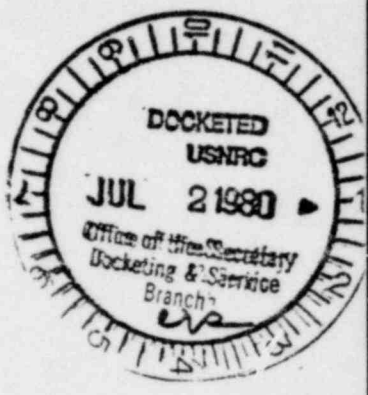

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
NORTHERN INDIANA PUBLIC SERVICE COMPANY	)	Docket No. 50-367 (Construction Permit Extension)
	)	
(Bailly Generating Station, Nuclear-1)	)	

PORTER COUNTY CHAPTER PETITIONERS' OBJECTIONS TO, COMMENTS ON, REQUESTED REVISIONS OF AND REWORDED CONTENTIONS IN RESPONSE TO PROVISIONAL ORDER FOLLOWING SPECIAL PREHEARING CONFERENCE

This document is submitted on behalf of Porter County Chapter Petitioners ("Petitioners"), by their attorney, as permitted and ordered by the Provisional Order Following Special Prehearing Conference, dated May 30, 1980 (the "Order").

1. A preliminary matter concerns the date on which this document is to be filed. On page 5, the Order refers to twenty-five days after its "issuance"; assuming the Order was "issued" on the date it was docketed, May 30, 1980, this document would be due June 24, 1980. However, on page 49 the Order refers to this document being due twenty-five days after its "service". Assuming the Order was "served" on May 30, 1980, 10 CFR §2.710 allows five days to be added for service by mail. Thus, this document would be due to be filed on June 30, 1980 (June 29, the fifth day following June 24, is a Sunday).

Petitioners have resolved this apparent conflict in favor of June 30 for several reasons. The Order was not received by counsel for Petitioners until June 5 and thus by filing on June 30 we have had twenty-five days to prepare this document. We believe that we would not have had adequate time to prepare it by June 24. Finally, we do not believe any other party has suffered any prejudice from our filing on June 30.

In the event that Petitioners have misread the Order and the Board intended that this document be filed by June 24, we hereby apologize for that misreading and respectfully move the Board to grant leave to file this document, instanter, for the above reasons.

2. The Board has invited a wide range of comment on the Order, including objections, argumentation and requested revisions (p. 5).* Like most decisions, the Order contains a great deal of language stating the issues and characterizing the positions of the parties, and giving the Board's legal reasoning, as well as stating actual rulings or decisions of the Board.

In this document, Petitioners intend to limit their objections and arguments to those matters pertinent to what we understand to be rulings or decisions adverse to us. In other words, we will not comment on, argue about or request revision of statements in the Order of our position or of legal principles or facts unless those statements are relevant to a ruling in the Order which is adverse to Petitioners' position. Petitioners' failure to object

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* As of the date of filing this document, counsel for Petitioners have received a copy of the revised transcript for only March 12, 1980, not for March 13, 1980.

to or comment on such matters should not be taken as agreement or disagreement by Petitioners with the statement of such matters in the Order. Rather, the failure to object should be understood to reflect Petitioners' view that such statements either are correct or if incorrect they have not led to an incorrect decision.

3. As we understand it, the Order rules on the admissibility only of three of Petitioners' contentions. It rules that Contentions 4 and 5 on construction site dewatering are admitted as contentions (pp. 30-33, 35), and, therefore, we need not address that subject further at this time. It also rules that the contentions about the unsuitability of the Bailly site are not admitted. (Order pp. 28-30; see Petition for Leave to Intervene, dated December 21, 1979, ¶7; Contention 6 of Supplemental Petition of the State of Illinois, dated February 20, 1980, joined in and adopted by Petitioners' Notice of Joinder and Adoption, dated February 27, 1980.) All other contentions of Petitioners are yet to be ruled upon (Order, p. 50)*, including those contentions regarding the short pilings issue, which the Order indicates will be ruled upon after responses are received to the Board's questions (p. 23).

