

Feb 27, 1981

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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

RELATED CORRESPONDENCE



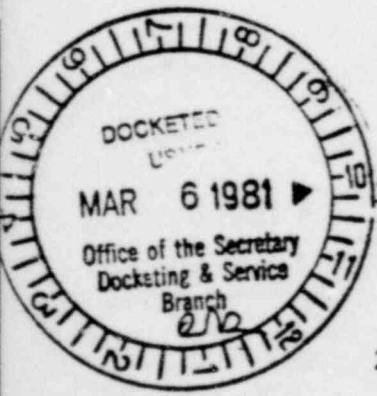
Docket Nos. 50-329-OM
50-330-OM
50-329-OL
50-330-OL

CONSUMERS POWER COMPANY
RESPONSE TO INTERVENOR (BARBARA STAMIRIS)
DISCOVERY REQUEST OR "RESPONSE" OF JANUARY 26, 1981

Consumers Power Company (hereafter referred to as "Applicant") hereby responds to a document submitted by Ms. Stamiris and entitled "Intervenor Response to Consumers Power Company's January, 1980 Discovery Reply for Notice of the Board," dated January 26, 1981. The aforementioned document is styled in the form of a reply to Applicant's December 19, 1980 Response to Ms. Stamiris' Initial Discovery Request, and contains comments on Applicant's response, as well as additional questions.

The history of these requests and responses can thus be summarized as follows:

- 12/4/80 Stamiris' "Intervenor Requests of Consumers Power Company" (hereinafter referred to as "Stamiris' Initial Request")
- 1/19/81 Consumers Power Company's Response to Intervenor Requests ("Consumers Power Company's Initial Response")
- 1/26/81 Stamiris' "Intervenor Response to Consumers Power Company's 12/19/80 Discovery Reply" ("Stamiris' Reply")
- 2/27/81 Consumers' "Response to 1/26/81 Stamiris Submission and Supplemental Answers to 12/4/80 Request (Consumers Power Company Response No. 2")



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Ms. Stamiris' reply indicates that Consumers Power Company's Response No. 1 is "incomplete" with respect to this document request. The request called for certain documents concerning "cost and schedule impact data" of "soil settlement matters", but contained no interrogatories on that subject matter. The reply has no objection to the document production, but does include certain interrogatories on the subject addressed in the initial document request. Therefore, Applicant concludes that the Intervenor, by using the term "incomplete", did not intend to object to Applicant's Response to her initial request. Rather, we interpret the use of that term to indicate that the Intervenor has follow-up questions on this subject matter. These questions are addressed below.

All of the documents within document Request No. 2 of the 12/4/80 Discovery Request have been produced at the Midland Service Center of Consumers Power Company. Since the filing of Consumers Power Company's Response No. 1, Bechtel has initiated development of additional cost and schedule projections. Documents relevant to this effort will be supplied when the projections are completed.

ANSWERS TO INTERROGATORIES PERTAINING TO DOCUMENT REQUEST NO. 2

2(a) Question

What are the most recent estimates for total soil settlement costs (including various completion schedule paths) assuming current remediation proposals are acceptable?

Answer

The estimates provided reflect the most recent estimates for total soil settlement costs which have been communicated by Bechtel and reviewed by Consumers Power Company personnel. These estimates assume the accomplishment of remedial actions within the current project schedule milestone requirements. The total for all of these estimates is \$16,920,000.

2(b) Question

Please explain these estimates, breaking them down into their component parts.

Answer

The estimate worksheets and computer printouts provided indicate the component costs. Typically, the costs are identified with the following components:

1. Direct Field Costs

The total cost of all materials and improvements forming a permanent part of the finished project and of all Bechtel and subcontract labor engaged in installing or erecting such materials or performing such improvements.

2. Distributable Field Costs

Bechtel material and labor costs which cannot be identified with specific direct operations in the construction of a plant and either (1) are supporting services by nature or (2) apply to several direct operations such that a logical allocation to each separate operation cannot readily be made.

3. Engineering Costs

The total cost of all technical engineering and design activities including technical consultants and services performed by Bechtel in connection with a given project.

4. Other Home Office Costs

The total cost of all management, service and clerical activities performed by Bechtel in connection with a given project. Since

these costs are either supporting services or overhead costs by nature and not readily identified to a separate operation, they are usually allocated to a given project based on the amount of Bechtel technical engineering services.

On the computer printouts, a series of numbers appear in sequences of two lines. The first line constitutes direct costs; the second line constitutes the distributable costs.

The column headings include:

(starting under "total field costs) material, subcontracts, manual labor, non manual labor, engineering and home office.

2(c) Question

What are the most recent estimates for total soil settlement costs if Removal and Replacement after Preloading (Option 3) (50-54f#21) were now necessary?

Answer

The most recent estimates on this matter are contained in the Answer to 10 CFR 50.54 f, Question 21.

2(d) Question

Will any portion of these soil settlement costs be included in requests before the Michigan Public Service Commission as a part of construction costs or costs to be ultimately included in the rate base?

