# UNITED STATES OF AMERICA <br> NUCLEAR REGULATORY COMMISSION <br> <br> BEFORE THE ATOMIC SAFETY AND LICENSING BOARD 

 <br> <br> BEFORE THE ATOMIC SAFETY AND LICENSING BOARD}

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

Docket Nos. 50-329 OM \& OL 50-330 OM \& OL

> APPLICANT'S RESPONSE TO INTERVENOR STAMIRIS' PLEADING OF DECEMBER 24, 1984

## I. Introduction

On December 24, 1984, Intervenor Barbara Stamiris
filed a pleading entitled "Intervenor Stamiris' Request for Evidentiary Hearings on Matter Raised in the CPCO-Dow Trial, and Referral of Certain Matters to the Office of

Investigations" ("the Request"). The Request, inter alia, sought to expand the Board's reopening of the record related to the litigation between Consumers Power Company ("Consumers" or "Applicant") and Dow Chemical Company ("Dow") $1 /$ to consider (1) the circumstances surrounding the substitution of boring logs from elsewhere in Midland in place of the correct ones for the diesel fuel oil tank area and (2) two segments of testimony of Mr. Donald Horn. The Applicant believes that, in the present posture of this proceeding, a request for piecemeal review of

[^0]information raised in the Dow litigation is premature, wasteful, and indeed contrary to the thrust of the relief scught in the Request itself. The Applicant therefore requests the Board to refrain from entertaining any further such requests until Consumers notifies the Board that it is contemplating the restart of construction on the Midland Project.

## II. Advisability of Waiting Until Reactivation

As the Board is well aware, on July 16,1984
Consumers shut down construction of the Midland plant. See Board Notification $84-148$, Sept. 14, 1984. Mr. John D. Selby, in an affidavit furnished to the Board, indicated that Consumers had no plans to resume construction on the Plant. Consumers Letter to Board, Nov. 5, 1984. Moreover, as the Board noted in its Partial Initial Decision ("PID"), the Applicant has proposed that no further hearings be held at this time. Consumers Power Company (Midland Plant Units 1 and 2), LBP-85-2, slip opinion at 17 (Jan. 23, 1985).

Circumstances therefore greatly distirguish the current situation from that in which the Board sound itself in LBP-84-20, supra, when it reopened the record to hear certain Dow issues. At that point, both construction of the project and the hearings were active; at present construction of the project is suspended and no hearings are scheduled. Indeed, the Board in LBP-85-2 characterized the quality assurance and management attitude issues in the case generally as being of
"uncertain materiality, even if work on the project were ever to be resumed." LBP-85-2, supra at 4 . In such circumstances it would be a waste of the resources of the Board and the parties for the Board to entertain this, or any future, requests to reopen the record based on the Dow litigation, absent some indication by Consumers that it intends to revivify the project and pursue the licensing hearings.

It would in any event be unsound practice for the Board to indulge in item by item review of fragments of testimony from the Dow litigation before the entire record is available. Isolated excerpts of any record can be seriously misleading. To make decisions regarding the necessity for further hearings before this Board based on a partial record in the Dow litigation may lead at best to confusion and at worst to serious error. Intervenor Stamiris has acknowledged as much in the Request by asking the Board in effect to defer ruling on the Request until after the completion of the Dow trial. And, as the Board has noted, the issues in the Dow litigation of interest in this proceeding are limited. LBP-84-20, supra at 1302.

Moreover, in LBP-84-20, the pivotal issue was whether the record should be reopened to encompass Dow issues at a 11 . Here that question is not posed. The Board has already decided in LBP-85-2, supra at 359 , to retain jurisdiction to hear further matters arising out of the Dow litigation. Thus, no prejudice to anyone, and substantial benefit, would accrue from
deferring all motions to expand litigation of Dow issues in this proceeding at least until Consumers gives notification of reactivation of the project.

