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May 4, 1984

Daniel Berkovitz, Esq.
Office of General Counsel
Nuclear Regulatory Commission
Washington, D.C. 20555

Re: The Dow Chemical Company v
Consumers Power Company

Dear Mr. Berkovitz:

Confirming our telephone conversation of Friday, enclosed are copies of various newspaper stories indicating that representatives of The Dow Chemical Company met with NRC personnel to discuss matters at issue in the litigation now pending in the Midland County Circuit Court with Consumers Power Company.

Also enclosed is a statement given to us by William Jentes of Kirkland & Ellis, counsel for Dow. Mr. Jentes indicated that this statement was read to the press in response to inquiries. We particularly call your attention to the last sentence, indicating that Dow "had cooperated with the NRC for an exchange of information as a result of the current discovery process in the Dow/CP suit."

We understand the position of your office to be that NRC staff personnel will not meet informally with representatives of either Dow or Consumers Power Company. If that is the position of the NRC, then we are concerned about the apparent ability of Dow attorneys to discuss the issues and the evidence in our case with members of the NRC staff.

We look forward to hearing from you after you've had an opportunity to review these materials.

Sincerely,

BARRIS, SOTT, DENN & DRIKER

By: *Eugene Driker*
Eugene Driker

8408150692 840718
PDR FOIA PDR
RICE84-96

ED:mw
Enclosures

MAY 14 1984

4/30/84
Rec'd in Court
from Mr. Jentes
G. J. Jentes

The documents in question refer to correspondence with Dow and the NRC and relate to information Dow determined was germane to its original contentions^{with} that Consumers withheld material from Dow prior to the conclusion of the 1978 contract negotiations between Dow and Consumers. As you know, it's the withholding of this initial information that led Dow to seek relief from the courts of its 1978 contract.

These and other documents will be reviewed in normal discovery process as this issue proceeds through normal judicial ~~procedure~~^{steps}.

We really can't elaborate any further, the matter is currently in litigation.

Above statement given to Detroit Free Press and Booth Newspaper (Lansing bureau) on p.m. of 4-26

Press calls from WNEM-TV 5, Saginaw, WDIV-4, Detroit, Booth Newspapers, Saginaw News, Midland Daily News & Detroit News received 4-27 as result of F.P. article...all told basically same as above... stressed that Dow initiated nothing, only that we had cooperated with the NRC for an exchange of information as a result of the current discovery process in the Dow/CP suit.



BORING LOG				PROJECT	JOB NO.	SHEET NO.	HOLE NO.		
Evaporator & Auxiliary Bldg.				MIDLAND POWER PLANT	7229-101	1 OF 1	E		
At Footing 4-Ca				90°		REMARKS			
DATE	COMPLETED	DIVISION	(Abel Drilling)	DRILL MAKE AND MODEL	DRILL SIZE	OVERSAMPLING (%)	TOTAL DEPTH		
9/29/77	9/29/77	Singaton	Drilling	CME-550	5"		16.5'		
DRIVE MECHANISM (%)	DRIVE CODE	SAMPLES	BL. TOP OF CASING	SPINDLE BL.	DEPTH OF CHURNING WATER	DEPTH OF TOP OF CASE			
		14		633.0	See Notes				
CORRECTION FACTOR		CORRECTION TO HOLE NO. NUMBER		LOGGED BY					
140 lb/70 inches		None		J. B. Givers					
SAMPLE NO.	DEPTH (ft)	CORRECTION	PENETRATION BLOWS			ELEVATION	DEPTH (ft)	DESCRIPTION AND CLASSIFICATION	NOTES ON SOIL LEVELS, SOIL TYPES, OR OTHER DATA OF INTEREST
			15'	30'	45'				
						633.0	0	0-1.5' Silty Sand, tan (Fill) (SI/SM)	5" auger to 8.5' Drilling with 4" tricone and circulating water
						628.5	4.5	1.5-4.5' Concrete Mudcap	
SS 18	8	10	15	19	11	628.5	4.5	4.5-9.5' Clayey Sand to sandy Clay, gray, very stiff, slight to low plasticity, slight moisture (SC/CL) (Fill)	Qp1=4.5' TSP Qp2=4.5' TSP
SS 18	13	23	12	11	12	623.5	9.5	9.5-12.0' Clayey Silt, brown, peb pebbles to 1/2". Fast stain, low moisture, low plasticity (MC/ML) (Fill)	Qp3=4.5' TSP
SS 18	18	33	10	15	18	621.0	12	12.0-15.5' Silty Clay, brown with trace gray, low plasticity, low moisture, pebbles to 1/4". hard (CL)	Qp4=4.5' TSP
SS 18	18	38	10	21	37	617.5	15.5	15.5-18.0' Sand, gray, medium grained, moist, trace silt, very dense (SP) (Fill)	Qp5 (none-sand)
SS 18	18	36	13	24	32	615.0	18	18.0-19.0' Brown sandy Clay, with seams sand (CL) (Fill)	Qp6=4.5' TSP
SS 18	12	32	10	15	17	612.5	20	19.0-20.5' Gray Sand, dense (SP) (Fill)	Qp7=4.5' TSP
SS 18	12	29	11	14	15	608.5	24	20.5-24.5' Silty Clay, brown with reddish tint, very stiff (CL)	Qp8=4.5' TSP #8 had problems with "conut" rubbing on rod when pounding. Told driller to stop and repair. After #8 redrove casing to 21.0' because water was rushing up sides and out hole.
SS 18	12	41	10	21	22	607.0	26	24.5-26.0' Brown (reddish tint cone) (Fill)	
SS 18	12	39	13	24	35	605.0	28	26.0-28.0' Sandy Clay to clayey Sand, with seams of sand, stones to 1/2" inch (Fill)	
SS 18	18	38	12	13	45	600.0	37	28.0-31.5' Silty Clay, brown, hard (CL) (Fill)	
SS 18	12	31	12	13		596.5	35	31.5-33.0' Sandy Clay, brown, hard, (CL) tan sand, seam at 32.0'	Qp10 (sand) Qp11=4.5' TSP Qp12 (sand) Qp13 (sand) Qp14 (sand) Water at 4.4' while drilling water level at 4.1' after drilling.
								33.0-36.5' Fine to medium sand, brown, very dense, trace clay, low moisture (SP)	
								Total Depth 16.5' Elevation Bottom 596.5	
Evaporator and Auxiliary Boiler Building				E					

