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Engineers — Constructors

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September 16, 1985

Mr. William J. Dircks
Executive Director for Operations
U. S. Nuclear Regulatory Commission
Washington, D.C. 20055

Dear Mr. Dircks:

In my letter to you of May 9, 1985 I reviewed the history of the allegations made by Elmo Earl Kent ("Kent") and his spokespersons at the Government Accountability Project ("GAP"). I also reviewed the extensive Bechtel, NRC and BNL investigations of those allegations, and suggested that under all the circumstances it would be appropriate for Region III to dispose now of the matters held open in its March 22, 1985 letter to Consumers Power Company concerning the GAP/Kent Midland allegations. A copy of my May 9, 1985 letter is enclosed for convenient reference. By letter dated August 9, 1985 you replied to my letter.

There have been several recent developments that reinforce the observations and suggestions made in my May 9, 1985 letter. These developments demonstrate the lack of any credible basis for the Kent allegations and, I believe, should lead to reconsideration of the decision reflected in your August 9 letter to conduct followup inspections for resolution of the remaining issues. Moreover, it is our view, based on a review of the Brookhaven report attached to the March 22 letter to CPCO, that a review by NRC of data we now possess would facilitate prompt closeout of the remaining open items. Further specific followup inspections at the plant site should not be necessary.

As you may know, in February of 1983 the Law Offices of Melvin M. Belli, Sr., filed suit on behalf of Kent in San Francisco County Superior Court, seeking \$101 million in damages based on allegations that Bechtel discharged Kent in retaliation for making complaints concerning alleged defects at Midland and other plants.

The case was scheduled for trial on August 19, 1985. Under applicable court rules, Kent and his counsel were required prior to trial to identify any expert witnesses who would testify on Kent's behalf and to make those witnesses available for deposition by Bechtel's counsel. Kent and his counsel originally identified over thirty expert witnesses,

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including Ms. Billie Garde and Mr. Thomas Devine of GAP, who supposedly would support Kent's allegations.

The depositions of Ms. Garde and Mr. Devine were scheduled to be taken in Washington, D.C. on August 5, 1985. Bechtel's counsel travelled to Washington on the scheduled date, but Ms. Garde and Mr. Devine did not appear for their depositions. Instead, they announced through a Washington, D.C. attorney that they are unwilling to testify on Kent's behalf. The Court found in a written order dated August 9, 1985 that the failure and refusal of Ms. Garde and Mr. Devine to testify "was willful and was without substantial justification" and imposed a fine of \$4,970 against Kent and his counsel.

Kent and his counsel were unable to produce any of the other thirty expert witnesses who supposedly would support Kent's allegations. Kent's counsel did eventually produce one expert, a welding engineer, Mr. John W. Moeller, who gave testimony concerning his "high regard" for the Bechtel organization, Kent's lack of "professional" qualities, and the fact that Kent's allegations are based on obvious misinterpretations and misunderstandings of applicable industry codes.

As the August 19, 1985 trial approached, the Court issued a series of written orders imposing additional fines on Kent for violations of Court rules. In an order dated August 16, 1985, the Court found that "plaintiff Elmo Earl Kent willfully, intentionally, deliberately and in bad faith concealed material evidence," including over 10,000 pages of documents Bechtel's counsel had requested two years earlier. For this conduct alone, Kent was fined \$23,910. Fines totalling \$32,680 have been imposed.

On August 19, 1985, when the case was scheduled for trial, Presiding Judge William E. Mullins ordered that the trial would not occur and barred Kent from proceeding any further until he has paid the full amount of the fines.

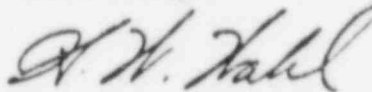
The Belli law firm is attempting to withdraw as Kent's counsel.

These events confirm the observations made in my May 9, 1985 letter. Although GAP had consistently vouched for Kent's qualifications and allegations in the media, as well as in correspondence to Congress and the NRC, they have

refused to support him under oath. Such conduct displays a complete lack of credibility on GAP's part. Kent's and his counsel's inability to produce a single qualified expert to vouch for Kent's technical allegations is consistent with the findings of the numerous Bechtel, NRC and the BNL investigations, namely, that Kent's safety-related allegations are insignificant or unsubstantiated. The Court's findings concerning Kent's concealment of evidence and other violations of Court rules also reflect adversely on Kent's credibility.

Based on these facts, as well as those set forth in my May 9, 1985 letter, we believe that Region III could and should quickly dispose of the matters held open in its March 22, 1985 letter. Bechtel would be pleased to meet with Region III and NRR to facilitate closure of these matters.

Sincerely,



H. W. Wahl
Vice President

HWW:bb
Enclosure

cc: Mr. James G. Keppler, U.S. NRC Region III
Mr. Stephen H. Howell, Consumers Power Company