The instances cited by Ms. Stamiris in the Request amply demonstrate that reviewing seriatim the material uncovered in the Dow litigation would be unwise. With respect to the information discovered regarding the boring $\operatorname{logs} \mathrm{B}-1$ to B-4 at the Diesel Fuel Oil Tank location, the Applicant issued a 10 C.F.R. $\$ 50.55(\mathrm{e})$ report on December 21,1984 . In that report, Consumers set forth the information presently available regarding the boring log substitution. Consumers also indicated that it would not pursue further investigation or reporting unless the Midland project is reactivated. Under these circumstances, there is essentially nothing to litigate. The Board implicitly recognized the futility of prompt hearings on this issue in its PID. LBP-85-2, supra at 15-16. Ms. Stamiris also relies on a newspaper report ${ }^{2 /}$ of one segment of testimony and a brief quotation of ancther from the Dow transcript as supporting a need for expanded litigation of Dow issues in this proceeding. The chosen segments, however, constitute highly selective use of testimony to support a preconceived inference that facts relating to soils

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[^1]settlement issues have been withheld from this Board. As closer analysis shows, neither of these examples rises to a level of substantiality sufficient to warrant further inquiry in this licensing proceeding.

Ms. Stamiris' first example makes a reference to
testimony of Donald Horn supported only by a terse and oblique reference in a newspaper article. The sketchy report is supposed to reflect nondisclosure of important information regarding soils problems to the NRC.

In the actual testimony in question Mr. Horn is testifying about the authenticity of a Quality Assurance Daily Log Sheet dated November 30,1978 which he prepared and signed. (A copy of this Dow trial exhibit is attached hereto as Appendix A.) The document, inter alia, contains an agenda for a meeting with the NRC Staff regarding the Diesel Generator Building to be held on December 4, 1978. In pertinent part, that agenda reads: "Chuck would state that borings are complete in all areas. Testing is complete for Diesel Generator Building. Also, no settlement in other areas was to be mentioned." Appendix A at p. 2.
Ms. Stamiris' implication is that this agenda
excerpt, taken out of context, proves that the Applicant intended to withhold information about settlement of Category I
buildings other than the Diesel Generator building from the NRC at the December 4, 1978 meeting. A look at the totality of the record both in the Dow litigation and before this Board shows just the contrary.

In fact, there should be no implication that
documents of this genre were withheld from the NRC or the Board. Although this particular $\log$ dated November 30,1978 is not an exhibit before this Board, Mr. Eugene Gallagher testified from another of Mr. Horn's QA logs dated December 21, 1978 after refreshing his recollection from a number of such logs shown him by Mr. Zamarin. Tr. 2337 (July 15, 1981)., 3/ There is no reason to believe that the November $30 \log$ was not part of the discovery and disclosure process preceding the 1981 hearings.

Secondly, whatever the "no settlement . . . was to be mentioned" seatence seems to mean in the isolated context of the excerpted agenda, there is no evidence that the meeting participants, especially Mr. Horn, actually withheld any information from the NRC. On the contrary, the meeting notes of the December 4 meeting with the NRC Staff (Appendix B heretol show that the participants in the December 4 meeting were there to discuss the settlement of other Cacegory I

3/ Citations to transcript of this proceeding are given as
Tr. Citations to the Dow litigation transcript are
given as Dow Trial Tr. - .
structures, not just the Diesel Generator Building: "The purpose of the meeting was to inform the NRC of the status of the settlement problem of the diesel generator building and other structures at the Midland Plant." Appendix B at p. 2. This set of meeting notes was introduced as Stamiris Exhibit 7 in this proceeding.

One need not rely utterly on documentary evidence as to the meaning of Mr. Horn's testimony paraphrased in the November 14, 1984 newspaper article. On December 20, 1984, he testified in the trial about his November $30 \log$ and about the December 4 meeting itself. He stated that the agenda item meant that the lack of settlement in other Category I structures was to be mentioned to the NRC as a positive item and that the meeting focused on Category I structures. 4/
4/ Mr. Horn testified specifically:
Q. He asked you or had you read the sentence concerning status report for Bechtel and a line that reads:
"Chuck would state that borings are complete in all areas. Testing is complete for diesel generator building. Also, no settlement in other areas was to be mentioned."
Can you explain what the discussion was at the November 30,1978 , meeting regarding this particular portion of your notes as reflected in your log?
A. The statament "Also, no settlement in (Footnote Continued)

Mr. Horn also specifically testified (Dow Trial Tr. 3579) that the Bechtel meeting minutes of the December 4,1978 meeting -Stamiris Exhibit 7 -- shows that Category I structures were discussed at the December 4 meeting. Any inference from the Dow trial that the Applicant withheld information about settlement of other Category I structures from the NRC is not supportable.