Revision 13
6/82

D.1-318

F01960



BORING LOG				PROJECT	JOB NO.	DRAWING	HOLE NO.
Diesel Generator Building				MIDLAND POWER PLANT	7220-101	1 of 1	D
EQUIPMENT				DRILL MAKE AND MODEL	HOLE SIZE	DRILLER	DATE
S 5186 E305				CYF-550	5"	N.A.	N.A.
START	COMPLETED	DEPTH	LOGS	DEPTH OF CASING	DEPTH OF BORING	DEPTH OF WATER	TOTAL DEPTH
9/29/77	9/30/77	Singleton	(Adel) Drilling	629.4	629.4	See notes	31.5'
LOGS ACCURACY (%)				DEPTH OF WATER			
N.A.				N.A.			
LOGS LEFT IN HAND - SEE ADDRESS				WORKED BY:			
140 lb/30 in.				None Jerry S. Givens			
SAMPLE TYPE	DEPTH (ft)	PENETRATION BLOWS	ELEVATION	DEPTH (ft)	DESCRIPTION AND CLASSIFICATION	NOTES ON TESTS AND SAMPLES	
							10'
			629.4	0			
	55	1.5' 0.9'	624.9	4.5'	0-4.5' Silty to sandy Clay, gray, slight to low plasticity, (CL)(Fill)	5" auger to 20.5' set casing, began drilling with 4" tricone roller bit and recirculating water.	
	55	1.5' 0.9'	622.0	7.4'	4.5-7.4' Sand, tan, medium dense, slightly moist (Fill) (SP)		
	55	1.5' 0.9'	621.4	8'	7.4-8' Concrete hydrat		
	55	1.5' 0.9'		10'	8-15.5' Silty to sandy Clay, gray, little gravel, low moist, low plasticity, very stiff to hard (CL)(Fill)	Op 1 = 4 TSP Op 2 = (sand) Op 3 = sample breaks up at 1.5 TSP	
	55	1.5' 0.9'		15'		Op 4 = 4.5- TSP Op 5 = sample crumbles, low moisture	
	55	1.5' 1.2'		20'		Op 6 = 4.5 TSP Op 7 = 4.5 TSP Op 8 = 4.5- TSP	
	55	1.5' 1.0'		25'		Op 9 (trial) = 4.5- TSP Op 10 (sand) Op 11 (sand)	
	55	1.5' 1.0'	603.2	25'	23-24.2' Seam of clayey sand, with trace organics, grayish brown		
	55	1.5' 0.9'		24.2'	24.2' Tan, medium sand seam, low moist.		
	55	1.5' 0.9'		20'	25.5-31.5' Silty Sand, brown, medium grained, wet, very dense (SM)	Hole caving in at 21' so used 3/4 bag quick c.	
	55	1.5' 0.9'	607.9	31.5'	Bottom of boring at 31.5'	Water level at 10.4' after drilling. Hole backfilled with soil after completion.	
NO. OF TESTS AT EACH DEPTH				SITE			
				Diesel Generator Building			

Revision 13
6/82

F01961

BORING LOG

M. SLAND NUCLEAR PLANT 7270 1-1 0

DIESEL GENERATOR 3LOG S. 515 G. 305 50°

25.77 51307 SINGLETON (AER. SOIL) CHE-550 5" 31.5

12 629.4 (SEE NOTES COL.)

140 1/2" NONE JERRY B. GIVENS

DEPTH (FEET)	PENETRATION BLOWS			ELEVATION	DESCRIPTION AND CLASSIFICATION	NOTES
	100'	200'	300'			
629.4				629.4		
624.9	21	17	10	624.9	5'-2.5' SILTY TO SANDY CLAY, GREY, SLIGHT TO LOW PLASTICITY (CL)	5" AUGER - 7 26.5' BIT CASING, B&B DRILLING W. 4" TRI-CON ROLLER BIT AND RECEIVING WATER
622	34	10	10	622	5'-7.4' SAND, TAN, MEDIUM GRAINED, SLIGHTLY MOIST (SP)	GP#10 + TSF
621.4	16	5	5	621.4	0'-25.5' SILTY TO SANDY SLAY, GREY, LITTLE GRAVEL, LOW MOIST. LOW PLASTICITY, VERY STIFF TO HARD (CL)	GP#22 (SAND) GP#30 SAND: BREAKS IN AT 3.5' OPT#2 4.5'
	31	16	17			GP#58 SAND CRUMBLER MOISTURE
	26	10	16			GP#10 4.5'
	47	10	22			GP#22 4.5'
	65	15	29			GP#30 SAND: BREAKS IN AT 3.5' OPT#2 4.5'
	57	16	25			GP#58 SAND CRUMBLER MOISTURE
	55	20	33			GP#10 4.5'
603.8	107	30	42	603.8	23'-24.2' SEPM OF CLAYEY SAND W/ TRACE ORGANICS, GREY TO BROWN, CAL TAN MEDIUM GRAINED	GP#22 4.5'
	113	35	49			GP#77 4.5'
597.9	122	132		597.9	0'-25.5'-31.5' SILTY SAND, BROWN, MEDIUM GRAINED, WET, VCT-TOUSE (SM)	GP#80 4.5'
						GP#10 (SAND) GP#11 (SAND)

TOTAL DEPTH = 31.5'
BL. BOTTOM = 597.9

HOLE CAVING @ 23' 30" 1/4 BAG OF GEL

WATER LEVEL AT 10.4' AFTER DRILLING

HOLE BUILT WITH SOIL AFTER COMPLETION

N 0006124

2512000

Stamiris Ex 27

BORING LOG

MIDLAND NUCLEAR PLANT 7220 1001 E

90°

OPERATOR AND AUX. BUILDER AT FOOTING B-CA

5/20/79 SINSLETEN (A9ELDR) CME-5ED

5"

36.5'

653

(SEE NOTES COL.)

