



January 6, 1981

FOR ID. AS OF 1/6/81
REF. ID. NO. 5

MEMORANDUM FOR: Chairman Ahearn
Commissioner Gilinsky
Commissioner Hendrie
Commissioner Bradford

CF
Region
Director
1-Page

FROM: William J. Dircks, Executive Director for Operations

SUBJECT: DAILY STAFF NOTES, JANUARY 5, 1981

IE

1. Consumers Power Company (Midland Nuclear Power Station) - Proposed Imposition of Civil Penalties - \$38,000 (EN-80-58).

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POOR QUALITY PAGES

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November 24, 1978

MEMORANDUM FOR: H. D. Thornburg, Director, Division of Reactor
Construction Inspection, IE
FROM: James G. Keppler, Director
SUBJECT: LETTER FROM MYRON CHERRY - MIDLAND

The attached letter from Mr. Cherry regarding the Midland construction project is provided for your information. Region III is preparing a response to this letter and will discuss it with you prior to issuance.

I discussed Mr. Cherry's charges regarding the resident inspector (page 3) with Morris Howard (Acting Director) earlier today and asked him whether we should turn this matter over to OIA immediately or whether we should solicit more specific information from Mr. Cherry in our response to him. Morris indicated he would discuss the matter with OIA and get back to me.

James G. Keppler
James G. Keppler
Director

Attachment:
Letter, Cherry to Keppler, dtd 11/20/78

cc w/attachment:
J. G. Davis, IE
E. M. Howard, IE
W. J. Olmstead, ELD

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION III
199 ROOSEVELT ROAD
GLEN ELLYN, ILLINOIS 60137

DEC 14 378

SMH JAN 11 79

CC. MM - 143

JLB

GWM

Mr. Myron M. Cherry
One IBM Plaza
Chicago, Illinois 60611

Dear Mr. Cherry:

This is in reply to your letter of November 20, 1978, concerning the diesel generator building settlement problem at Consumers Power Company's Midland site and your serious assertion that "the resident inspector may have been co-opted by Midland personnel". The information requested by your letter is provided in the enclosure.

I would like to assure you that this office shares your interest in the proper construction of nuclear power plants. Recognizing the history of this project, the NRC has given considerable inspection attention toward verifying that the licensee and its contractors are satisfying applicable regulatory requirements. While some deficiencies in the implementation of the quality assurance programs have been found during construction since the cadvelding suspension in 1973, in our judgment these deficiencies were isolated rather than generic in nature, were resolved in a responsible manner, and did not represent a serious breakdown in quality assurance. In this regard, I have not forgotten the commitments I made before the ASLB in 1974 and will not hesitate to recommend strong enforcement action should a serious breakdown in quality assurance occur.

With respect to the diesel generator building settlement problem, we have not yet determined the basic cause of the problem nor when it occurred. We have initiated an investigation into the circumstances of the settling problem and will base our enforcement actions on the findings from this investigation.

With respect to your assertion regarding the resident inspector, I have referred this matter to our Headquarters for investigation by the NRC's Office of Inspector and Auditor. You will be contacted by that office directly to obtain specific information relative to this matter.

If you have any questions regarding this response, please contact me.

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FOR ID. AS OF

DEP. CL. NO. 4

1/6/81

LAW OFFICES

MYRON M. CHERRY

ONE ICH PLAZA

CHICAGO, ILLINOIS 60611

(312) 565-1177

November 20, 1978

Mr. J. G. Keppler, Regional Director
Office of Inspection and Enforcement
U. S. Nuclear Regulatory Commission
Region III
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Re: CONSUMERS POWER COMPANY
(Midland Plant, Units 1 and 2)
Docket Nos. 50-329 and 50-330
(Operating Licenses Proceeding)

Dear Mr. Keppler:

I have received from Mr. Olmstead of the Nuclear Regulatory Commission a copy of a letter and report from Consumers-Bechtels to you, which were attached as enclosures to my copy of his November 16th letter to the Licensing Board. The report from Bechtels-Consumers is dated September 22, 1978 and accompanied your cover memorandum to Mr. Thornberg dated November, 1978. At page 2 of your November 1, 1978 letter to Mr. Thornberg you state:

"In our view, this deficiency [that is, the deficiency in connection with the diesel generator building settlement] has the potential for affecting the design adequacy of several safety related structures at the Midland site."

