U.S. NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF	Docket No. 50-367
NORTHERN INDIANA PUBLIC SERVICE COMPANY (Bailly Generating Station, Nuclear 1)	

PETITION FOR LEAVE TO INTERVENE
AND REQUEST FOR HEARING

Pursuant to the notice published at 44 F.R. 69061 (November 30, 1979), the City of Gary, Indiana, United Steelworkers of America Local 6787, the Bailly Alliance, Save the Dunes Council, and the Critical Mass Energy Project hereby petition to intervene in proceedings concerning the request of Northern Indiana Public Service Commission ("NIPSCO") for an amendment of its construction permit to extend the date of completion of the Bailly Generating Station, Nuclear 1 ("Bailly"). Intervenors contend that "good cause" for completion of the Bailly facility (which is only 1% constructed) should not be found in the absence of a specific showing of adequate emergency response capability in the event of a nuclear accident. Because such a showing has not been, and we submit cannot be, made, construction on the Bailly permit should not be approved without a full consideration of this issue.

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INTERVENORS

1. Each of the Intervenors has an interest which may be affected by this proceeding.

2. The City of Gary, Indiana, with a population of approximately 160,000 people, is located six miles from Bailly, with the center of downtown Gary only 11.3 miles from the site. Because of the absence of adequate emergency evacuation plans or capability in the event of an accident, continued construction of Bailly poses a direct and immediate risk to the health and safety of citizens of the city of Gary.

3. United Steelworkers Local 6787 represents approximately 6,000 employees of the Bethlehem Steel Company's Burns Harbor Plant, which is adjacent to the Bailly site. In light of the absence of adequate emergency response capability, the proposed completion of Bailly directly threatens the health and safety of these workers.

4. The Bailly Alliance is a coalition of citizens and community organizations representing persons residing in 12 Northwest Indiana communities in close proximity to the Bailly facility. The continued construction of Bailly, when there is no capability for evacuation within a reasonable period of time, presents undue risk to the health and safety of the members of the Alliance.

5. Save the Dunes Council is a 27-year old organization established for the purpose of preserving and protecting for public use and enjoyment the Indiana Dunes National Lakeshore, which extends east, west and south of the proposed Bailly site. In 1978, 1,031,307 citizens visited the National Lakeshore and

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another 1,113,000 citizens visited the Indiana Dunes State Park. Construction of the Bailly facility in the absence of adequate emergency response planning threatens the health and safety of visitors to the Lakeshore area.

6. The Critical Mass Energy Project, a branch of Public Citizen, Inc. in Washington, D.C., is a public interest organization dedicated to the development of safe and efficient energy technology. It has participated in numerous NRC proceedings, and recently petitioned the NRC to amend its regulations on preparedness for nuclear emergencies.

ASPECT OF THE PROCEEDINGS AS TO WHICH PETITIONERS SEEK TO INTERVENE

7. In determining whether good cause exists for an amendment of the construction permit, Intervenors submit that NIPSCO must demonstrate that continued construction at the Bailly site will comport with safety requirements. Intervenors seek permission to participate in these proceedings solely with respect to a consideration of whether realistic evacuation and emergency response plans can be implemented. Circumstances which have arisen in the time since issuance of the construction permit in 1974 require a reexamination of the inherent problems with the Bailly site from the perspective of emergency preparedness.

8. The inherent factors to be considered include most significantly that the proposed Bailly site is located nearby the combined high population centers of Gary, Hammond and East Chicago. As a result, approximately 103,000 persons reside within a 10 mile radius of the plant, not including large "transient"

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populations.1/ The latter include the many thousands of recreational visitors to the National Lakeshore, of which the Cowles Bog Area lies a mere 800 feet from the Bailly site, as well as the approximately 8,500 workers at just the Burns Harbor Steel plant alone, located only about 700 feet away. Over a thirty mile radius, the population density around Bailly is at least 780 persons per square mile.2/

Despite the extreme risks in terms of emergency preparedness which these population factors pose, not even minimal consideration has been given to emergency response capability since neither the State of Indiana nor Illinois have emergency response and evacuation plans concurred in by NRC. To highlight the severity of the threat to health and safety in the event of an accident, Intervenors note that the Bethlehem Steel Corporation has submitted an emergency plan to NIPSCO which demonstrates that a "residual work force" of about 170 workers would be required to remain at the Burns Harbor Steel plant for a minimum of 6 days to cool down the coke ovens in the event that operations are interrupted. Factors such as these and the limited evacuation routes available in view of the size of the

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1/ The 103,000 figure was cited by Robert Collins, Director of Emergency Preparedness for the Office of State Programs, in documents accompanying his report to the Commission on State and Local Government Radiological Emergency Response Plans and Preparedness, in which he cited Bailly as one of 9 plants around the country requiring special attention due to high population factors. Other estimates range from 83,608 to 110,000 within that radius. See letter from Daniel R. Muller, Acting Director, Division of Site Safety and Environmental Analysis, Office of Nuclear Reactor Regulation, to Dr. Richard Hansis, Assistant Professor of Geography, Valparaiso University, December 21, 1979. All of these estimates are based on 1970 census data.