Because the Order does not rule upon any other contentions, we will not argue, at this juncture, about the ambiguity and possible error in the statement that "we discern no issue in the contentions raised, that are not directly related to the delay in

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* The Order states that: "We will not fully discuss all of the remaining contentions in order to allow them to first be reworded pursuant to conferences between the participants as ordered by the Board at the Prehearing Conference." (p. 30). While counsel for Petitioners have met and conferred on the language of contentions with counsel for NIPSCO and for the Staff, no agreement on rewording of contentions has been reached.

construction or do not arise from the reasons assigned for the extension, that must be heard in order to protect the interests of the Intervenors or the public." (Order, p. 28). If the implication is that Petitioners' contentions do not allege such matters, the Board has, with all due respect, simply misread the contentions. If, on the other hand, the implication is that although the contentions raise such allegations the Board does not agree with them, then the Board has prematurely and improperly indicated a ruling on the merits of contentions. In all events the issue can and should be resolved only in the context of rulings on the admissibility of specific contentions.

Thus, the only adverse ruling on contentions which Petitioners address here is that concerning site suitability. In its provisional ruling that the suitability of the Bailly site for a nuclear plant cannot be considered in this construction permit extension proceeding (Order, pp. 28-30), the Board has misread the thrust of the contention. The provisional Order appears to view the site unsuitability contentions as asserting only that Bailly fails to comply with the criteria in NUREG-0625, which have not yet been codified in 10 CFR, Part 100. Bailly's non-compliance with the criteria of NUREG-0625 is, of course, one element in the contention. However, that non-compliance is not asserted as the failure to comply with a specific regulation because we recognize that those criteria have not been acted upon finally by the Commission. On the other hand, simply because a topic - particularly a topic as important as that of the protection of the public health and safety by the appropriate siting of a nuclear plant - has not yet been the subject of final Commission action, does not mean that it can be totally ignored by this Board

in this "good cause" proceeding. In other words, the views and conclusions of the Commission's own Siting Policy Task Force are relevant to and should be considered by the Board in determining whether good cause exists for the requested construction permit extension. Just as the Board will undoubtedly take into consideration the views of other groups within the NRC Staff, so it cannot ignore the views of the Siting Policy Task Force.

Thus, contrary to the implication of the provisional Order, we do not seek to re-litigate whether or not Bailly complies with 10 CFR, Part 100. Rather, we assert that consideration of the "totality of the circumstances" to determine whether "good cause" exists must include the views of the Task Force, regardless of whether those views have become embodied in Commission regulations. Thus we are not here asserting lack of compliance with any particular regulation; what we are asserting is lack of good cause. Similarly, the contentions concerning the unsuitability of the Bailly site also assert a variety of other factors which should be considered, including shifts in population since the construction permit was issued, Regulatory Guide 4.7, NUREG-0499, and 10 CFR §100.10(d), in determining whether good cause exists for the requested extension.

We urge the Board to modify its provisional Order and, in the final order, to admit the contentions concerning the unsuitability of the Bailly site.

4. The Order (p. 33-34), indicates that Petitioners' Petition for Waiver of, or Exception to, 10 CFR §50.55(b) is being denied. It appears that the denial is founded on the Board's reading of the Petition to seek waiver only if the Board rules that §50.55(b) is limited to the reasons why construction was not

completed by the latest completion date, and since the Board's ruling does not so limit §50.55(b), the relief is moot. In fact, however, the Petition was intended to seek waiver if §50.55(b) was interpreted to be limited to the reasons why construction was not completed and to exclude from a "good cause" proceeding considera tion of the significant events which have occurred since the construction permit was issued. Thus, even though the Board has made clear that the scope of §50.55(b) is broader than the reasons construction was not completed, the full scope of §50.55(b), as interpreted by the Board, cannot be determined until the Board rules on which contentions are admissible and which are not. Accordingly, a final ruling on the waiver is premature until the ruling on the contentions, which will finally determine the scope of this proceeding.*

5. The Order (p. 49) provides as follows:

> "The Board orders that all reworded contentions that the Petitioners argue should be treated as timely filed because they were specifically raised or incorporated by reference in the supplemental petition, should be filed at the same time as the comments to this Provisional Order (25 days after service of the Provisional Order)."

Porter County Chapter Petitioners respond to that direction in the following paragraphs. However, before setting forth the reworded contentions, several points of clarification and introduction should be made.

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* It should also be noted that a ruling interpreting §50.55(b) less broadly than Petitioners urge will not necessarily create a legal paradox as the Order suggests (p. 34). A ruling that §50.55(b) does not fulfill the purpose of Section 185 of the Act could be rationalized on the ground that the Commission did not go as far in that section as Congress authorized it to go in the Act.

First, the Order reflects the Board's understanding that meetings among counsel for the participants with regard to the wording of those contentions incorporated by reference (p. 49) have already been held. While, as noted above, counsel have conferred with respect to the wording of contentions, the conferences have not addressed the wording of the contentions incorporated by reference in Contention 12. Accordingly, the wording of the contentions set forth below has not been agreed to by counsel for other parties.