The second testimony excerpt cited by Ms. Stamiris is a further example of selective use of a fragment of testimony to distort the meaning of the whole. Again, the totality of the recnrd available supports just the reverse of what Ms. Stamiris asserts. The Request at p. 3 quotes but one question and answer from a lengthy interrogation of Mr . Horn by

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(Footnote Continued)
    other areas was to be mentioned," was to
    be a positive statement. It was to
    indicate to the NRC that we did not have
    excessive settlement in other areas and
    therefore that was to be mentioned, the
    fact that we did not have settlement in
    other areas.
    Q. Now, at your meeting on December 4th
    with the NRC, was the focus of that
    meeting -- the discussion, I should say,
    of that meeting focused on Category 1
    structures?
    A. To the best of my recollection it was
        Category 1 structures.
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Dow Trial Tr. 3573-74. (The entire transcript segment from
which this quote is excerpted is attached hereto as Appendix
C.)

Mr. Goold (Dow Trial Tr. 2472 ) for the proposition that
"Applicant had a greater awareness of the extent of the soils settlement problems in 1977 following the Administration Building grade beam settlement, than was revealed in the OM/OL proceeding." ${ }^{5 /}$ In other words, the Request implies that

Ms. Stamiris cites Donald Horn's November 9, 1984 Dow trial testimony in such a manner as to suggest that Mr . Horn was stating his own personal knowledge. In fact, even the quoted question and answer themselves sinow that Mr. Horn is testifying as to what the document in question says, not to his personal knowledge of the subject matter of the document, namely the U.S. Testing compaction tests at the Administration Building.

Lest there be any doubt as to that conclusion, a few pages earlier in the transcript Mr. Goold had the following colloquy with Mr. Horn:
Q. Nobody advised you at the time that tests had been rerun and the results of that reexamination showed that the "percent compaction was in all cases lower than that previously determined?"
A. I don't recall that.
Q. Nobody from -- you didn't discuss that with anyone from U.S. Testing?
A. Not that I recall.
Q. Did you discuss it with anyone from Consumers Power?
A. Not that I recall.
Q. Did you discuss this information with anyone from Bechtel?
A. Not that I recall.

Dow Trial Tr. 2469.

Consumers withheld information on the details of the analysis of the Administration Building grade beam settlement problem from the parties and the Board. As the record shows, however, the parties and the Board had ample opportunity to inquire into the Administration Building problems in the 1981 hearings.

The subject matter of the interrogation of Mr. Horn quoted in the Request is known to the Board and to the parties to this proceeding. The document with respect to which Mr . Horn is testifying is the initial Bechtel Report on the Administration Grade Beam failure, issued in December, 1977. (A copy of this report is attached as Appendix D.) This Report, though apparently never introduced as an exhibit in this proceeding, was furnished to NRC inspectors during their investigation of soils settlement matters. See, e.g., prepared testimony of Hood, Kimball and Gallagher, July 10, 1981 following Tr. 1560; Gallagher, Tr. 2351, 2554. Ms. Stamiris herself, in the course of a lengthy examination of Consumers witness Howell in July of 1981, indicated that she had access to a draft of the document which was the subject of Mr. Horn's testimony. Tr. 2816.

More importantly, testimony was presented to this Board with respect to the facts underlying the evidence in the Dow trial to which Ms. Stamiris' Request refers. The flaws in the soil compaction test procedures used by U.S. Testing Company in its analysis of the Administration Building grade beam settlement were addressed by Consumers witness Keeley in
his prefiled direct testimony. Mr. Keeley explicitly discussed the recalculated results of the proctor tests. 6

Moreover, Chairman Bechhoefer questioned NRC witness Gallagher about the inferences which should have been drawn from the information contained in the report. Gallagher, Tr. 2572-75. Clearly, the Board and the parties had opportunity to ventilate the subject of the Administration Building proctor tests. Again, the suggestion that Consumers withheld information from this Board is insupportable.
III. Conclusion


#### Abstract

Neither of the examples from the Dow transcript gives rise to any new issues or suggests any new conclusions on any issues previously litigated before this Board. Given the flimsiness of the basis for the claim that these two excerpts


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Mr. Keeley's testimony reads:
            In August, 1977, Consumers Power became
        aware of settlement of a grade beam for the
        Administrative Building, a non-safety
        related structure. Investigation indicated
        that in the affected area the fill had been
        compacted to a value lower than that
        required by the specification. It was
        determined that the testing contractor, U.S.
        Testing, had selected lower maximum
        laboratory dry density standards than were
        appropriate, which resulted in an indication
        that the soils underlying the grade beam had
        been compacted to greater than 95% of
        optimum. In actuality, such soils were
        compacted in a range of 83.1% to 90.5% of
        optimum.
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Keely, prepared testimony at 5, following Tr. 1163.
from the Dow transcript contain new information or suggest that Consumers withheld information from this Board, the Board should indicate that it will not consider further motions to reopen the record unless and until additional hearings are scheduled in this proceeding.

