

Document Name:
CONSUMERS CONFIRMATORY ORDER/2

Requestor's ID:
NANCY

Author's Name:
Lieberman

Document Comments:
Midland Plant Units 1 and 2 Recvd IE 12/30/83

Keppler
Warnick
Harrison

Attached is the most recent version
of the Midland order put together
by IE from the earlier drafts. Please
look over prior to our meeting with
Mr. Howell.

Steve

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

CONFIRMATORY ORDER

I

Consumers Power Company (the licensee) is the holder of construction permits CPPR-81 and CPPR-82 issued by the Atomic Energy Commission (now the Nuclear Regulatory Commission, 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.

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

III

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

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

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

IV

The history at this site demonstrates that management has not been effective in providing the attention to detail and high quality standards necessary to the proper construction of this facility. In view of this history, including the violation identified in section III of this order, I have determined that a management appraisal is required at this time. The licensee, in a meeting on October 25, 1983, with the Director of the Office of Inspection and Enforcement and the Regional Administrator, Region III, agreed to submit an audit program to the Commission. It is appropriate to confirm the licensee's commitment by order.

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

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

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The plan shall include at least the elements itemized below:

- Scope of Study*
- (1) ~~An appraisal~~ conducted by an independent management consultant organization retained by the licensee to evaluate the licensee's current organizational responsibilities, management controls, communications systems and practices both at the Midland site and between the corporate office and the site. The appraisal shall

include a review of the licensee's site and corporate construction management and supervisory personnel involved in the Midland project to determine their capability and competency for managing construction activities consistent with regulatory requirements.)

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

The licensee shall direct the approved organization to submit to the Region III Administrator a copy of the report of the appraisal and recommendations resulting from the appraisal, and any drafts thereof, at the same time they are sent to the licensee or any of its employees or contractors. Prior notice shall be given the Administrator of any meeting between the licensee and the organization to discuss the results, recommendations, or progress made on the appraisal. In addition, the licensee shall consider the recommendations resulting from the appraisal and provide to the Region III Administrator an analysis of each such recommendation and the action to be taken in response to the recommendation. The licensee shall also provide a schedule for accomplishing these actions.

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

VI

The licensee may request a hearing on this Order within 30 days of its issuance. Any request for hearing shall be submitted to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555 within 25 days of the date of this order. A copy of the request shall also be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region II, 799 Roosevelt Road, Glen Ellyn, Illinois 60137.

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

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

FOR THE NUCLEAR REGULATORY COMMISSION

Richard C. DeYoung, Director
Office of Inspection and Enforcement

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

MIDLAND INDEPENDENT MANAGEMENT REVIEW

Consumers Power Company is in the process of completing an overall approach to improve the management of the Midland Project. CP Co has committed to present this approach to Region III of the Nuclear Regulatory Commission. As a part of this overall approach, CP Co has also agreed to have an independent review performed which would evaluate whether Consumers Power's present management approach has adequately identified the areas of concern, adopted appropriate solutions and initiated timely implementation. "Management Approach" will be defined by the documentation of the CP Co presentation to the NRC.

It is intended that the independent review be conducted by a recognized management consultant with nuclear power project experience. The review should be prospective in nature rather than historical. The selection of the consultant must be approved by the NRC and will be carried out under appropriate provisions for independency. It is anticipated that this effort will require one to one and one-half months' effort by approximately ten or fewer persons.

JWC/bt
12/16/83
Rev 1