14

JERRY B. GIVENS

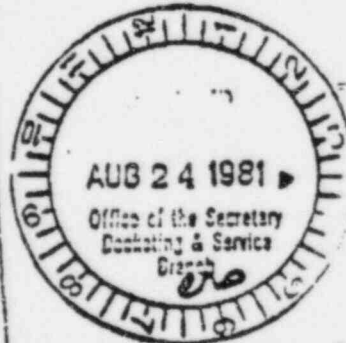
NONE

140/15

DEPTH (FEET)	PENETRATION BLOWS				ELEVATION	DESCRIPTION AND CLASSIFICATION	NOTES
	100'	200'	300'	400'			
653					653	0-3.5' SILTY SAND, TAN (S&SM)	ST AUGER TO 2.5', DRIVING W/ TRICONE AND RECORDING NOTES
628.5					628.5	3.5-12' CLAYEY SAND TO SANDY CLAY, GRAY, YEL. STIFF, SLIGHTLY LOW PLASTICITY, SLIGHT MOISTURE (SC/CL)	#10Q = 4.5' TO F #12Q = 4.5' TO F #14Q = 4.5' TO F
623.5	30	15	19	11	623.5	12-15.5' CLAYEY SILT, BROWN, PEBBLES TO 1/2", RUST STAIN, L. MOIST, L. PLASTICITY (CL)	#10Q = 4.5' TO F #12Q = (NONE - SAND) #14Q = 4.5' TO F
621	23	12	11	12	621	15.5-18' SAND, GRAY, MEDIUM GRAINED, MOIST TO SILTY, YEL. TO BROWN (SP)	#10Q = 4.5' TO F #12Q = 4.5' TO F
617.5	33	10	15	16	617.5	18-22.5' GRAY SAND, DENSE (SP)	#10Q = 4.5' TO F
615	30	10	15	15	615	22.5-24.5' SILTY SAND, BROWN, W/ LITTLE VENT STIFF (CL)	#10Q = 4.5' TO F
614	58	16	21	37	614	24.5-30' BROWN (NEARLY TINT CONG)	#10Q = 4.5' TO F
612.5	56	13	24	32	612.5	30-31.5' SILTY SAND, BROWN, HARD (CL)	#10Q = 4.5' TO F
608.5	52	16	15	17	608.5	31.5-33' SANDY CLAY, BROWN, HARD TO VERY DENSE, THIN CLAY, LOW MOIST. (SP)	#10Q = 4.5' TO F
607	29	11	14	15	607	33-36.5' FINE TO MED. SAND, BROWN, HARD TO VERY DENSE, THIN CLAY, LOW MOIST. (SP)	#10Q = 4.5' TO F
605	43	10	21	22	605		#10Q = 4.5' TO F
601.5	53	15	24	35	601.5		#10Q = 4.5' TO F
600	55	12	13	45	600		#10Q = 4.5' TO F
596.5	62	62			596.5		#10Q = 4.5' TO F

TOTAL DEPTH = 36.5'
EL BOTTOM = 596.5'

#10Q = (SAND)
#11Q = 4.5' TO F
#12Q = (SAND)
#13Q = (SAND)
#14Q = (SAND)
WATER 1-9. WHILE DRILLING. WATER LEVEL AT 5.1 FEET DRILLING.



N 0005147

E

To: Strickling

Friday, April 27, 1984

DFP

U.S. Probes New Charges About N-Plant Agency gets Dow documents

By DAVID EYRETT
Free Press Staff Writer

The U.S. Nuclear Regulatory Commission is investigating new charges related to soil settlement problems at Consumers Power Co.'s Midland nuclear power project, the Free Press has learned.

The investigation centers on charges that Consumers or its contractors may have acted improperly in 1977 testing soils compaction work at the Midland site.

"We're talking about the possible changing of test conditions" in the soils testing, Jan Strasma, the commission's Midwest spokesman, said Thursday. He said that the agency got documents related to the allegations last week from Dow Chemical Co. and that they were given this week to the commis-

sion's Office of Investigations in Washington.

If the test conditions were changed, it could indicate that Consumers knew about the serious soils problem at the Midland plant before it told the commission about it in 1978. Consumers has insisted that it did not learn of the extent of the soils problem until mid-1978.

CONSUMERS SPOKESMAN Michael Koschik said Thursday that he could not respond to the commission's investigation without details of the allegations, but he "absolutely" denied that the utility knew the extent of soils problems before it was reported to the commission in 1978.

See MIDLAND, Page 11A

U.S. probes new charges at Midland power plant

MIDLAND, from Page 1A

Allegations referred to the commission's Office of Investigations usually involve the possibility of "deliberate or willful wrongdoing" by a utility or contractor, Strasma said.

Strasma said the allegations began with information provided by Dow, based in Midland. "Dow informally provided information to us and supplied some documents" relating to the soils testing, he said.

Dow is suing Consumers to avoid paying a penalty for canceling its contract to buy steam from the Midland plant. Consumers is counter-suing, saying Dow owes more than \$400 million.

Dow spokesman Phil Schneider said Thursday the documents were those his company consider "germane to its original contentions that Consumers withheld material information from Dow" before the steam contract was signed in 1978.