Second, the context of the contentions incorporated by reference should be made clear. Contention 12 in "Joint Intervenors' First Supplement to Petition for Leave to Intervene," dated February 26, 1980, specifically referred to and incorporated by reference the contentions in the "Petition for Leave to Intervene," dated December 20, 1979. The "Petition for Leave to Intervene" had specifically referred to and incorporated by reference a number of other documents previously filed (p. 3), one of which was the "Joint Supplement to Requests for Hearing," dated June 29, 1979. The "Joint Supplement to Requests for Hearing" in turn specifically referred to and incorporated by reference (p. 11), the "Request to Institute a Proceeding, and Motion, to Suspend and Revoke Construction Permit No. CPPR-104," filed on November 24, 1976. Each of these documents had been filed with the Nuclear Regulatory Commission and served upon all officials of the Commission and counsel for all parties involved at the time of their filing. Each of these documents unquestionably was a part of the official NRC docket (No. 50-367) concerning Bailly and each had been served upon counsel for NIPSCO, who have taken the position that contentions in these documents have not been presented in a proper

fashion for litigation in this proceeding.

At the Prehearing Conference, the Chairman of the Board indicated that the Board had not seen the Joint Supplement to Requests for Hearings or the Request to Institute a Proceeding, and Motion, to Suspend and Revoke Construction Permit No. CPPR-104. On March 20, 1980, copies of these documents were transmitted to the members of the Board and to all parties who had not been served at the time the documents were originally filed, with a Notice of Service.

The contentions contained in these previously filed documents cannot be ruled to be untimely simply because they had not been physically received by members of the Board. They were part of the official NRC docket. Petitioners reasonably believed that members of the Board had access to all documents which are part of the docket. Indeed, if the contentions in these previously filed documents are viewed as being untimely, then it must follow that NIPSCO's application for the construction permit extension (its letters of February 7, 1979 and August 31, 1979) also is untimely since at the Prehearing Conference the Chairman noted that the Board had not received the application prior to that time. Because the documents containing these contentions had been served upon counsel for NIPSCO and the Staff at the time they were filed, those parties were fairly apprised of the contentions which Petitioners seek to litigate in this proceeding and therefore are not prejudiced.*

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* To the extent that NIPSCO objects to these contentions on the ground that Petitioners incorporated them by reference in lieu of retyping them in a separate document, the objection is utterly without merit. There is no rule nor reason to support such a retyping requirement.

The Board should conclude that these contentions were presented in a timely manner. In the alternative, the Board should exercise it discretion to permit them to be admitted as contentions in this proceeding.

CONTENTIONS

The reworded and retyped contentions which Petitioners seek to litigate in this proceeding, incorporated by reference in Contention 12 of the First Supplement, are set forth below the prefix "R-I" indicating "Reworded-Incorporated", and the document and paragraph in which each originally appeared is set forth in parenthesis at the end of the contention:

Petitioners contend that the subject matter of each of the following contentions must be considered in connection with NIPSCO's requested construction permit extension; that such consideration cannot abide the operating license hearing; that consideration of them at this time is necessary to protect Petitioners' interests and the public interest; that, as to those contentions raising safety matters, they give strong reason to believe that there no longer is reasonable assurance that such safety issues will be resolved satisfactorily by the new completion date sought by NIPSCO; and that when each is considered the conclusion will be required that NIPSCO has not met its burden of showing good cause for the construction permit extension;

R-I 1. Petitioners contend that on March 28, 1979 the most serious nuclear power plant accident in history occurred at the Three Mile Island plant. In response, a large number of studies of the causes, effects, consequences and preventability of such

accidents, including one by a Commission appointed by President Carter and a "special independent study" for the NRC announced by then Chairman Hendrie on June 14, 1979, have been commenced. Chairman Hendrie was quoted as saying "the purpose of [the] evaluation is to permit the Commission to take whatever future steps may be necessary to prevent any similar accident in the future and to improve the NRC's ability to respond to accidents." Chicago Sun-Times, June 15, 1979, p. 24). (Joint Supplement to Requests for Hearing, dated June 29, 1979, ¶1.)