Answer

Applicant objects to this question on the ground that it is irrelevant.

2(e) Question

If the answer to (d) is yes, please describe and explain such anticipated requests.

Answer

See part (d) of the response to this question.

Document Request No. 3

The initial document request dated December 4, 1980 from Ms. Stamiris encompassed discussions "concerning and leading up to" the decision to appeal the NRC's boring request.

Applicant interpreted the request as calling for minutes of meetings concerning the appeal within the NRC Staff, as well as other documents regarding discussions which occurred prior to that time. The fact that some documents beyond the "intent" of the request were produced is not a ground for objecting to the response, providing all of those documents within the scope of the request were supplied. While Intervenor's Response does clarify somewhat the "intent" of the request, Applicant believes that it has now presented all documents within the scope of the request as amended or clarified in the Stamiris Reply of 1/26/81, except for the following:

(1) All nonprivileged documents within the scope of the request but in the sole possession of Bechtel's consultants have not yet been produced, but will be produced within the next four weeks; (2) applicant claims the attorney-client privilege with respect to one document, which contains a rendition of information and opinions given to counsel at a meeting between Consumers Project Management and a Company lawyer.

Document Request No. 4

Applicant has supplied the one unprivileged document within the scope of this request. The attorney-client and work-product privilege is claimed with respect to one other document, production of which is also objected to on the ground that it is irrelevant to this proceeding. The document in question is a memorandum between Lawyers and their clients concerning a technical legal

question in connection with possible lawsuits. (The attorney-client privileges protects communications between a lawyer and his client. According to 4 Moore's Federal Practice, Paragraph 26.60(2), "Ordinarily, communications between a client and his attorney are privileged and may not be inquired into in discovery proceedings any more than at the trial." The work product privilege protects the mental efforts of attorneys in anticipation of litigation. Since the document in question is both an attorney-client communication and a rendition of the mental impressions of counsel, it is privileged under either theory).

Document Request No. 5

Applicant interpreted the initial request as calling for documents other than the chosen option.

While Applicant objects to producing documents "concerning the chosen option," all such documents fall within the scope of Item 5 of Stamiris' 1/14/81 Request. The documents requested in Item 5 (of the 1/14/81 Request) are now producible at the Midland Service Center.

ANSWERS TO INTERROGATORIES PERTAINING TO DOCUMENT REQUEST NO. 5

5(a) Question

Why are there no records or documents concerning correction of Administration Building settlement (including the chosen option)?

Answer

See the above Response under Document Request No. 5.

5(b) Question

On what basis was the decision to remove and replace the faulty fill under the Administration Building made?

Answer

Applicant objects to this question on the ground that it is irrelevant to this case.

5(c) Question

Who made this (5b) decision?

Answer

See the answer to 5(b)

5(d) Question

When was this (5b) decision made?

Answer

See the answer to 5(b)

5(e) Question

Describe and explain any alternative corrective actions ever considered and rejected for the Administration Building, if such considerations were made.

Answer

See the answer to 5(b).

INTERROGATORIES

Additions to Question 1

Response

With reference to Bechtel, the phrase "depending on its importance" refers to the degree of cost, schedule, licensing, or quality impact of a particular decision on the project. The Project Engineer and the Project Manager for Bechtel maintain open lines of communication, which enables them to assess the relative importance of a particular decision with respect to the above criteria. They are assisted in the procedure by other Bechtel members of the Midland Project Staff who have detailed knowledge of individual issues.

Regarding Consumers Power Company, the phrase "in the case of decisions of lesser importance" defines those decisions having little or no effects on cost, schedule, licensing, or quality. Any decision which would involve a commitment

of resources beyond that previously approved by the project manager would require approval by the Project Manager or by higher authorities within the Company.

Additional Response to Interrogatories 2 and 3

Applicant objects to the questions set forth in the "Reply" document of 1/26/81, as well as the questions set forth in the Initial Request as interpreted in the broad sense of the "Reply" document, on the following grounds:

- (1) The questions are vague and unintelligible.
- (2) The questions are burdensome.
- (3) The questions ask for information which is equally available

to the intervenor through documents which are on the public record.

As we pointed out in our initial response, the interrogatories in question cover a period of over two years during which numerous meetings, conversations, consultations, phone calls, or other oral or written communications were exchanged or held. The questions attempt to approach matters which involved complex and detailed technical analysis at the earliest possible stage of discussion. The questions are unlimited as to scope, detail, issue, time, place or person. Further, it is impossible to precisely determine what is meant by the parenthetical expressions contained in the questions, which seem to contradict the language used elsewhere in the Interrogatories.

Applicant is willing to discuss its objections to these questions with the Intervenor in an attempt to arrive at a compromise if she wishes.

Additions to Question 4

Response

The matter of planned activities was discussed with Gene Gallagher, the geotechnical inspector from Region III, during an inspection of October 24-27, 1978. Other than that communication, Applicant is not presently aware of any communication with the NRC geotechnical staff prior to November 7, 1978 concerning the preload proposal.