It was this "withholding of critical information" that led Dow to sue last year, Schneider said.

THE IMPROPER compaction of soils has been the most serious of several major construction mistakes at the multibillion-dollar project, now about 85 percent complete. The resulting soil settlement has caused at least one vital safety building at the nuclear project to sink more in a few months than would normally be expected in 40 years.

Consumers and its primary contractor, Bechtel Power Corp., are tunneling under many safety buildings at the plant and resupporting them with concrete.

The allegations the Nuclear Regulatory Commission is investigating "involved the original soils work, the compacting — not the work that's going on now to fix it," Strasma said.

He would not say whether the allegation was about Consumers, Bechtel or another contractor.

Wall Street analysts say the stock market is anticipating that the annual dividend on Consumers Power Co.'s common stock will be eliminated. Page 4E.

Dow gives NRC evidence against Consumers

MDN 4-27-84

By JULIE MORRISON
and The Associated Press

DETROIT—The U.S. Nuclear Regulatory Commission is investigating charges that Consumers Power Co. or its contractors altered the conditions of soil tests at the utility's Midland nuclear plant, an NRC official says.

The NRC is investigating allegations furnished by Dow Chemical Co. that soil compaction test conditions were changed in 1977, Jan Strasma, the agency's Midwest spokesman, said Thursday.

"We're talking about the possible changing of test conditions" in the soils testing, Strasma said.

A citizen intervenor in the Midland case chastised the NRC for its announcement, saying the agency had information about this issue as long as five years ago and should have launched an investigation then.

Strasma said the NRC decided to start its investigation after "Dow informally provided information to us and supplied some documents" about the testing, adding that the information

was forwarded this week to the NRC's Office of Investigations in Washington.

That office usually investigates the possibility of "deliberate or willful wrongdoing" by a utility or contractor, Strasma said.

Dow spokesman Phillip Schneider said the information was turned over to the NRC at that agency's request. He said NRC attorneys wanted it because staff members will give depositions during the upcoming lawsuit between Dow and Consumers.

"We are merely cooperating in the process of discovery with other parties in the lawsuit," Schneider said.

Dow is suing Consumers for \$60 million and attempting to avoid paying a penalty for canceling its contract to buy steam from the Midland plant. A countersuit by Consumers seeks more than \$400 million from Dow.

Dow contends in the lawsuit, filed last summer, that Consumers falsely represented to the chemical company the extent of soils problems and estimated completion dates for the plant.

Both Schneider and Strasma said

they do not know the specifics of documents released to the NRC. A Midland County Circuit Court order restricts access to documents involved in the lawsuit only to parties immediately involved.

A Consumers spokesman this morning said the utility is not aware of which documents the NRC has, adding the company has not been notified of an investigation.

However, Tom Holliday also said in a prepared statement that Consumers did not know the extent of soil settlement problems at the Midland plant before they were reported to the NRC in 1978.

Improperly compacted soils are among several construction problems at the \$3.95 billion twin-reactor plant, now about 85 percent complete.

Consumers, its primary contractor, Bechtel Power Corp., and other construction firms are tunneling beneath several buildings at the site and will pour new concrete to support buildings at the plant.

Intervenor Barbara Stamiris, of

Freeland, said questions about the soils problems and when Consumers were aware of them were brought to the NRC's attention as early as 1978.

Mrs. Stamiris said NRC inspectors learned of soils problems when they were told by a worker that a support beam in the administration building failed in 1977 because of poorly compacted soil. Consumers did not report the failure to the NRC because the building is not safety-related and was therefore not considered by the utility to be an NRC concern, she said.

"When they did find out by happenstance, the NRC should have investigated it right then," she said. "But they wait until someone puts it in their lap or until the whole thing blows up on them. I have real problems with the timing of this."

Mrs. Stamiris said the extent of soils problems also was brought to the attention of the NRC by Consumers in a 1977 audit of the soils situation. She said the company concluded that a contractor, U.S. Testing, made errors in calculation and method of testing the soils and that

the company suggested retesting some soils sites that failed previous tests.

Mrs. Stamiris said the NRC criticized the procedure because the utility did not also retest areas that passed in previous tests.

Consumers was aware of the soils problems before it began constructing the diesel generator building, which is a safety-related structure, she said.

Consumers also acknowledged the soils problems in March 15, 1981, findings, she said, when the company wrote "hindsight confirms that evidence existed in 1977, which if given different weight, would have revealed the plant-wide soils condition in time to have prevented the problems which now confront us."

The Consumers audit and written findings are the "closest we've ever come to a smoking gun that indicated in black and white there were changes in soils tests," Mrs. Stamiris said.

Strasma said specifics of the investigation have not yet been made by the NRC, adding he does not know how long the investigation will continue.

Look memories
1960s music stars 'Happy
Together' at Civic Center

Page A-8



Tigers
16-1!

They can tie league record
by beating indians tonight
Page C-1



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The Saginaw

NEWS

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Friday, April 27, 1984
Showers tonight, Saturday

25¢

NRC probing Midland plant soil-test-record charges

By DAVID SEDGWICK
News Lansing Bureau

CHICAGO — The Nuclear Regulatory Commission is probing charges that construction related records of the Midland Nuclear Plant were falsified by Consumers Power Co. or one of its subcontractors.

The review centers on allegations that soil tests at the plant's construction site were intentionally falsified, a top NRC official said Thursday.

Consumers is now spending hundreds of millions of dollars to prevent portions of the unfinished, twin-reactor plant from sinking into soft soil.

James Keppler, NRC administrator for Region III, said the investigation was started last week after the

agency received documents from Dow Chemical Co. which detailed allegations of falsified test results. Those tests allegedly took place before 1978.

Michael Koschik, a Consumers Power spokesman, said that officials at the Jackson-based utility have always been forthright about the soil problems.

