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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

Before the Atomic Safety and Licensing Board

'84 APR 23 P2:02

In the Matter of:

CONSUMERS POWER COMPANY,

(Midland Plant, Units 1 and 2)

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DOCKET NOS. 50-329 NCH
50-330

Operating License

MOTION TO REQUEST THE CASELOAD FORECAST PANEL
TO EVALUATE THE CONSUMERS POWER CO. NEW CONSTRUCTION
COMPLETION DATE FOR THE MIDLAND NUCLEAR PLANT

April 19, 1984

WHEREAS,

On April 10, 1984, Consumers Power Co. (CPCo) announced that Unit 2 of the Midland nuclear project can be completed, licensed and placed in commercial service by December, 1986, and

WHEREAS,

Since the last Caseload Forecast Panel met to review the Midland nuclear plant, (April 19-21, '83) an exceptional number of serious and unforeseen problems have arisen at the nuclear plant construction site, which have been the subject of special Board Notification (BN) for this licensing body, such as:

- 1) The discovery that the bearing capacity of the base soils for the underpinning is 1/2 that used in the original analysis (BN83-174)
- 2) The discovery of incorrect and unconservative calculations of differential settlement between the auxiliary building and the control tower (BN83-174)
- 3) The lack of criteria and assessments of upper movements of structures and the related structural stresses (BN83-174)
- 4) The Applicants decision to substitute ACI 318 for ACI 349 and the related monitoring of the eye bars or other components affected (BN83-174)

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- 5) The effects of the expected elongation on equipment between the auxiliary building and the control tower (BN83-174)
- 6) The continuation of repeated drilling incidents despite past controls and commitments intended to rectify this problem (BN83-155 Stopwork and 10/5/83 memo), and

WHEREAS,

The monthly third party review audits by Stone and Webster and the Nuclear Regulatory Commission (NRC) staff have revealed other new and unanticipated problems, such as the fact that alert levels for cracking and possible movement have been exceeded and not properly reported to the NRC (Stone and Webster meeting, 11/10/83, and 10/5/83 memo), and

WHEREAS,

After the soils underpinning work had been underway for a year, a number of significant unexpected problems have been found, including:

- 1) Requirements for differential between the diesel generator building structure and diesel generator building pedestals were not accounted for in the design of the piping, equipment, conduits and pipe supports. (MCAR 78, Jan. 6, 1984)
- 2) Piers have failed to accept their intended loads.
- 3) Water seepage threatens the integrity of the concrete piers, despite installation of a freezeway intended to control water problems, and

WHEREAS,

Although the estimate for completion of the soils work made in December, '82, when permission was given to go ahead was 18 months at a cost of \$125,000, the current estimate, 16 months after that prediction, is that the soils work is 34% complete and the cost is estimated at \$250,000, and

WHEREAS,

Mr. James Keppler, NRC director of Region III has stated that, in his opinion, the completion of the soil's work was so complex as to be equivalent to the building of a third reactor simultaneously on site and that he doubted any utility could handle that. (NRC staff meeting with CPCo, June 21, 1982, at Jackson, MI) (MDN June 22, '82, Exhibit I)

WHEREAS,

Two NRC inspectors, Ron Cook and Dr. Ross Landsman, have testified under oath that the workmanship at the plant is "shoddy" and represents a hazard to the safety of the tri-county area of Midland, Saginaw and Bay City, (TR 15117) (Exhibit 2) and

WHEREAS,

NRC Inspector Eugene Gallagher has stated under oath that the problems at Midland are unprecedented at any other site, (TR2463) (Exhibit 3) and

WHEREAS,

The special task force team were ready to recommend that the project be shut down following the extensive findings of quality control deficiencies during the diesel generator building inspection of October, 1982, (TR15071) (Exhibit 4) and

WHEREAS,

Given these extraordinary serious problems, there is now grave concern in Michigan on the part of CPCo's chief industrial customers, such as General Motors, Ford Motor Co., Chrysler Motor Co., Great Lakes Steel, who, in viewing these serious problems with their considerable management expertise, have questioned its viability as safe and reliable source of power in the foreseeable future, and

WHEREAS,

These industrial leaders have joined with the Public Service Commission (PSC), Attorney General and Michigan Citizens Lobby in questioning whether the project can actually be completed safely in the foreseeable future, (Exhibit 5) and

WHEREAS,

CPCo historically has consistently been wrong in its construction completion dates, and


WHEREAS,

The NRC is the public agency responsible to this broad spectrum of public concern in Michigan for its future health and safety and has the expertise to make plant completion forecasts for determining safe operation.

