

Sub

February 15, 1984

Note to Files

JANUARY 20, 1984 MEETING WITH BILLIE GARDE (ATTENDEES: DEYOUNG, TAYLOR, AXELRAD, BURNS)

The meeting was held in Mr. DeYoung's office at noon on January 20th. Ms. Garde had been invited to discuss concerns that she had expressed to Jane Axelrad concerning the staff's recent enforcement action against Midland for the violation of the Board-ordered construction permit conditions. Ms. Garde opened the meeting by saying that she appreciated the opportunity to meet with Mr. DeYoung. She wanted to say that she had some very strong feelings about the action that the staff had taken. She said that, the more she thought about it, the "madder she got" and she was very distressed. She thought that Mr. DeYoung had made the wrong judgment in taking enforcement action for violation of the Board order. Mr. DeYoung asked her what she thought he should have done. Ms. Garde believed he should have imposed a civil penalty in addition to the management audit. She emphasized that the management audit was something that she had been seeking "for a long time". It had appeared since October that the staff was going to require such an audit and, thus, the order requiring the audit really was nothing new.

She viewed the history of NRC dealings with Consumers over the past couple of years as a series of "line drawings." After the \$120,000 civil penalty for deficiencies in the diesel generator building was issued, Jim Keppler at a meeting on the CCP said he was "on the fence" about Midland. He had said that he was not wholly prepared to conclude that there was adequate assurance of quality necessary for licensing of the plant. In Ms. Garde's view, Mr. Keppler gave Consumers Power Company one last chance after the results of the Boos investigation on possible false statements made by Consumers during a meeting with NRC. Mr. Keppler had said he was on fence with that case and, in effect, gave Consumers one last chance. By not taking, in her view, any "strong action" with respect to the "Board-order violation," Ms. Garde believes that Mr. DeYoung undercut Mr. Keppler. She said that Consumers always plays NRC against itself and played that game here and won again this time. Mr. DeYoung emphasized that he did take action against Consumers by issuing the order to compel the management audit. Billie Garde said again that she would have issued a civil penalty and the order.

Ms. Garde believed that the meeting with Consumers Power and Mr. Miller, its counsel near O'Hare airport "looked bad" because the same basic questions concerning violation of the Board order were under adjudication before the Licensing Board. Ms. Axelrad and Mr. Burns pointed out that nothing was improper about holding such meetings with a licensee on enforcement matters even though there might be a related adjudication pending. Again, Ms. Garde emphasized how she believed that the failure to take stronger action undermined the credibility of Mr. Keppler and the NRC and that the appearance caused by the meeting enhanced that "credibility gap." She noted that, on the Midland Plant, Region III is the only place in the country where she will turn a whistleblower over to someone from the NRC without an affidavit.

Mr. DeYoung emphasized that a civil penalty merely avoids the problem at Midland. Consumers could pay the civil penalty and walk away from what he believes is the underlying problem, that is, the adequacy of the management of the Midland project. By issuing the order, NRC requires the audit, makes Consumers do it, and makes them put recommended changes into effect. He noted that, in an earlier circumstance involving the Cooper plant, the audit was very successful in turning around and improving the operation and management of the plant. He pointed out that, while Cooper received a \$112,000 fine, the audit itself cost some one \$120,000 and has a 3 to 4 million dollar recurring cost annually. Mr. DeYoung said that he didn't believe his action undermined the Region and that Mr. Keppler fully supported the action that he took. He noted that the staff had discussed among themselves the possibility of issuing a civil penalty, but, having considered these views, he determined on balance that a fine was not going to correct the problems at Midland. Mr. DeYoung said that he pushed for the audit from the beginning and, when Consumers Power had indicated that it would do it, he emphasized to Consumers that it had better come in with a very good proposal.

Mr. DeYoung indicated that we had held the meeting near O'Hare airport in late November because, after the initial enforcement conference, Consumers Power indicated that NRC had not heard all sides to its story. He said that he is always willing to meet people to hear their views. Billie Garde noted that, since the opportunity had been given to Mr. Miller and Consumers, the same chance to present her views should have been given to her. Mr. DeYoung said that that may have been appropriate and that we may have missed the chance by oversight here to provide that opportunity. He said that he would try to remember that in the future and asked Jane Axelrad to be sure that he does not forget to consider meeting with other interested persons when similar enforcement situations arise which are related to some ongoing licensing proceeding.