"No official of Consumers Power either intentionally or unintentionally withheld information about soil settlement from the NRC," Koschik said.

However, Koschik said he could not comment about possible actions taken by subcontractors working on the massive construction project.

"At that time, we were placing a lot more responsibility on the subcontractors," he said.

If the allegations are accepted as true by the NRC, the agency has wide discretionary authority that ranges from issuing heavy fines to waiving penalties.

The records under NRC review are part of a legal fight between Dow and Consumers. Those records purportedly show that the results of soil tests were misrepresented to the NRC, but it is unclear who allegedly falsified the information.

Since 1978, the utility has been struggling to find a solution to the soils problems involving a key building at the \$5.7-billion nuclear plant. The company began reinforcing the underpinnings in December 1982 and the complex task is about one-third completed.

Koschik said that Consumers reported the problems to the NRC within 24 hours after learning the

diesel generator building had sunk several inches. He said that was the first time the utility was aware the sinking effected a safety-related building.

The NRC's Office of Investigations in Washington is handling the inquiry, Keppler said.

Keppler, NRC's top Midwest official, said he personally is unaware of any fraud that might have occurred. Keppler also said he is not familiar with details of the probe.

"To the best of my knowledge there has been no falsification. But if there was falsification, it would be a matter that would be dealt with strongly," he said.

Please see CHARGES, Page A-2

News

CLOSE LOOK

Agency zeros in on Fermi

Probe could lead to new delay

by Michael A. Robinson
and Charlie Cain
News Lansing Bureau

LANSING — The federal Nuclear Regulatory Commission (NRC) is intensifying inspections of Detroit Edison Co.'s Fermi II nuclear power plant, which is nearing completion in Monroe.

Although no quality control problems have been discovered, the increased attention could lead to new delays and cost overruns at the \$3.07 billion Fermi facility, NRC spokesman Jan Strasna confirmed yesterday.

The agency usually steps up its scrutiny of nuclear plants as they near the final stages of construction, said Strasna. Fermi II is 98 percent complete and is slated to begin operating early next year — 11 years later than originally planned.

"WE ARE LOOKING for further assurance that the plant is being built properly," said Strasna. "If we uncover construction problems, then it could lead to delays or additional costs."

Increased inspections at the Fermi plant mean that NRC personnel are now deeply involved in both major nuclear power construction projects in Michigan.

Agency officials said yesterday they are investigating new allegations of soils settlement problems at Consumers Power Co.'s Midland nuclear power plant. The investigation focuses on allegations that Consumers may have acted improperly in 1977 when soils construction work was tested at the site.

Consumers contends it did not know of the soils problem, which still threatens completion of the \$5.7 billion project until 1978 — after Dow signed a contract to buy steam from the Midland plant.

SOIL BENEATH some of the huge complex sunk excessively, and under orders from the NRC the utility is working on a costly project to remove the defective soil and replace it with concrete foundations.

Meanwhile, Edison officials said they are optimistic that construction of Fermi will not be delayed or halted as a result of the NRC's inspection program.

"We have said the plant is a good, safe plant," an Edison spokesman said.

Continued on Page 4A

Agency zeros in on troubled Fermi

Continued from Page 1A

"We believe our work can stand up to any close inspection."

The William H. Zimmer plant in Ohio was not so fortunate. Some \$1.7 billion had been spent and the plant was 97 percent complete when the NRC, citing a litany of quality control problems, halted construction in November 1982.

STRASNA SAID the halt came after a period of heavy NRC involvement at Zimmer, which included a \$200,000 fine slapped on the project because of safety problems. The Zimmer plant is now being converted to a coal-fired facility.

"In any large (nuclear) construction project, the last few months are a time when problems may surface," said Strasna. "But we are confident that there is nothing of the magnitude of Zimmer at Fermi."

"We have not imposed any fines or major stop work orders at Fermi. Their record has been fairly good."

He said that the new effort will bring inspectors from the NRC's Chicago regional office to the plant to lend assistance to inspectors already at the Monroe County construction site.

"WE MAY HAVE a dozen different inspectors at one time or another or even more," he said.

Strasna said his agency has reviewed copies of Edison's "safeteam" exit interviews of all construction workers leaving the site. Those docu-

ments did not detail any major problems, he added.

In the Consumers case, charges were raised in response to documents obtained last week from Dow Chemical Co., a former partner in the Midland project. NRC officials want to know if the soils problem could have been detected in 1977 and not in 1978 as Consumers has maintained.

Dow, saying it was misled by Consumers, pulled out of the Midland program last July and is suing Consumers for more than \$60 million in

'We are looking for further assurance that the plant is being built properly'

damages. Consumers in turn seeks to recover some \$460 million it says Dow owes in cancellation fees.

A DOW SPOKESMAN said the information was requested by the NRC. He further stated that the information is part of documents the company prepared for its suit against Consumers.

"We contend in our suit that Consumers withheld material about the soil sampling from us at the time we entered into an agreement with them in 1978," said Phil Schneider.

Consumers' spokesman Thomas Holliday said the company still stands by its original statement that it was unaware of the soil problems until 1978.

Unit two ^{MOR} 4/11/84 cost near \$4 billion

By JULIE MORRISON
Daily News staff writer

JACKSON — Unit 2 of the Midland nuclear plant is now expected to cost \$3.95 billion and should be in commercial operation by December 1986, Consumers Power Co. officials said Tuesday.

The cost is almost as much as the company's last estimate of the total tab for the twin-reactor nuclear project, now more than a decade behind schedule and billions of dollars over budget. Total cost of the project is now estimated at about \$5.5 billion.

Consumers also announced it was cutting its quarterly common stock dividend to 35 cents, down 28 cents or 44 percent from 63 cents. The dividend cut is expected to raise \$100 million a year to fund construction of the Midland project.