THEREFORE,

Citizen intervenor Mary Sinclair moves that this Board require the NRC Caseload Forecast Panel to meet within 30 days to evaluate the new construction completion date of CPCo and to determine if CPCo completion date is realistic and if not, to make public what their own completion date estimate is.

Respectfully submitted,


Mary P. Sinclair

cc: Charles Bechhoefer, Esq.
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Special team formed to inspect plant site

Continued from page 1

Keppler said communications may be a big part of the problem. "We don't have the same difficulty communicating with the other utilities in the region. We have failed to convince you there are bigger problems on that site than you feel there are.

"We feel you need to be less defensive about things. Either convince us our concerns are wrong, or focus the necessary attention to correct them," he told Consumers.

PRESSED BY REPORTERS after the meeting to more fully define the problems at Midland, Keppler said the large amount of work underway at the plant may be preventing Consumers from paying enough attention to quality. The utility is struggling to finish the \$3.39 billion plant in time to honor an end-of-1984 steam contract with the Dow Chemical Co.

He said the extensive work to fix the soil problems is the equivalent, in his view, of a third reactor being built on the site. "Maybe there's too much work going on. It's the only site being restored to what it was intended to be. There should be little left to second-guessing as to how well the work is being done.

"I don't feel they (Consumers) are going the extra yard right now," Keppler told reporters.

He said the problem apparently does not originate with Cook, who he said has a "good attitude." But Keppler added, "It sounds like he's not getting the full story from his people as to what's

happening at the site."

Cook left at the meeting's conclusion without commenting. But the man in charge of QA for the Midland plant, Walter R. Bird, said Consumers needs to "sit down, think about it and come up with the best positive plan of action to get it resolved, as Mr. Keppler said."

KEPPLER HAD proposed another meeting with Consumers after he talks to his inspectors. Keppler also said he plans to talk to Harold Denton, NRC director of nuclear reactor regulation, about the Midland situation. It was Denton who recently convened a special meeting of nuclear experts to study the soil problems.

Last summer, during a federal hearing on the soil problems, Keppler testified that he believed future QA at Midland will be adequate to protect public safety despite the past problems.

Because of the recent problems, Keppler said Monday he now feels "very uneasy" about that testimony and may have to return before an Atomic Safety and Licensing Board panel to clarify or change his statement.

"I've led that hearing board (ASLB) to believe the remedial work is proceeding with the satisfaction of the (NRC) staff. At the moment, that isn't so," Keppler said.

"It seems like every time we stick our nose into an area (while inspecting), we aren't happy," Keppler told Consumers. He later told reporters, "I'm almost embarrassed to be sitting here with this degree of discomfort about the project."

By DON WYATT
Daily News staff writer

An alternate proposal requiring specific educational programs to be made available for trainable mentally impaired (TMI) and other special education students was approved by the Special Education Advisory Council Monday by a 5-0 vote.

The proposal now will be taken to the Board of Education of the Midland Intermediate School District for approval July 8, according to William J. Leppien, chairman of the SEAC and also chairman of the Parent Advisory Committee, the group which drafted the proposal.

The PAC is a group of parents of handicapped children from throughout Midland County.

The SEAC is made up of representatives from each of the four school districts in the county, the PAC and the MISD board. Its responsibility is to review the proposed special education services and programs each year for the county, and make recommendations to the MISD board.

The SEAC approved the alternate proposal after rejecting, 5-1, the original proposal Feb. 15. At that time, representatives to the SEAC from various school districts in the county said that the PAC proposal to require specific programs for TMI students was already covered by a full continuum of programs already considered for each child.