In view of the seriousness of this statement and the enormous sums of money which Consumers continues to spend, I should like a more full explanation, including a submission or a listing of all memorandums, communications, letters and reviews, whether formal or informal, which form the basis for the Region III's conclusions made by you. Please also tell me how you justify continued construction, in view of this serious breach of quality control, unless, of course,

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Mr. J. G. Keppler
November 20, 1979
page two

you are content to permit "magic" to ensure safety. I am most concerned over what appears to be a cavalier attitude towards construction. Can it be that your organization (whether intentionally or otherwise and whether conscious or unconscious) is affected by the amounts of money Consumers has spent so that you blind your eyes to reality. If so, you do a disservice not only to the people of the United States but also to the utilities who unfortunately take advantage of such lax enforcement. Do we need a serious accident before enforcement, in your mind at least, equals the importance of monetary investment?

Also attached with your letter to Mr. Thornberg of November 1 were communications sent to you from Consumers Power Company, in particular a letter from Howell dated September 29, 1978 and a September 22, 1978 Interim Report No. 1, apparently issued by Mr. Martinez of Bechtel to Mr. Keeley of Consumers Power Company.

In connection with the last mentioned report, page 3 has a significant deletion whereby Consumers Power or Bechtel apparently deleted information submitted regarding what you labeled as a serious safety problem, i.e. the diesel building settlement. The report states:

"This portion of the Bechtel Report is deleted because it contains a premature discussion of possible corrective action options."

In view of the lackluster performance at Consumers' Midland site, the history of the defects and bad workmanship at the Palisades site, and the overall shenanigans of Consumers (including the allegations of dishonesty), I am surprised and astounded that Region III compliance would permit Consumers or Bechtel to delete information on a serious safety issue without even a whimper being heard from the Nuclear Regulatory Commission.

Please let me know whether you plan to follow up with Consumers and obtain the information which they have withheld. It simply is incredible that this issue has to be raised by me (or anyone outside of the NRC) and was not followed up on by anyone at the NRC.

Mr. J. G. Keppler
November 20, 1978
page three

I also wish to inform you that my lines of communication have reported to me that the resident inspector currently on the Midland site may not be doing his job and may, in fact, have been co-opted by Midland personnel. Before I take any action, I would like you to make your own investigation to determine whether this person should be replaced and whether the resident inspector operation is working.

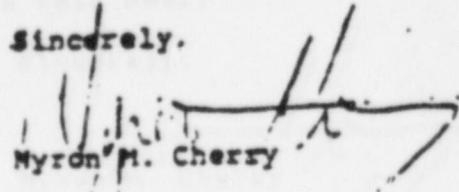
I am requesting all of the information in this letter on an immediate timeframe. If it is necessary for me to make a Freedom of Information Act request or take other steps to secure the information, please let me know immediately.

In view of all of these situations I should also like to request advance notice of any inspection which Region III intends to make at the Midland plant, so that either I or a representative on my behalf can make arrangements to be in attendance. If any inspection is to be surprise in nature, I will pledge my confidence to maintain the confidentiality of any such unannounced on-site visitation and inspection. I would appreciate sufficient advance notice to permit me to arrange my schedule so as to conform with any upcoming inspection (or to permit making arrangements for the attendance on my behalf, of a representative). Please let me know at your earliest convenience whether such arrangements will be made.

I realize this is a harsh and direct letter. But these problems at Midland have been repetitive so long that I can no longer believe that anyone takes them seriously. If you and others at the NRC worry about what shutting down Midland will do to the development of nuclear power more than what eventually will occur throughout the U.S. nuclear industry, if Consumers becomes the example to follow, then such persons should resign and join the industry, letting others more concerned with good government replace them.

I don't mind my principles losing in an honest adjudication. I have no respect, however, when I or my clients' interest cannot get a fair deal.

-- Sincerely,


Myron M. Cherry

MHC/ay