Consumers President John D. Selby announced the revised cost and schedule for shareholders at the utility's annual meeting. Consumers previously had estimated the whole project would cost \$4.43 billion and be completed by mid-1986.

The company's latest estimate did not include an update about Unit 1 of the plant, and the utility said its fate is on "indefinite hold."

The announcement raises the cost of Unit 2 from the \$2 billion has already invested in it and marks the fifth major revision in cost the company has made since the plant was announced in the late 1960s.

Consumers spokesman Michael Koschik said the company has invested \$3.2 billion in both units to date.

In announcing the schedule, Selby said Consumers will continue building the plant because of Michigan's future energy needs.

"We at Consumers Power have the obligation not only to provide the power to turn the wheels of today's industry but to meet the demands of the future as well," Selby said. "While economic forecasting is far from an exact science, by even the most modest forecasts, Michigan will need Midland's power before the end of this decade."

Selby said rates initially will have to increase to cover Midland's construction costs, but he added depreciation tax benefits in 10 years will reduce the price of electricity from the plant by 25 percent.

Selby said the cost and schedule revision were necessitated primarily by Dow Chemical Co.'s decision to terminate its contract to buy process steam from Unit 1 of the plant as well as the implementation of a Construction Completion Plan for the site. Approved by the federal Nuclear Regulatory Commission, the CCP outlines a method for completing the plant and assuring quality. The plan requires a reinspection of work already completed before new work can continue.

Consumers currently has a \$776 million rate hike request pending before the Michigan Public Service Commission. If approved, \$564.2 million or 27.7 percent of that amount would be charged to electric customers when Unit 2 goes on line and would represent the company's first return on its investment in the project. The rate hike request does not include costs for Unit 1.

The dividend reduction announced by Consumers applies only to common stock. Dividends on preferred and preference stock will be paid in full.

Selby said the dividend reduction is "in recognition of the uncertainty over Midland, the need to conserve cash and maintain a dividend that will in the future allow access to equity markets."

With the reduction in dividends, Consumers common stock now will pay yearly dividends of \$1.40 per share instead of \$2.52.

Selby also announced Consumers' net income increased 33 percent in the first quarter of 1984, the result of an unusually cold winter.

Consumers customers face even higher bills

BY KEITH NAUGHTON
News Staff Writer

MIDLAND — Because of the increase in the cost of one reactor at the Midland Nuclear Plant, Consumers Power Co. may have to increase a record rate hike request by almost 60 percent.

At a press conference at the plant today, a utility executive said Consumers' \$776 million rate increase request will have to rise in proportion to the new cost of one of the plant's reactors.

Consumers announced Tuesday the cost of just one unit of the plant will total \$3.95 billion and be completed in December of 1986. The utility's rate hike request, now before the state Public Service Commission, is based on that reactor costing \$2.5 billion.

"There will have to be a proportionate recovery in rates," said Stephen H. Howell, Consumers' executive vice president in charge of the Midland plant.

Howell said the utility is readjusting its figures and will change its request to the PSC in "a couple of months."

The utility will not predict the fate of the plant's other mothballed reactor, but now says it is building a "one-unit" project.

"We are now a single plant with construction going toward completion," said James W. Cook, a Consumers vice president.

The utility continues to maintain that electricity generated from the reactor that is on hold — called Unit 1 — will be needed by 1994.

Unit 1 was originally designed to provide steam to the Dow Chemical Co. of Midland. Dow pulled out of its contract to purchase the steam last summer and filed suit against Consumers.

The utility counter-sued, and is seeking a settlement in excess of \$460 million. Howell did not predict the suits will be settled out of court.

"We are not talking (with Dow)," he said. "They have not wanted to talk directly."

In figuring the new cost of the plant, Consumers has "set aside" the \$210 million it spent to build equipment that would have supplied steam for Dow. It hopes to recover double that amount through litigation, Howell said.

Saginaw News
April 11, 1984

Howell said it will not cost as much to complete Unit 1 than it will to complete the other reactor because they share common systems.

"We're keeping our options open on Unit 1... (but) concentrating on one plant reduces the financial strain," he said.

Howell said financing the plant is the utility's "major hurdle" for completing it, noting that obtaining financing from Wall Street has been difficult for utilities building nuclear plants.

"Certainly the climate is bad now," he said.

Howell said obtaining a license from federal regulators to operate the plant also will be a significant step the utility must make to complete the plant.

The utility is confident it can receive that license by the time it plans to load nuclear fuel on July 1, 1986. Its confidence is based on an intensive, government-ordered re-inspection program, which Consumers expects will cause 40 percent of the plant to be reworked, Cook said.

600 acres burn at Camp Grayling

By Booth News Service

GRAYLING — Dry conditions were blamed for a fire Monday that burned 600 acres of grasslands at Camp Grayling, and state fire officials are warning that the potential for forest fires will remain high in Michigan until mid-May.

The Monday fire was ignited by a shell that was being destroyed on the mortar range.

Consumers starts ad campaign on TV

BY DAVID SEDGWICK
News Lansing Bureau

LANSING — Consumers Power Co., which is fighting to save the Midland Nuclear Plant, is mounting a televised advertising campaign emphasizing future electrical needs.

The company has hired the Birmingham-based advertising firm Stone, August & Co. to run the ad campaign. The agency developed two, one-minute spots.

Consumers is embroiled in a debate with state officials over the need for the \$5.7-billion nuclear plant. However, the ads do not actually mention the power plant or the company's financial troubles.

One top state official claimed Consumers' ad campaign is a waste of money.

"I am getting awfully weary of this," said Attorney General Frank Kelley, a longtime critic of the utility.

"It is imprudent, especially since most of this is propaganda that is trying to convince people that management is not at fault for all their problems," he added.

Kelley said the campaign will cost roughly \$600,000. Company officials declined comment on the campaign's cost.