Respectfully submitted,
Frederick C. Williams
Frederick C. Williams Isham, Lincoln \& Bale 1120 Connecticut Ave., N.W. washington, D.C. 20036 (202) 833-9730

Dated: February 8, 1985
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD
In the Matter of
CONSUMERS POWER COMPANY

| (Midland Plant, Units 1 |
| :--- |
| and 2) |

## CERTIFICATE OF SERVICE

I, Frederick C. Williams, one of the attorneys for Consumers Power Company, hereby certify that copies of the Applicant's Response to Intervenor Stamiris' Pleading of December 24,1984 were served upon all persons shown in the attached service list by deposit in the United States mail, first class, postage prepaid, this 8 th day of February, 1985.


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IV. Consultants recommendation by Dr. R. D. Peck and C. J. Dunniclfff
a. Preload
b. Instrumentation
V. Status report by Bechtel (Chuck McConnell)
a. Activities completed

Chuck would atate that boring are complete in all areas. Testing is complete for Dies. 1 Generator Building. Also, n, settlement in other areas was to be mentioned.
b. Activities in progress

Soil monitoring instrumental on Is approximately $80 \%$ complete?. Utilities have been monitored.
Concrete crack monitoring/ recording is in progress. Filling of the pond is in progress. Concrete to be poured next week in the slab on the second floor.

Copy sent to Section Iliad on $12-11-78$

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corrective action, closure date, and Signature of person closing item

## Bechtel Associates Professional! Corporation <br> 777 East Eisenhower Parkivay Ann Arbor, Michigan <br> Wailaders: PO. Box ICOO, Ann ArDor, Michigan 48iC5

-E5 : •• 11: 05
MEETING NOTES NO. 901
MIDLAND PLANT UNITS 1 AND 2
CONSUMERS POWER COMPANY
BECHTEL JOB 7220-101

DATE: December 4, 1978
PLACE: Midland Jobsite
SUBJECT: Meeting with CPCo and NRC Regarding Settlement Problem for Diesel Generator Building and Other Structures

FILE: $\quad 0279, \mathrm{C}-2645$

## ATTENDEES: Bechtel

S.S. Afifi.
W.L. Barclay
J.P. Bets
A.J. Boos
B. Dhar
W.F Ferris
Y.K. Lin
A.S. Marshall
P.A. Martinez
B.C. McConnel
G.L. Richardson
M.O. Rothwell
N. Swanberg
K. Wiedner

CPCo
W.R. Bird
T.C. Cooke
D.E. Horn
C.A. Hunt
D.B. Miller
D.E. Sibbald
R.M. Wheeler

Bechtel
Consultants
NRC
C.J. Dunnicliff
R. Cook
(Instrumentation)
G. Gallagher
R.B. Peck (Soil)
D. Gill in
L. Heller
D. Hood

|  | 1) Memo to S.A. Varga, Chief, Lighz Water Reactors Branch No. 4 from D. Hood, Protect Manager, Light Water Reactors Branch :io. 4 <br> 2) Agenda for Meeting with NRC at Midland on $12 / 4 / 78$ <br> 3) C?Co letter Sertal CSC-3663 dated $12 / 7 / 78$ <br> 4) List of Documents Presented in the Meeting |
| :---: | :---: |
| PURPOSE: | The purpose of the meeting was to inforn the NRC of the status of the settlement problem of the diesel generator building and other structures at the Midland plant. Attachment 1 from the IRC states their purpose for the meeting. Attachment 2 was adopted as the agenda for the meeting. |
| SITE VISIT: | The participants from the IRC except G. Gallagher, accompanied by Bechtel and CPCo representatives, visited the diesel generator building, service water pumphouse, condensate tank foundations, retaining walls for cooling pond, tank farm (including borated water storage tanks area), and radwaste building at the Midland plant site on December 3, 1978. |

## ITEMS DISCUSSED:

## 1) History

Bechtel presented a brief description of the plant arrangement and settlement monitoring program. The heavier Category I and Category II structures like the containment buildings and the major part of the auxillary and turbine buildings, are founded on glacial till, the natural soil. Also locatad on glacial till are the major part of the service water pump structure (Category I) and other Category II pump structures. The settlement of these structures are within the predicted range and did not cause any proble=.