The new proposal is a much more general guideline, addressing the spectrum of special education program options, according to Jim Clark, director of curriculum for MPS and a representative to the SEAC.

TMI students generally have IQ levels between 30 and 55, and are characterized as showing below-average development intellectually, a lack of development primarily in the cognitive (thinking) area and impairment of adaptive behavior.

Currently, TMI students in Midland County are served through Midland Public Schools. Most of those students attend Ashman School, a school operated exclusively for TMI students. Some TMI students, however, are placed in programs for the educable mentally impaired (EMI), a higher-level special education program, in other buildings in the school district.

Currently there are not any TMI programs in settings other than Ashman.

What the proposal basically would do is to require the Midland Public Schools to offer programs in settings other than Ashman School.

Those settings would include placing a student in a regular education program with support services; placing a student

Military flight area set over Lake Huron

A temporary aviation Military Operating Area (MOA) known as the Huron MOA, has been established over Lake Huron northeast of Alpena, Michigan. This area is established to provide separation between civil aircraft and military aircraft practicing high speed tactical maneuvers below 10,000 feet.

The purpose of the Huron MOA is to provide training airspace for fighters operating from Phelps Collins Air National Guard Base. The airspace is

from June 3 through July 9. The average use will be two days a week, 4 hours a day. The military will notify Federal Aviation Administration Flight Service at least two hours before using the MOA, so airmen may determine if the MOA is in use by contracting the nearest FAA Flight Service Station.

A corridor, known as the Gore Bay Corridor, has been established through the MOA between Alpena VORTAC and Gore Bay, Ontario, to provide for civil aircraft wishing to cross Lake Huron at

1 April 27th, and I'm reading from Transcript Page 14433.

2 MS. BERNABEI: Excuse me, Mr. Paton, what
3 was that page?

4 MR. PATON: 14433.

5 BY MR. PATON:

6 Q Mr. Marshall is interrogating Dr. Landsman,
7 and he asks Dr. Landsman:

8 "Would you agree, sir, that, as a
9 member of your panel has already testified,
10 there's work that's shoddy down there?

11 "WITNESS LANDSMAN: I would agree with
12 that.

13 "Q And don't you think that Midland
14 is entitled to something better than shoddy-
15 work at a nuclear power plant?

16 "A (WITNESS LANDSMAN) Yes.

17 "Q And don't you think, sir, that it
18 is liable to jeopardize the public health
19 and safety, the people of the City of Midland

20 "A (WITNESS LANDSMAN) Yes.

21 "Q And the surrounding counties?

22 "A (WITNESS LANDSMAN) Yes."

23 Do you agree with Dr. Landsman's statement
24 that the shoddy work at the plant is liable to
25 jeopardize the public health and safety?

E. Collier

1 sites, to a much different degree, however.

2 Q But there have been, in fact, problems on other
3 nuclear sites with something as simple as soils, haven't
4 there?

5 A To a much lesser extent. The degree of the
6 problem is what's important here. The extent of what has
7 occurred at the Midland facility is unprecedented at any
8 other facility.

9 Q The point remains, however, that other people
10 have had some problems with something as simple as soils, or
11 haven't they?

12 A Yes, of course.

13 Q In fact, a recent bulletin has been issued
14 covering not only Midland but other plants as well, is that
15 right?

16 A I wrote the bulletin.

17 Q So the answer is that, yes, a recent bulletin
18 has been issued with regard to soils for not only this plant,
19 but others?

20 A Excuse me. It was a circular; Inspection and
21 Enforcement Circular.

22 Q To someone like me, they're the same. I'm
23 sorry.

24 A It has a different regulatory posture.

25 Q So your answer is, yes, in fact there has been

1 Q Does any member of the panel know about
2 any opinions expressed at that meeting for the
3 reason to shut the plant down?

4 A (WITNESS GARDNER) That particular
5 meeting?

6 Q That particular meeting or thereafter.

7 A (WITNESS GARDNER) Personally, I would
8 agree with what Mr. Shafer said in that we had
9 already found substantial evidence of noncompliance.