Company spokesman Michael Koschik, however, said the TV ads do not deal directly with the issue of the Midland plant.

"The basic point is that Consumers Power has supplied energy to Michigan for nearly 100 years. We've always been able to plan for energy growth, and we can do so in the future," he said.

Consumers will pay for the campaign with corporate funds and will not charge ratepayers, Koschik said.

Both ads have a nostalgic note, showing a domestic scene from the turn of the century and an office setting in the 1930s. They allude to Consumers Power's approaching centennial in 1986, said Thomas Eicher, the ad agency's supervisory manager who is handling the campaign.

"Our approach is softer and less aggressive. They have a bit of nostalgia, leading into the (company's) centennial," he said.

The ads will run at least three weeks, and perhaps much longer. "It takes awhile to change public attitudes," Eicher explained.

The agency developed the campaign after conducting an opinion survey of Michigan residents. Eicher declined to disclose the survey's results.

Consumers has hired a second advertising agency to place ads in newspapers throughout the Lower Peninsula. Those ads contain more specific information about the state's energy needs, according to Koschik.

In the past, Consumers and other utilities have donated funds to pro-nuclear advertising campaigns. Last year, the company earmarked more than \$100,000 for the Committee for Energy Awareness, an industry group based in Washington, D.C.

The firm produced ads contending that nuclear energy is essential for a guaranteed supply of electricity. Those ads were aired on network television last year.



Consumers
Power
Company

J D Selby
Chairman of the Board
and President

General Offices: 212 West Michigan Avenue, Jackson, MI 49201 • (517) 788-1600

June 8, 1984

Honorable Frank J. Kelley
Attorney General
State of Michigan
Lansing, MI 48913

Dear Mr. Kelley:

Your letter of June 1, in which you said you cannot support completion of one unit of the Midland nuclear plant, is disappointing in its analysis of the reasonable proposal we have made to finish that unit to provide the state 800 megawatts of power needed for future growth.

You state that, despite your opposition, we are free to complete Midland. That is not the case. As we have been saying since March, we need your support and the support of other appropriate state officials in order to obtain the financing required to complete Midland. To allow this investment for the state's future to slip away will be a tragedy of enormous proportions.

You cite the study you received from Energy Systems Research Group (ESRG) as a key reason that our proposal to finish one unit is not acceptable. While we are currently analyzing that study, our initial conclusion is that it is biased and a totally unreliable analysis on which to base future energy policy decisions of this state.

According to its own promotional material, ESRG has long been a favorite organization for anti-nuclear groups to use to obtain favorable studies. Among past contributors to ESRG are the Clamshell Alliance, the major intervenor against the Seabrook plant in New Hampshire; Ralph Nader anti-nuclear public interest groups and opponents of the Shoreham nuclear plant on Long Island.

As you well know, ESRG is not neutral on the subject of Midland. In 1980, it told the media that either we should "demolish" that facility or turn it into a fossil-fuel plant. ESRG has testified against this company and for you at the Public Service Commission in the past and will do so in our current rate case. It has been issuing negative opinions about Detroit Edison's Fermi nuclear plant since at least 1979 -- a facility from which you have suggested we obtain power to replace Midland.

I find it of special interest that, at the news conference you held for ESRG, its spokesman could not cite one nuclear plant for which it supported completion. This despite the fact that over its quarter-century of operating

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Frank J. Kelley
June 8, 1984

experience, nuclear electricity is estimated to have saved American consumers from \$30 to \$40 billion and is now saving about \$3 billion a year over the most likely alternative power sources that would have been used. Furthermore, an ESRG report last year urged that two operating nuclear plants in New York State be closed. These plants, Indian Point 2 and 3, have been successfully generating electricity for more than 10 years. The ESRG study calls for New York to instead rely on oil-generated electricity. The current situation in the Persian Gulf makes us wonder about the ability of ESRG to make reasonable decisions for anyone's energy future.

You have made five statements about Midland in your letter to me. Let me take this opportunity to answer them, hoping in the process to set the record straight on some of the misconceptions and misuse of data inherent in these statements.

(1) The projected rate increase you cite is, as you are perhaps not aware, not all due to Midland. Midland Unit 2, as we have explained to your associates repeatedly, will increase rates 36 percent over a three-year phase-in period beginning in 1987. The first year Midland is operational, the average residential customer's bill might rise \$5.79 per month. Fuel savings could make that bill \$1.50 lower. The second and third year increases could be \$3.62 per month. After that, we look forward to a long period of stability, partly because we simply will not need to add generating capacity.

While we do not like adding these costs to the average customers' bill, we continue to stress that we currently sell our electricity to residential customers at a price lower than 88 percent of other investor-owned utilities in America. Even with Midland rate increases, our residential rates will remain in the lower 50 percent nationwide and would not rise above Detroit Edison rates. While we regret that increase, put in this context it is much less devastating than the enormous percentage increases that members of the coalition have claimed.

(2) Your letter fails to take into account the enormous sacrifices our shareholders have made and will be asked to make if we abandon Midland Unit 1 under our proposal. We are not asking for a return on the investment in that unit and, therefore, our shareholders will lose a \$92 million return the first year alone and some \$700 million during the 15-year amortization period. Already shareholders have seen their dividend reduced by 45 percent and their stock value decrease 60 percent.

As you well know, we are asking customers to pay for only five-eighths of Unit 1. Shareholders are also being asked to pay for three-eighths. Plus, our customers will not be charged for \$210 million in equipment in that unit that would have helped provide steam for the Dow Chemical Co.

You say that our electric customers were not responsible for our decision to build Midland Unit 1. We take pride in the 98-year history of meeting our responsibility to our customers in providing reliable electric service at affordable prices around the clock in all seasons. The decision to build Midland Unit 1 was prudent and a good faith commitment to meet our responsibilities.

