather than the label "non nuclear construction consultant" should be the governing criteria. The staff has reviewed the qualifications of the team members and is satisfied with their experience. The task force study currently in progress substantially satisfies this aspect of the petition.

The petition also appears to be requesting an additional review of the seismic design of structures other than the diesel generator building. Petitioners have not, however, stated any basis why additional reviews beyond those reflected in the Safety Evaluation Report and Supplements are necessary. The staff does not believe that an additional review by an outside organization of the facility's seismic design is required at this time.

Conclusion

Based upon the foregoing discussion, I have granted the petition in part and denied it in part.