10 Previously in September we had considered
11 recommending shutdown, and only based on the fact
12 that we did not have sufficient evidence did we
13 decide not to.

14 Now we had evidence that indicated a
15 fairly widespread noncompliance, and I think about
16 this time it was unanimous among the team that we
17 had the evidence that we did not have in September
18 and, therefore, we could recommend a shutdown.

19 Q Now, was that recommendation carried to
20 Mr. Keppler?

21 A (WITNESS SHAFER) A recommendation at
22 that time? No, I don't believe Mr. Keppler was
23 involved in that.

24 Q Was a recommendation carried to anyone
25 else at or near that time?

Jethro Mar. 28 '89

Our Opinions

The Game Is Over

Nothing in the law says that Consumers Power Co. must abandon the Midland nuclear power plant project and accept the "survival proposal" it received in Lansing last Friday. The company nevertheless would be foolish to shrug off the formidable group of sponsors who offered the proposal.

The company says it can best serve consumers' interests by finishing the first Midland reactor, which is 85-percent complete. That seems questionable, however. The program already has cost \$4 billion more than originally estimated and construction has fallen nine years behind schedule. Consumers Power officials guess that the total bill will come to \$4.43 billion, but even that's tentative. Directors and shareholders will get a new completion estimate on April 10, and some members of the Public Service Commission (PSC) staff expect the number to reach \$6 billion. If expenses get that high for a complex that was supposed to cost \$339 million (the 1972 estimate), the PSC may order the company to kill it and take the loss.

Indeed, Atty. Gen. Frank J. Kelley recently wrote the company and demanded abandonment. The company replied in statewide advertising that this would be unthinkable. Consumers President John B. Selby then met quietly in Lansing with Mr. Kelley, and they decided to ask the staffs of the company, the attorney general's office, and the PSC to exchange views on the subject.

After two sessions the company received a survival plan endorsed by Atty. Gen. Kelley, the PSC staff, the Michigan Citizens' Lobby and a consortium of 22 large industries, including General Motors, Ford, Dow Chemical Co., and Great Lakes Steel. The group proposed that the company abandon the plant. It also outlined a way to pay the debt incurred during construction. The plan would not affect preferred stocks and bonds, but it would require suspension of dividends on common stock for a three-to-five-year period. For that, the regulators would guarantee the company sufficient rates to maintain service, fend off bankruptcy, and return to normal financial health in eight to 10 years.

Shareholders wouldn't take the bath alone, of course. Consumers also would pay higher electricity costs. Indeed, the rate of increase for domestic customers would, for most domestic customers, outstrip the state income tax hike that produced so much heat last year, not to mention two successful recall elections.

This "passion play" (as Mr. Kelley characterized it) takes place against a backdrop of utility disasters elsewhere. In recent months the Nuclear Regulatory Commission (NRC) has refused to grant an operating license for a completed \$3.3-billion Illinois nuclear plant; Cincinnati Gas and Electric officials decided to turn their \$1.7-billion Zimmer reactor into a coal-burning facility; and two Indiana nuclear plants in which \$2.5 billion has been sunk have been abandoned in despair.

Why? No utility has any assurance now that it will get an operating license from the NRC after it finishes a reactor. The companies invest billions in construction and do not recover a dime until they produce power. Consumers management has bet the company against this risk, and customers and the regulators have rebelled; they think the odds have become impossible.

The arguments used to justify the project when it was proposed were sound and the price was right. But the situation today is completely different. A serious recession and conservation shaved the need for power and federal regulators inflated costs by changing construction and certification rules. Finally, when the NRC denied an operating permit for a completed plant, it delivered the *coupe de grace* to nuclear power in this country. No sane manager would undertake such a project now and face that kind of uncertainty.

What should Consumers do? It seems to us the company has no other choice but to abandon the project and strike the best deal it can make with its customers and the regulators. The decision should not be viewed as a referendum on nuclear power, which remains a safe source of energy, but instead as an admission that the costs of building and permitting the Midland plant have become prohibitively high. After a decade of steadily escalating prices, the Midland game is over.