Mr. Frank J. Kelley
June 8, 1984

(3) Can we complete Midland? The answer is an emphatic Yes. We have a clear path. We have a detailed completion plan that has been approved by the Nuclear Regulatory Commission and that allows us to meet all government regulatory requirements. The base design of Midland is complete; our procedures are in place. The training has been accomplished and we have a competent, enthusiastic and committed team there to do the job. The Nuclear Regulatory Commission has stated it believes this plant can be completed and licensed.

The \$3.5 billion rate base cap we have proposed for Unit 2 does several things. It provides a predictable situation for regulators and for Wall Street. It places the risk for bringing the plant in at its proposed cost on the company. Remember, it is our shareholders who will absorb costs over \$3.5 billion. We project that shareholders will have to sacrifice more than \$600 million in this portion of our compromise proposal.

We have consistently assured your representatives that the rate base cap is firm. In the unlikely event of abandonment at a future date, the cap would remain in effect. Abandonment will do no one any good. More than 5,000 jobs will be lost immediately. This is the largest ongoing construction project in Michigan. The plant pumped \$175 million in salaries into the Saginaw Valley area in 1983 and Consumers Power Company paid \$12 million in property taxes in Midland County.

The badly needed power the Midland plant could have provided would have to be replaced -- if we can get it -- by expensive purchases of replacement power. We have an aging generation system. Six of our coal units are more than 30 years old. Four other coal units are more than 25 years old and three of these units are at least 20 years old. We have only one coal unit less than five years old. More than three-fourths of the company's generating system is pre-1964. A college student today would find that all but three of our units were built before his or her birth. At approximately 800,000 kilowatts, Midland Unit 2 will produce about the same amount of electricity as the company's seven oldest units.

Without Midland Unit 2, I fear for Michigan's economic future.

(4) We share your concern for industrial rates in Michigan. But this is a regulatory, not a utility problem. In this state the rates are skewed in favor of residential customers, to the detriment of industry. We have long opposed this practice.

If you sincerely fear for Michigan's industrial future, we ask you to join us in requesting that the state's Public Service Commission take action to modify this rate skewing.

You say our industrial rates are 20 percent higher than the average for the Great Lakes region and 10 percent higher than the national average. The correct figures are 7 and 2 percent respectively, according to the Edison Electric Institute's Typical Bill Survey, lower than rates charged by Commonwealth Edison, Cleveland Electric Illuminating, Toledo Edison, Detroit Edison and Ohio Edison.

Mr. Frank J. Kelley
June 8, 1984

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In our proposal, we offered not to charge rates higher than Detroit Edison until at least 1990. We currently are the low-priced major electric supplier in the state, selling our power at rates 10 percent less than Detroit Edison. Some Michigan utilities charge rates almost double those charged by Consumers Power Company. We anticipate remaining the low cost generator of power through the rest of this century.

You mention in your statement that there will be a 60 percent rate increase because of our proposal. Might I remind you again, the figure is 36 percent. Our neighboring industrial states face even higher rate hikes, as Congress zeroes in on the "acid rain" situation and corrective legislation is passed. We have made a wise decision by not putting all our power dependency into coal.

We are convinced that, despite the high capital costs of constructing Midland, the lower operating costs over the lifetime of the plant will save our industrial and other customers billions of dollars. This is the savings to be realized by completing Midland as opposed to stopping the project now and using other sources of generation -- oil, coal, gas and purchasing any available power until, and if, financial considerations would permit the company to add an additional generating plant sometime in the future.

Our industrial demand was up 13.9 percent in the first quarter of 1984, compared to 1983. The potential impact a shortage of electricity would have on industry, and Michigan employment, is devastating.

(5) Your statement is misleading since Detroit Edison and Consumers Power Company are not one company.

Midland Unit 2 increases our own generating capacity by 12½ percent. Without that base-load unit, we foresee possible electric shortages by 1990. From 1971 to 1983, by the way, an average of 26 percent of Consumers Power's capacity was not available at the time of annual peak demand due to planned maintenance, forced outages and deratings. This resulted in my company not having enough capacity on-line to meet its peak demand in 11 of 13 years. The shortfall was made up through purchases of power from other utilities.

Your use of figures from 1973-1983 is an example of using statistics to make the point you want to make. That does show an annual compound growth rate of 0.15 percent in electric usage, because sales were high in 1973, the last year prior to the enormous effects on all purchasing decisions caused by the Arab oil embargo. Look at the peak demand growth rate from 1974-1983, a 10-year period. It is 1.7 percent per year, more than 10 times the growth rate you cite in your letter.

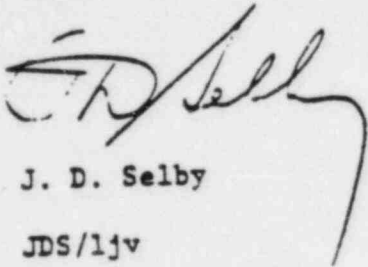
We simply cannot accept your projections that Michigan will stagnate and we will not need additional electric capacity. We already are seeing strong signs of a resurging economy. Our central location, providing manufacturers immediate access to half of America's retail sales, plus the availability here of skilled workers, a diversified manufacturing capability and an abundant freshwater supply make our advantages as a state convincing.

Mr. Frank J. Kelley
June 8, 1984

You say that you will continue to give serious and careful attention to any Midland proposal this company presents. We are counting on you to do just that. The "survival plan" your coalition has presented to us, asking for Midland's abandonment, is simply a road map to bankruptcy and, therefore, is unacceptable.

We have presented what we are confident is a sensible proposal to finish Midland Unit 2 -- with our shareholders accepting enormous risks and financial sacrifices of more than \$1 billion -- and we continue to believe that, for the best interests of Michigan, your coalition should address ways to possibly modify our proposal so that it is acceptable.

Yours very truly,



J. D. Selby

JDS/ljv