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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'82 SEP 24 A11:11

ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of

Docket Nos 50-329 OM
50-330 OM

CONSUMERS POWER COMPANY

Docket Nos 50-320 OL
50-330 OL

(Midland Plant, Units 1 and 2)

September 17, 1982

OBJECTIONS TO MARY SINCLAIR'S
SECOND SET OF INTERROGATORIES
BASED ON NEW INFORMATION

Consumers Power Company objects to Mary Sinclair's "Second Set of Interrogatories Based on New Information", dated September 13, 1982, on the following grounds:

- 1) By assertion of Mrs Sinclair, these interrogatories are "based on new information found in the FES". As such, they do not pertain to any admitted contention and are improper. Memorandum and Order, May 5, 1982, P 3. (The Board's Memorandum and Order, Telephone Conference Call of September 1, 1982, gave Mrs Sinclair until September 13, 1982 to file contentions based upon new information in the FES. Hence, an attempt to file a contention to which these interrogatories are relevant would now be untimely).
- 2) To the extent these interrogatories purport to relate to Sinclair Contention 5, they are untimely. The Board's Prehearing Conference Order (August 14, 1982) required that discovery based upon Sinclair Contention 5 be initiated within a 15 day period commencing August 16, 1982.

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PDR ADDCK 05000329
G PDR

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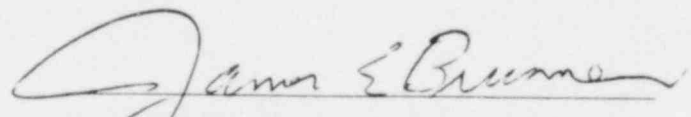
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- 3) Discovery with regard to Mr Marshall's contention on fogging and icing, which has never been restated, ended June 21, 1982. (May 5 Memorandum and Order, P 3.)
- 4) Question 3-9, on their face, make general inquiries regarding pond thermal performance or fogging and icing, and patently lack any connection to new information in the FES.

Question 1 and 2 give the appearance of being based on new information, but the "new information" is nothing more than a Staff response to Applicant's DES comment. Neither the Staff's position as expressed in the DES nor the technical basis for its position has changed. No additional data in support of that position was provided in the FES. In addition, Question 1 misrepresents the Applicant's position and is therefore unintelligible. (The Applicant never took the position that fog formation and transportation inland begins to occur at -18° (0°F). The Applicant's DES comment states that very dense fog is only expected when the differential temperature between the air and pond water is 70°F to 80°F . No mention by the Applicant is made of the -18°C (0°F) limit, which is instead referred to by the Staff in the DES.)

Respectfully submitted

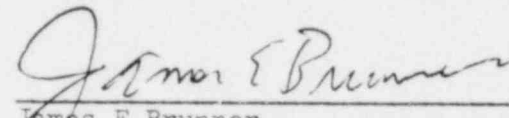
James E Brunner



Attorney for Consumers Power Company

CERTIFICATE OF SERVICE

I hereby certify that copies of the attached Objections to Mary Sinclair's Second Set of Interrogatories Based on New Information was sent by U S Mail, first class, postage prepaid, to the attached service list this 22nd day of September, except for Mary Sinclair, who was served by Federal Express.


James E Brunner

SERVICE LIST

Frank J Kelley, Esq
Attorney General of the
State of Michigan
Carole Steinberg, Esq
Assistant Attorney General
Environmental Protection Div
720 Law Building
Lansing, MI 48913

Myron M Cherry, Esq
One IBM Plaza
Suite 4501
Chicago, IL 60611

Mr Wendell H Marshall
RFD 10
Midland, MI 48640

Charles Bechhoefer, Esq
Atomic Safety & Licensing
Board Panel
U S Nuclear Regulatory Comm
Washington, D C 20555

Dr Frederick P Cowan
6152 N Verde Trail
Atp B-125
Boca Raton, FL 33433

Carroll E Mahaney
Babcock & Wilcox
PO Box 1260
Lynchburg, Virginia 24505

James E Brunner, Esq
Consumers Power Company
212 West Michigan Avenue
Jackson, MI 49201

Mr D F Judd
Babcock & Wilcox
PO Box 1260
Lynchburg, VA 24505

Steve Gadler, Esq
2120 Carter Avenue
St Paul, MN 55108

Atomic Safety & Licensing
Appeal Panel
U S Nuclear Regulatory Comm
Washington, D C 20555

Mr C R Stephens
Chief, Docketing & Services
U S Nuclear Regulatory Comm
Office of the Secretary
Washington, D C 20555

Ms Mary Sinclair
5711 Summerset Street
Midland, MI 48640

William D Paton, Esq
Counsel for the NRC Staff
U S Nuclear Regulatory Comm
Washington, D C 20555

Atomic Safety & Licensing
Board Panel
U S Nuclear Regulatory Comm
Washington, D C 20555

Barbara Stamiris
5795 North River Road
Rt 3
Freeland, MI 48623

Jerry Harbour
Atomic Safety & Licensing
Board Panel
U S Nuclear Regulatory Comm
Washington, D C 20555

Lee L Bishop
Harmon & Weiss
1725 "I" Street, NW #506
Washington, DC 20006

M I Miller, Esq
Isham, Lincoln & Beale
One First National Plaza
Suite 4200
Chicago, IL 60603

John DeMeester, Esq
Dow Chemical Bldg
Michigan Division
Midland, MI 48640