The rest of the plant structures, both Categories I and II, are founded on plant area fill. The Category I structures are a part of the auxiliary building, 1.e., loading bay, the diesel generator building (DG3), part of the service water pump structure, and the underground emergency diesel ofi tanks. The settlement monitoring. program indicated that the settlement of the DGB was greater than expected. It was reported under the provisions of 10 CFR 50.55 e due to the magnitude of investigative tests and the required analysis of test resules.

The available settiement data of the DG3 was then reviewed. It was noted that when the ductbanks were separated from the DGB, the east end of the building settled by approximately 2 inches, whereas there was no significant settlement at the west end. Bechtel attributed this difference in settlement to the absence of any deep vertical duct bank at the west end of the building.
2) Soil Exploration

After the settlement problem of the DGB was observed, an extensive subsurface investigation (e.g., soll boring program, dutch cone penetration tests, and various laboratory tests of soil samples) was performed to evaluate the plant fill. The results of the tests indicated soil properties which varied from poor to good.

Bechtel has not yet investigated the causes of the problem because their attention has been directed soward cottecting the situation as quickly as possible. However, the consultants, Dr. Peck and Dr. Hendron, were asked this question at a meeting in Urbana on November 7, 1978. The following is a brief summary of Dr. Peck's response.
a. The fill is of very variable qualisy, but the records of fill placement do not support this.
b. It may be difficult, and maybe even impossible, to find out the causes for this variability.
c. It could be due to:

1. Variability of the soils in the backfill (there are both sands and clayey sands). The NRC has already mentioned this in one of their letters.
2. The fill may have been placed dry of optimum, and became saturated as the water table rose when the cooling pond was filled. Had measurements of change in water table and settlement been available, it might have been possible to evaluate this.
3. This initial fill may have been satisfactory, as the record shows, but the excavations for duct banks, piping, etc may not have been so well backfilled because most of that work would have involved hand compaction.
d. Most fills are not homogeneous and this is not always found out. In any case, why the fill got to this state is now irrelevant to the problem of correcting the situation.

The NRC emphasized that the office of inspection and enforcement believed cause determination to be mandatory to preclude repetition of a similar problem.
3) Consultants' Recomendation
a. Soil Consultant Dr. R.3. Peck stated that bearing capacity was not a problem but settlement is the real problem. The corrective action must limit future settlement to an acceptable degree. Hence, preloading of the entire area was recommended as a means of consolidating the $£ 1: 1$.

The data from the instrumentation in the soti would help to indicate when satisfactory consolidation had been acifoved. It is anticipated that a major part of settlement should occur rapidly as the area is being preloaded. The actual time required for desired consolidation would be difficule to predict at this time.
b. Instrumantation Consultant C.J. Dunnicliff described the soil instrumentation and the monitoring program for concrete cracks. Soil movement and variation in pore water pressure at three different elevations in the $£ 111$ will be measured by Borros anchors and piezometers. Width of existing cracks in the walls will be monitored at four selected locations by specially designed electrical strain gages.

Status Report
Bechtel provided a status report of the activities for resolution of the problem.

The soil boring program has been completed, and soll samples have been sent to the laboratory of Goldberg-Zoino-Dunnicliff \& Associates. The four vertical electrical duct banks entering the DGB were separated from the building foundation to allow free movement of the building.

The following activities are in progress:
a. Foundation settlement monitoring
b. Construction of the DGB scructure to add loads to the existing, foundation
c. Preparation for placing surcharge in the DGB area

The future activities planned are:
a. Place surcharge in the area as recommended by the consultant.
b. Raise the ground water table by raising the pond elevation to the highest operating level.
c. Monitor the selected utility in and around the building. The NRC expressed their concern for additional loads due to surcharge, on existing utilities like condensate lines.
d. Verify the structure and utility integrity after surcharge operation is complete.
e. Investigate other Category I structures on structural fill.
f. Reviek and modify the FSAR as requirad to reflect as-built conditions.

