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MAY 2 1 1979

The Honorable Floyd J. Fithian
United States House of Representatives
Washington, D. C. 20515

Dear Congressman Fithian:

I am pleased to respond to your letter dated April 13, 1979, regarding your concerns on the installation of safety-related piles at the Bailly facility and the evacuation plans for this facility. In this letter, you state your understanding that the Nuclear Regulatory Commission (NRC) has pending before it a construction permit for the use of short piles. Further, you urge the NRC to look into the evacuation plans for the 20-mile radius around the Bailly facility, including the evacuation of: (1) 800,000 people; (2) major industries such as steel plants; and (3) visitors to the Indiana Dunes National Lakeshore Park. You also indicate your belief regarding the desirability of conducting public hearings with emphasis on the public's "inherent right to know the plusses and minusses of nuclear power construction". Finally, you express your desire for the NRC to conduct a prudent yet expeditious investigation of the present proposal to implement the design criteria for pile placement at the Bailly facility and that our decision be based on the merits of the case.

In responding to your various comments, I should first like to place the matter of the Bailly construction permit into its proper perspective. Northern Indiana Public Service Company (NIPSCO) tendered its application for a construction permit in August 1970. The application underwent an intensive safety review to determine the effect of this proposed facility on the health and safety of the public and to determine the environmental impacts. The NRC staff issued its Safety Evaluation Report (SER) in February 1972, in which it concluded that the proposed facility could be constructed and operated in a manner which would not endanger public health and safety. The staff's Final Environmental Statement (FES) was issued in February 1973 and contained the conclusion that after weighing the environmental impacts and the economic, technical and other benefits, the appropriate action called for would be the issuance of a construction permit. The issuance of these two documents which contain the basis for our conclusions permitted the public hearings on the application to start. These hearings started in April 1973 1/, lasted about eight

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1/ Prior hearings were started in October 1972; due to legal complications, the hearings were restarted in April 1973.

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months and produced over 11,000 pages of transcripts. After due consideration of the hearing record, the Atomic Safety and Licensing Board (ASLB), which conducted the hearing, issued its Initial Decision in April 1974. After a subsequent unsuccessful appeal of this Decision by the Joint Intervenors to the Atomic Safety and Licensing Appeal Board (ASLAB), the NRC staff issued the Bailly construction permit (CPPR-104) in May 1974. A series of judicial appeals to the U.S. Court of Appeals for the Seventh Circuit and to the U.S. Supreme Court in the ensuing years led to the final decision by the courts in November 1976 that the NRC had acted properly in issuing the Bailly construction permit.

Our review of the NIPSCO proposal of March 1978 for the installation of foundation piles is directed towards determining whether the implementing details, including the field test data submitted in December 1978, is acceptable based on good engineering design and on conformance with the design criteria for the piles which we accepted prior to issuance of the CP. The proposal is not being reviewed as part of the decision-making process leading to the issuance of a construction permit. As discussed above, the entire process leading up to the issuance of the construction permit was concluded about five years ago.

It is our intention to conduct the review of the shorter pile proposal in a prudent and expeditious manner. It is the Commission's policy that all staff actions on licensing matters are open to the public. To implement this latter position, we conduct all meetings with an applicant or licensee as open meetings with proper notification. We also establish a local public document room (LPDR) in the vicinity of a proposed facility, typically in a public library. All incoming and outgoing correspondence, in fact all relevant material on a docket, is transmitted to the LPDR. The LPDR for the Bailly facility is at the Westchester Township Public Library, 125 South Second Street, Chesterton, Indiana 46304. Additionally, we maintain a public document room at our headquarters at 1717 H Street, N. W. in Washington, which is open to the public and contains material pertaining to all dockets and to the conduct of our activities which is not related to a specific docket.

With respect to your comment on the public's "inherent right to know the plusses and minusses of nuclear power construction", we present the costs and benefits of a specific proposed facility, including a consideration

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of alternatives, in the staff's FES which is issued prior to the mandatory hearing on environmental matters at the construction permit stage of our review. The FES is issued and the environmental hearing is conducted in compliance with the National Environmental Policy Act of 1969. I have enclosed a copy of the Bailly FES.

With respect to your concern regarding a re-examination of the evacuation plans for the population in the vicinity of the Bailly facility, we have previously transmitted Section 13.10, "Emergency Plans," taken from the Bailly construction permit application, to your office. Evacuation of the nearby population is discussed in Section 13.10.3.1. It is important to note that our primary concern at the construction permit stage is the technical feasibility of a proposed action. We will conduct an in-depth review of the actual emergency plans about two years prior to the fuel load date to determine their acceptability. Our review at that time will reflect the importance of emergency plans in light of the recent accident at Unit 2 of the Three Mile Island facility.

If there is any further way we may assist you in providing information about the Bailly facility, please contact us.

Sincerely,

[redacted]

Enclosure:
Final Environmental Statement

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*SEE PREVIOUS YELLOWS FOR CONCURRENCE.

NRR ECase 5/ /79 | NRR HDenton 5/ /79 | EDO LGossick 5/ /79

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