Billie Garde said that she believed that she got "90 percent" of what she wanted in her 2.206 petition and was fairly happy with many of the actions NRC took. She again emphasized that, when the order came out, it was overshadowed by the fact that most people understood that Consumers was going to do an audit and by the fact that, on the same day the order was issued, new developments arose out of a meeting at Midland regarding cracking in the diesel generator building. With respect to the cracking issue, she said Consumers Power admitted essentially at the meeting that it did not have sufficient crack maps reflecting cracking identified in the buildings. Mr. Mooney of Consumers Power said that his understanding was that Consumers only had to map cracks in buildings which were identified in 1979 and beyond. She said that the NRC staff from Region III was "ready to explode" when they heard this explanation. As a result, she said, the crack maps are not accurate, and we do not know where all the cracks are. In her view, this latest episode was symptomatic of Consumers Power's attitude of looking at things as narrowly as possible.

She said that she disagreed with her colleague Tom Devine over the results of the Torrey Pines Technology review of Zimmer because she thought that Torrey Pines pointed the finger at Messrs. Dickhoner and Borgman. She said that she hopes the audit here would be as comprehensive, and she believes that Mr. DeYoung has to set the line by, in effect, saying "Consumers, you had your last chance on the Board order violation."

Mr. DeYoung changed the topic of the conversation and asked Ms. Garde for her thoughts about Catawba since she had filed a 2.206 petition regarding that plant. He asked her for her views about Duke Power Company. She said that she viewed them as "arrogant and not as good as they think." She believed that the combination of Duke Power Company management and Region II has left Catawba "in a mess". She stated that, if any utility could build a plant "by the seat of its pants," Duke was probably the one, but her primary concern is the as-built condition of the plant. Because of the indeterminate nature of the plant, the adequacy cannot be assessed in the absence of a look at the as-built condition plant.

She said Duke's response to her petition does not hold water. Quite simply, in her view, procedures were not followed at Catawba. In her view, the evidence at Catawba is better of quality assurance breakdown than any other plant because there were educated people who had built nuclear power plants at two other Duke sites, and they had covered themselves by writing down what they thought were improper handling of nonconformances and improper construction practices. She noted that there were some 40 diaries kept by welding inspectors when they were told not to document their quality concerns.

In her view, Duke is hoping that the NRC will trust them because Duke has done well in the past. She says that she has called approximately 100 quality assurance inspectors at Catawba and some 70 percent agreed that procedures were not followed and that the electrical and civil people are not willing to say that electrical and concrete construction is satisfactory. She believes that Duke is not willing to do any backward look at the adequacy of Catawba. She believes that, if the plant was in Region III, it would be shut down given the actions at Zimmer and Midland, but she does not believe that Region II has been aggressive enough with its oversight of Catawba.

Mr. DeYoung asked her, with regard to the 2.206 petition, whether he should really be the decisionmaker or whether the regional administrator who is closer to the situation should decide the petition. Billie Garde said that Mr. DeYoung should decide because in this instance it would not be satisfactory to have Region II make the decision since Region II is "part of the problem" at Catawba. She said that she does not file 2.206 petitions lightly and she views the portions requesting further OIA and OI review to have been granted, but she believes that Mr. DeYoung should not defer to Region II since it has an inherent "conflict-of-interest" in determining the petition.

Mr. Taylor asked her whether she believed that there was a substantive hardware issue at Catawba. She said she believed that there were hardware deficiencies and that a good source was the MAC Report which has details of hardware problems. Although the MAC Report has other failings, she believes

that Vol. 2 of that report did identify actual hardware problems in the plant. She said however, that though MAC concluded that Duke had fixed some 130 hardware items identified in its report, the hearing record contradicts that conclusion.

Mr. DeYoung closed the meeting by committing to meet with Billie Garde in the future, when appropriate.



Steve Burns

cc: R. DeYoung
J. Taylor
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