Becheel presented key schedule data for the project. Composita profect conpletion as the end of November 1973 was approximately $58 \%$ (engineering $36 \%$ and construc $=10 n 54 \%$ complete). Unit 2 hot functional is scheduled to begin in 19 months (July 1, 1980). Fuel load is scheduled 4 zonths later (November 1, 1980). The earliest requirement for completion of the Unis 2 diesel generators (two cells out of four) was January 1980 in order to provide backup protection during cold hydro. The present completion requirement is March 1980 to provide backup protection to the reactor coolant pumps during hot funczional tests. The late completion schedule requirement consistent with the overall project schedule is under study. The approximate date will be June 1980.

Assuming resolution of turbine building basement wall support requirements by December 8, 1978, placement of surcharge materials begianing on January 2, 1979, and a 5 -month consolidation period, a potential delay of 2 to 3 months to the present requirement of a March 1980 completion date is anticipated. Preliminary investigations Indicate that a late requirement of June 1980 to support the fuel load schedule could be met. The NRC stated that, per the present schedule, the safety evaluation report (SER) will be issued by June 1979, based on information received 2 months prior to that date. A supplement to the SER will be issued 2 months after the original issue. It appeared that the present forecast of the diesel generator building problem resolution was consistent with the SER issue dates.
6) Responses to the NRC Inspector's Report Dated November 17, 1978

The open items in the NRC inspector's report were discussed. It was agreed that conflicts identified in agenda 1tems VII (a), (1) through (4) wili be resolved by Bechtel, and FSAR changes will be incorporated as required. It will also be verffied whether there is any conflict between PSAR commitments and the FSAR.

Questions regarding Specification $7220-C-210$ (Agenda Items VII (a), (5) through (7)) were discussed. The NRC clarified that, in addition to a $\pm 2 \%$ toleranca in moisture contant, they were concerned whether the material being tested was related to the appropriate proctor. Because of a wide variation in soll properties, an error in selecting a proctor curve could result in a large variation in compaction. It was agreed that a written response to this NRC inspector's report would be provided by Bechtel/C?Co.
7) Comments from :rac

The IRC indicated that this settlement problen would likely be included in the public hearing for the operating license of the Midland plant. The NRC considered the preload program to be an experimental method. However, the licensee can proceed with the

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preload program at its own risk. The results of the consolidation
w111 be reviewed by the :MC before acceptance. It must be demon-
strated that the original requirements of the construction, ermit
had been met or exceeded.
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8) Remarks from CPCo

CPCo has summarized their remarks to the different agenda items in their letter to Bechtel, Serial CSC-3663 dated December 7, 1978 (Attachment 3).

ACTION ITEMS:


Bechtel Engineering/ Construction

Bechtel/ CPo

Bechtel

1) Bechtel agreed to provide the NRC with a list of equipment which was utilized for compacting the fill from el 618' to el $628^{\prime}$ in the diesel generator building.
2) All of the drawings and documents presented in the meeting will be sent to the MRC via attachments to MCAR 24 interim reports and the response to the NRC inspector's report dated November 17, 1978. Attachment 4 lists all items presented.
3) A written response is to be provided to the NRC Inspector's report dated November 17, 1978.
4) The FSAR change notices will be issued as required to resolve conflicts in the FSAR.


BD /Is
1/16/5
building as a zesult of the 50.55 （e）that was filed in September of 1973？

Z believe eonstuction had been scopped for awhile anc then，$Z$ believe，it was decidec that－－$=0$ con－ tinue on with sonstruction because itt woult ade：（More weight to the structure and would Eacilitate addi－ tional settlement if additional settlement was going to take place．

Q Anc during this period of time，from when Consumers fi＝st became aware of the settlement of the diesel generator building，up until this December ith meetinc with the NRC，why was Consumers，if you knov，meeting with the NRC during this time period？

A Again，it was to inform them of what was going on at the site，what our investigation was and what we vere Inding and also to establish corrective action to be taken．

Q All zight．Now，you indicated a moment ago that you had a meeting in Noveriber to prepare for the meeting with the NRC in December，on December 4， 1973.
I'd like to socus your attention on the
meeting that you had in ：Xovember of 1973，the pre－ ラaニョニion meetinc．

$$
\text { You indicasec, and cozrectiy so, shat } \mathrm{nz} \text {. }
$$

Goold asiked you about your log for this November meeting
and one of your log entries, is that correct?
A Yes, he did.
Q Lnis is Page 2 of 5 of your $\log$ of Noverbez 30,1973 ,


A November 30 th, yes, it is.
Q Now, Mr. Goold drew your attention to one specific line in your log entry, did he not?

