

6/15/82

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

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

CONSUMERS POWER COMPANY'S RESPONSE TO MAPLETON INTERVENOR'S
REQUEST FOR THE SUSPENSION OF CONSTRUCTION ACTIVITIES

Consumers Power Company ("Consumers Power"), pursuant to 10 CFR §2.730(c), hereby objects to the Mapleton Intervenor's apparent motion to suspend construction activity at the Midland Nuclear Power Station site for the following reasons:

1. This Licensing Board is not the appropriate forum for a request to suspend a construction permit. "[T]he appropriate remedy for those seeking to modify, amend, suspend, or revoke the construction permits is by means of a request for enforcement action..." under the Commission's regulations. Carolina Power and Light Company (Shearon Harris Nuclear Power Plant, Units 1, 2, 3 and 4) CLI-79-5, 9 NRC 607, 610 (1979) (emphasis added). Accordingly, this request for an enforcement action to suspend Consumers Power's construction permit must be filed with the Nuclear Regulatory Commission Staff pursuant to 10 CFR §2.206.

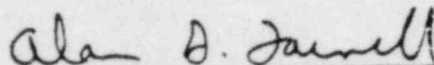
2. Moreover, Mapleton Intervenor has failed to

allege sufficient grounds to warrant suspension of construction activities at the Midland site. Suspension of construction permits is generally only warranted when necessary to protect the public's health and safety. See, Union Electric Company (Callaway Plant, Units 1 and 2), LBP-78-31, 8 NRC 366, 378 (1978). Mapleton Intervenor has not raised any facts which establish a present threat to the public's health and safety. None of the twelve items raised by Intervenor's motion demonstrate deficiencies which either (1) pose a hazard during construction, (2) need to be corrected before construction takes place, or (3) will cause significant environmental harm due to continued construction. In the absence of these conditions, there is no justification for suspending construction. Southern California Edison Company (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-268, 1 NRC 383, 401 (1975). Thus, this request for suspension must be denied.

3. Finally, under the guise of this motion, Intervenor attempts to raise twelve additional contentions in this proceeding. This is impermissible. Pursuant to 10 CFR §2.714(a)(3), Intervenor may only add or amend their contentions upon approval by the Licensing Board, based on a balancing of the factors specified in 10 CFR §2.714(a)(1). Intervenor has made no showing with respect to these factors. Furthermore, many of the purported "reasons" set forth in Intervenor's motion raise issues not proper subjects for adjudication in this proceeding.

For these aforementioned reasons Consumers Power objects to Mapleton Intervenor's apparent motion and moves for this motion's denial.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I, Alan S. Farnell, hereby certify that a copy of Consumers Power Company's Response to Mary Sinclair's Pleading Captioned "Testimony Based on the Brief of Patrick J. Devlin of the Attorney General's Office of Michigan, and Alan J. Barak, Attorney for Michigan Citizens' Lobby on the Cost-Benefit Analysis of the Midland N-Plants that is Directly Related to Data Developed Thus Far in the OM-OL Proceedings on the Soil Remediation Issues," and a copy of Consumers Power Company's Response to Mapleton Intervenor's Request for the Suspension of Construction Activities were served upon all persons shown in the attached service list by deposit in the United States mail, first class, this 15th day of June, 1981.

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