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

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May 11, 1984

✓ 0123

MEMORANDUM FOR: Stephen H. Lewis
Regional Counsel, RIII

FROM: Dan M. Berkovitz
Office of the General Counsel

SUBJECT: DOW CHEMICAL V. CONSUMERS POWER LAWSUIT

DB

Attached please find the letter from Eugene Driker that I received today. We discussed this topic last Monday.

I agree that NRC must treat allegations received from Dow no differently from allegations received from others, but I nonetheless am concerned about the manner in which this is done. I now question whether we should do anything on an "informal" basis - even provide documents. The parties are eager to seize upon whatever we do as a statement on the merits of the case. Dow's attorneys appear especially aggressive in this respect (as well as in others). I don't want to be constantly explaining our "informal" actions that one side claims favors the other nor do I want NRC's position to be misrepresented.

An alternative approach, however, is to ignore the name-calling and just continue to do what we believe to be correct. A possible response to Mr. Driker is simply to tell him that the "exchange of information" between NRC and Dow referred to the manner in which NRC chose to respond to Dow's FOIA request and that Consumers has the same opportunity to examine our files. (Assuming that is the case.)

Let's discuss whether we need to become even more formal with the parties or whether we should just continue as is.