A Yes, he did.
Q Ie asked you or had you read the sentence concerning status report for Bechtel and a line that reads:
"Chucic would state that borings are complete in all areas. Testing is complete for diesel generator building. Also, no settlement in other areas was to be mentioned."

Can you explain what the discussion was at the November 30,1978 , meeting regarding this parEicular portion of your notes as zeflected in your $\log ?$

A The statement "Also, no settlement in other areas vas to be mentioned," was to be a positive statement. It was to indicate to the NRC that we did not have encesstve settlement in other areas and therefore that
 sez=1emenz in other azeas.

Q Now, at your meeting on December 4 th with the NRC, was
the focus of that meeting－－the discussion，I should say，of that：meeting focused on Category 1 structures？

A To the bes＝ 0 …y recollection it was Caさeçoz ： sちごニcむびひきs．

Q．Can you tell us what was meant or what is meant by Category 1 structures out at Midland？

A They are the structures that are considered to be safety－related，in other words．Also，Q，as we men－ tioned earlier，$Q$ soils．They were on the $Q$－list and they are the safety－related structures or equipment or piping or whatever it is that it pertains to．

Q Now，you attended the December 4，1978，meeting with the NRC，did you not？

A Yes，I did．
Q All right．And lifter that meeting did you receive copies of the notes of both the Nuclear Regulatory Commission and also Jechtel＇s minutes of that meeting？

A Yes，I believe，I did．
All right．And let me show you what has been marked as Exhibit 412 and 413 and ask you if you can recognize those for the record．

A Exhibit 412 is an NRC inspection report and it＇s－－
 tits was held December 4， 1273 ，$a=$ the site．Ant the report was prepared by Dart Bod，the project
manager at the time for NRR Nuclear Agency．
2 And looking at Exinibit 412，does－－that is the inspec－ Eion＝eport of tine NBC meeting of Decerber 4，1973． Does i＝indicaたe copies of tiose notes vere señ こo Consumers and the intervenors，Zzank Kelly，Attorney． General，and others？

A ．Yes．Sent to Erank Kelly，Mary Sinclaiz，Wendall Marshall，and Mr．\＃owell from Consumers Power Company， Myzon Cherry，among other individuais．

Q And Exhibit 413，can you identify those？
A 413 is the Bechtel meeting notes for the same meeting， the meeting that was held December 4， 1978.

MS．NOODS：All zight．Now，your Honor， I would move for the admission of both of those exhibits．I would note that Exhibit 413，the 3echtel． minutes of the December 4 meeting，are already con－ tained in an exininit that $M$ ．Goold introduced，CPC 1197，but for ease of zeference ve vould simply ask that they be given a separate exhibit number here today．

Fie would move 412 and 413 ．

MR．GCOLD：：ic ojjection as to 412，you＝ Zanะoュ．
： 3 Y MR．GOOD：
$Q$ As $=0413, \mathrm{Mr}$ ．Zorn，dit you get a copy of DTX 413
at oz about the time it vas indicaこeえ？
A I＇m not sure what time I received a copy of this．
Q Fave you reviewed it for completeness with respect to the summary of the meeting before today？

A I reviewed only a portion of it．
Q Did you have any problem with the part you reviewed？
A No．
Q As far as completeness was concerned？
A No．
Q What portion did you review？
A The first sentence on to the history，No．：on Page 2 of the meeting minutes．

Q Beginning there，continuing to where？
A The two paragraphs there．
Q．That is all of this you looked at？
A Yes．I looked at some of the attachments in the back．
．MR．GOOLD：Well，no objection，your Honor． HE COUPM：Exhibits 412 and 413 may be
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& \text { (Jezendant's Exinioits Nos. } 412 \text { and } \\
& 413 \text { were received in evidence.) }
\end{aligned}
$$

BY ：：S．\％CODS：
$Q$
Now，：Ir．\＃orn，you had the meeting on Noverieer 30
＝ว prepare dor your December th meeting and you were
and you man through what would be discussed with the NRC．

In looking at the minutes of the December 4，1978，meeting with the NRC，I＇d Eirst like to draw your attention to the minutes of the NRC，Exhibit 412.