2/ See Demographic Statistics Pertaining to Nuclear Power Reactor Sites, NUREG-0348 at p. T11 (1970 figures).

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population make it unlikely that evacuation around Bailly could be accomplished within a reasonable period of time.

9. While NRC's current siting criteria require that "special attention" be given to alternative sites where facilities are proposed to be constructed in such areas of high population density,[3] no such consideration has even been made in relation to Bailly. Even more importantly, however, the siting and evacuation planning criteria upon which Bailly was approved have now been unanimously criticized by the GAO, a joint NRC-EPA task force on emergency planning, and the House Government Operations Committee, who have all called for a significant upgrading of requirements for emergency response.[4] The recommendations of these studies demonstrate that Bailly's 188 meter exclusion area (the smallest at any site in the country) and the 2,400 meter low population zone are wholly inadequate standards for determining whether construction at Bailly poses an undue risk to the public. Indeed, Bailly is the only nuclear plant, operating or under construction, that failed to meet all 6 siting criteria recommended in the Report of the Siting Policy Task Force (NUREG-0625).

3/ See Regulatory Guide 4.7, General Site Suitability for Nuclear Power Stations at p. 9.

4/ See Comptroller General of the United States, "Areas Around Nuclear Facilities Should Be Better Prepared for Radiological Emergencies," EMD-78-11 (Mar. 30, 1979); "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans In Support of Light Water Nuclear Power Plants," NRC/EPA Task Force on Emergency Planning (Dec. 1978); H.R. Rep. No. 96-413, 96th Cong., 1st Sess. 1979 ("Emergency Planning Around U.S. Nuclear Power Plants: Nuclear Regulatory Commission Oversight").

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10. Most compelling of all, however, is the fact that since the construction permit at Bailly was approved, the Commission has also faced the accident at Three Mile Island, where NRC recommended at one point that the state of Pennsylvania consider evacuation within 20 miles of the site. This accident has in the most direct way focussed the need for a re-evaluation of the Bailly site, for consideration of whether an effective evacuation plan can be implemented.

11. Since 99% or virtually all construction of the Bailly plant has yet to be completed, NIPSCO's request for an extension in effect seeks approval for a new permit to construct a plant. Since the issue of emergency preparedness goes to the fundamental question of the suitability of the site from the standpoint of the public health and safety, an issue which cannot be resolved at a later stage without tremendous financial consequences, the "totality of the circumstances" requires consideration at this time. See Indiana and Michigan Electric Company, 6 A.E.C. 414 (1973). Intervenors thus submit that in determining whether good cause exists for the requested amendment, NRC should, as strongly recommended by GAO and the House Government Operations Committee, condition approval of construction at the Bailly site on a showing of effective emergency capability. Moreover, NIPSCO should not be permitted to resume construction on the Bailly plant prior to completion of this proceeding.

12. In the event that the Commission interprets the scope of the matters to be considered in a proceeding under 10 CFR § 50.55(b) more narrowly, however, Intervenors join in the Petition of Waiver of or Exception to 10 CFR § 50.55(b) and

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the Petition for Rule Making filed by Intervenors Porter County Chapter of the Izaak Walton League of America, Inc., Concerned Citizens Against Bailly Nuclear Site, Business-ment for the Public Interest, Inc., James E. Newman and Mildred Warner, in order that the issue of emergency response capability can be considered at this time.

Conclusion

For all the foregoing reasons, this petition should be granted, Intervenors should be admitted as parties to this proceeding, and a hearing should be held to consider whether NIPSCO's requested amendment to the construction permit should be denied unless NIPSCO demonstrates that adequate emergency response is possible around the Bailly site.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have, this 31st day of December, 1979, served copies of the Petition of the City of Gary Indiana, United Steelworkers Local 6787, The Bailly Alliance, Save The Dunes Council, and the Critical Mass Energy Project for Leave to Intervene by causing copies to be mailed to each of the following:

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A copy has also been served by hand on the Office of the Secretary of the Commission, Docketing and Service Section, this 31st day of December, 1979.

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