

ISHAM, LINCOLN & BEALE  
COUNSELORS AT LAW

THREE FIRST NATIONAL PLAZA  
CHICAGO, ILLINOIS 60602  
TELEPHONE 312 558-7500  
TELEX 2-5288

EDWARD S. ISHAM, 1872-1902  
ROBERT T. LINCOLN, 1872-1889  
WILLIAM G. BEALE, 1885-1923

WASHINGTON OFFICE  
1120 CONNECTICUT AVENUE, N.W.  
SUITE 840  
WASHINGTON, D.C. 20036  
202 833-9730

February 14, 1983

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

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

Charles Bechhoefer, Esq.  
Atomic Safety & Licensing  
Board Panel  
U.S. Nuclear Regulatory Com-  
mission  
Washington, D. C. 20555

Dr. Jerry Harbour  
Atomic Safety & Licensing  
Board Panel  
U.S. Nuclear Regulatory Com-  
mission  
Washington, D. C. 20555

Dr. Frederick P. Cowan  
6152 N. Verde Trail  
Apt. B-125  
Boca Raton, Florida 33433

Dear Administrative Judges:

Enclosed is Applicant's testimony on Sinclair Operating License Contention 14. The testimony of Mr. Evans and Mr. Sommers corrects the confusion which lies at the heart of the contention by showing that the referenced DES and FES discussions of cooling pond performance were not based on studies from "a substantially different climatic region". While Applicant believes the Evans and Sommers testimony is sufficient to answer the gist

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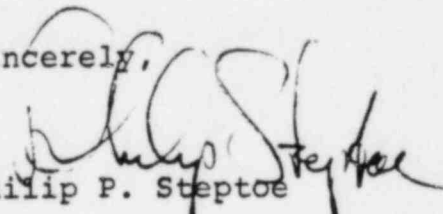
of Sinclair contention 14, we also include the testimony of John Bradley which shows that the fogging and icing experience at Dresden, which Ms. Sinclair apparently concedes is in a similar climatic region of the country as Midland, does not contradict the conclusions in the FES and DES. We wish to remind the Board that the general issue of fogging and icing at Midland was extensively litigated at the construction permit stage of this proceeding and is res judicata. While Mr. Marshall at one point was given the opportunity to submit a fogging and icing contention based on changed circumstances or new information, he has failed to do so and the general issue of fogging and icing is not in this proceeding. Instead, the narrow issue before this Board, as raised by Sinclair Contention 14, is whether there has somehow been improper reliance on a study from "a substantially different climatic region" in the referenced portions of the DES and FES.

While it is not directly relevant to this contention, Applicant wishes to inform the Board that the Michigan Water Resources Commission has determined at the request of the Tittabawassee Township and Mr. Vincente Castellanos to hold evidentiary hearings with respect to the Midland NPDES Permit. My understanding is that Intervenors in this proceeding will have an opportunity to participate

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in those state hearings. The NRC, of course, is precluded by law from reviewing the adequacy of effluent limitations and other requirements established under the Federal Water Pollution Control Act and the NPDES permitting system, except insofar as it weighs the environmental effects of such restrictions in its NEPA cost-benefit balance. Tennessee Valley Authority (Yellow Creek Nuclear Plant, Units 1 and 2) ALAB-515, 8 NRC 702 (1978).

Sincerely,

  
Philip P. Steptoe

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