On Page 1 of those minutes does it indicate the structures that were discussed at the meeting？

A It indicates the history of the structures on the first page under No． 2.

Q And what structures were discussed at the meeting？
A The containment，boratad water storage tank，diesel generator building and pedestals，auxiliary building， service water intake．

Q And in looking at ？age 2 of the NRC＇s minutes of the December 4 th meeting，was the NRC provided with any information on December 4 th as to the status of seここ1ement at these various Category 1 structures？

A Yes，theiz－－as was indicateci on the second paçe oz ̉ \＃i ne novas．

Q And what was the $\because 2 . C$ told on December．4，1973，regarding
these Category i structures?
A Containment was between a quarter of an inch to fiveeights oz an inch over a year and a haiz. Auriliang building, approximately one-eightin oz an inch ana the central portion. Service water pump structures, zero to one-eighth of an inch. And diesel generator building, three to four inches since footing. was poured October 1977 and walls in the spring of 1978.

Q This settlement information that was contained -- to the NRC in December, in the December 4, 1973, meeting,
was that the result of any settlement monitoring program that had been instituted out at the site?

A Yes, there was a settlement monitoring program that had been instituted at the site.

Q And when did that settlement monitoring program begin?
A I believe it began on some of the structures in 1977.
$Q$ What began in June of 1973 as shown in tine NRC minutes regarding the settlement monitoring program? Do you zeca11?

A Some of the other structures may have began in '78. Q ALI =ight. Now, utilizing, also, to refresh your zecoliection, the Eech=e之 -innutes of exactly the sana

413, was there any discussion as to other structures
and settlement potential of other structures at the Midland sita in the December th, 1973 meeting with tine NRC?

$$
\text { And lev me daw your attention =2 page } 2
$$

of the Bechtel minutes, Exhibit 413.
A Yes. It talked about the Category 1 structures and also Category 2 pump structures.
$Q$ And what information was told to the NRCC on December 4, 1973, regarding the settlement of these structures?
A Settlement of these structures are within the predicted
range and did not cause any problem.
$Q$ And is that what you and the others discussed with
Bechtel during your November 30 meeting in preparation for this December 4 th?

A I believe so, yes.

Q Now，$M=$ ．Goold asked you some questions when he was asking you about this December tih meeting and he asket you whether or not at the meeting theze had been any discussion of the chlorination building，of the transformer pads，specifically．

Prior to the December 4 th meeting，we saw a moment ago in your log that you had attended a meeting on October $25 \mathrm{th}, 1978$ in which there had been some discussions－－and you just told us about＇em－－of various structures on the site，including the transformer pads and the chlorination building；is thaz correct？

A Yes．
Q Now，Mr．Gallagher，you＇ve also told us，did not attend this meeting on October 25 th ．Did you ever discuss with Mr．Gallagher the topics that went on during this October 25 th meeting？

A I believe I discussed the－－this particuiar meeting with hi－on October 27 th ．

Al1 Eight．And，in fact，your $\log$ for October 27 h indicates，does it not，that on that date you went thzough youz notes that we tust took a look at fzom she Ccミebez 23 meezing，You went thzough them wteh xz ． Gaニンaghe＝？

A Yes，I did．

Q That was approximately six weeks before the December fth meeting; is that coz=ect?

A Yes.
Q Now, $a \approx z e z$ the December 4 th, 1978 meeting, did the $N R C$ advise you and Consumers that it was going to begin an investigation out at the diesel -- out at the Midland site?

A Yes. Mr. Gallagher came in with a Mr. Jerry Philip from NRC and advised us that they were on an investigation of the settlement of the diesel generator building. And as reflected in your $\log$ for December 11 th, what transpired with the NRC regarding this investigation?

A Well, they began interviewing many people from the site, many people -- and that included field engineering, U.S. Testing personnel, Bechtel QC, I believe Bechtel QA and Bechtel field engineering, I believe they even interviewed a foreman of Bechtel.

They interviewed Consum - possibly, Consumers
people. They did not interview myself directly,
although they did ask me many questions. I did not consider it to be an interview, closed-door sessions Like they had with the other individuals.

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 tips to Ann Arbor interviewing project engineering

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[^0]:    1/ Consumers Power Company (Midland Plant, Units 1 and 2), LBP-84-20, 19 N.R.C. 1285 (1984)

[^1]:    Reliance on a newspaper account, without examination of the actual transcript, is, in itself, improper and unsound.