During the above conversation, Gallagher was advised of Applicant's tentative plans to preload the diesel building.

4(b) Question

(Formerly 4d) Was such input (4a) ever suggested by anyone? If so by whom, was it made, when was it made, and how was it responded to?

Response

No.

4(c) Question

In responding to these questions, please include, but do not limit yourself, to statements made by A.J. Hendron in file B3.0.3 serial CSC-3674 notes of the November 7, 1978 meeting recording disappointment regarding NRC not having seen the test pits.

Response

During the November 7, 1978 meeting, Dr. Hendron indicated that it would be desirable for Dr. Heller to see the test pits. At that time Applicant was concerned, and it is believed Dr. Hendron was concerned, that Heller would not be able to observe subsurface conditions first-

hand prior to pre-loading, since any excavation would be filled by the pre-load itself. Heller did observe subsurface conditions during his December, 1978 site visit. However, as can be readily ascertained from the above, Hendron's comment was limited to the test pit issue and did not concern the decision to pre-load the diesel generator building, so that it is not an example of a suggestion under question 4b (formerly 4d).

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(Midland Plant, Units 1 and 2))
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Docket Nos. 50-330-OM
50-329-OL
50-330-OL

CERTIFICATE OF SERVICE

I hereby certify that copies of Response to Interrogatory (Barbara Stamiris) Discovery Request dated January 26, 1981, were served upon the following persons by depositing copies thereof in the United States Mail, first class postage on this 27th day of February, 1981.

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RELATED CORRESPONDENCE

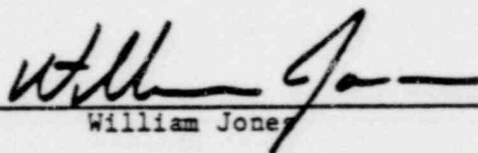
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	DOCKET NOS. 50-329-OM
CONSUMERS POWER COMPANY)	50-330-OM
)	50-329-OL
(Midland, Units 1 and 2))	50-329-OL
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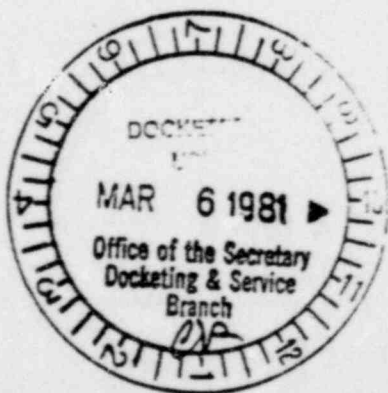
AFFIDAVIT OF WILLIAM JONES

William Jones, being duly sworn, deposes and says that he is employed by Bechtel Power Corporation, as the Project Cost/Schedule Supervisor for the Midland Project; that he is responsible for providing answers to supplemental questions pertaining to document request Number 2 (contained in the January 26, 1981 Stamiris "Response"); and that to the best of his knowledge and belief the above information and the answers to the above interrogatories are true and correct.



William Jones

Subscribed and sworn to before me this 18th day of February, 1981





Notary Public, Washtenaw County, Michigan

My Commission Expires: 7/21/81

WENDY L. TAYLOR
Notary Public, Washtenaw Co., Mi.
Commission Expires 7-21-81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
CONSUMERS POWER COMPANY)
(Midland, Units 1 and 2))
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DOCKET NOS. 50-329-OM
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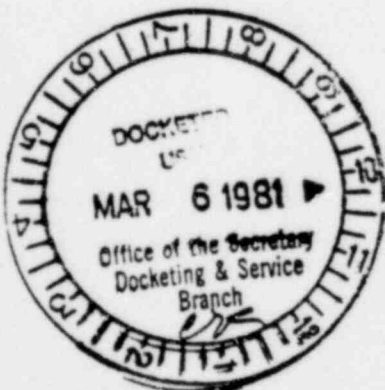
AFFIDAVIT OF ALAN BOOS

Alan Boos, being duly sworn, deposes and says that he is the Assistant Project Manager, Midland Project, Bechtel Power Corporation; that he is jointly responsible along with Gilbert S. Keeley for the Responses to Additional Questions pertaining to Stam'ris Interrogatory No. 1 contained in the "Intervenor Response" Document dated January 26, 1981; and that to the best of his knowledge and belief the above information and the answers to the above interrogatories are true and correct.

Alan Boos

Alan Boos

Subscribed and sworn to before me this 18th day of February, 1981



Henry C. Boos

Notary Public, Washtenaw County, Michigan

My Commission Expires: SEPT. 30, 1982
HENRY C. BOOS, WASHTENAW CO., MICH
MY COMMISSION EXPIRES NOV. 30, 1982



Consumers Power Company

GENERAL OFFICES

212 West Michigan Avenue, Jackson, Michigan 49201



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Office of the Secretary
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Washington, D. C. 20555