R-I 2. Petitioners contend that in addition to the Three Mile Island accident, there are a number of other recent and highly significant developments concerning nuclear power which must be considered in connection with the requested extension of the Bailly construction permit. These developments, the details of which are known to the Commission and its Staff, include the required shut-down in 1979 of 5 nuclear power plants because of potentially inadequate design to withstand earthquakes; the 1979 Interagency Review Group on Nuclear Waste Management Report to the President that significant uncertainties remain in the ability to safely dispose of radioactive waste and spent fuel from nuclear plants; and the 1978 Risk Assessment Review Group Report to the U. S. Nuclear Regulatory Commission (NUREG/CR-0400). (Joint Supplement to Requests for Hearing, dated June 29, 1979, ¶2.)

R-I 3. Petitioners contend that in 1975 and thereafter questions, acknowledged by the Commission to be both serious and unresolved, about the safety of the Mark II containment system became known. (See, e.g., NUREG 0410, NRC Program for Resolution of Generic Issues Related to Nuclear Power Plants, Report to Congress, January 1, 1978; Task Action Plan, Task Number A-8 at pages 1-2; Task Number A-39 at page 2; "Summary of Meeting held on February 16, 17, 1977, to discuss the Mark II Containment Pool Dynamic Load Program" dated April 18, 1977 at page 4; NUREG 0510, Identification of Unresolved Safety Issues Relating to Nuclear Power Plants, January 1, 1979.) The Mark II containment design questions are significant safety issues and may not be capable of resolution during construction. (Joint Supplement to Requests for Hearing, dated June 29, 1979, ¶3.)

R-I 4. Petitioners contend that Nuclear Regulatory Guide 1-97, which was issued after the Bailly construction permit was issued and which governs post-accident monitoring, has not been taken into account by NIPSCO in the design of the Bailly plant. The Bailly plant design is inadequate because it lacks post-accident monitoring capabilities sufficient to inform plant operators of what has happened following a nuclear accident. The inadequacies in post-accident monitoring were amply demonstrated at Three Mile Island when the operator of the plant did not know what was taking place in the core of the containment and did not know accident conditions outside of the plant. This is a significant issue which may not be capable of resolution during construction and is one which has not been considered before in Bailly proceedings. The Advisory Committee on Reactor Safeguards, as recently as May 16, 1979, has acknowledged the importance of post-accident monitoring. Further, the requirements of TAP A-34 regarding post-accident monitoring are still unknown and there is a substantial question whether Bailly will be able to adequately retrofit to meet such requirements. (Joint Supplement to Requests for Hearing, dated June 29, 1979, ¶5.)

R-I 5. Petitioners contend that the NRC in NUREG 0410, NUREG 0471, Gulf State Utilities Company (River Bend Station, Units 1 and 2) 6 NRC 760 (1977), and NUREG 0510 lists numerous generic safety issues which have not yet been resolved. In addition, General Electric, the reactor vendor for Bailly, has prepared a report (the Reed Report) identifying, inter alia, 27 safety related items which need improvement in General Electric boiling water reactors. The Report's existence was not made known to the public until after the issuance of the Bailly construction permit and it was not even until 1976 that NRC employees were allowed to see the report. The Report is particularly relevant to Bailly because the BWR-5 Mark II reactors were under active design evolution at the time that the Reed Report was being prepared. (Joint Supplement to Requests for Hearing, dated June 29, 1979, ¶6.)

R-I 6. Petitioners contend that 10 C.F.R., Part 50, Appendix A, criterion 20, requires that the emergency protection systems in a reactor be designed to automatically initiate the operation of certain safety systems to assure that field design limits are never exceeded due to certain anticipated occurrences during operation. Several times a year in the U.S. a reactor will fail to scram when the field design limit is exceeded. ATWS has been shown by WASH 1400 (the Rasmussen Report) to be a major cause of accidents in boiling water reactors and that boiling water

reactors are more susceptible to ATWS incidents than pressurized water reactors. The BWR-3 in the Mark II containment will not survive many of the proposed ATWS scenarios thus potentially resulting in a core melt or a containment failure. NUREG 0460 calls for several possible solutions to the problem of ATWS. It is critical that the design and construction of the Bailly plant be capable of accommodating any of the possible solutions proposed to meet the ATWS requirement. Further, NUREG 0510 considers ATWS to be an unresolved safety issue. (Joint Supplement to Requests for Hearing, dated June 29, 1979, ¶7.)

R-I 7. Petitioners contend that events at Three Mile Island indicated great problems of worker exposure in attempting to mitigate the effects of the less-than-Class 9 accident. This was especially evident in such systems as the hydrogen recombiners, primary loop sampling system and liquid and gas waste storage in the auxiliary building. NIPSCO has not dealt with this factor in the construction permit proceeding and it is a problem which may be incapable of resolution during construction. (Joint Supplement to Requests for Hearing, dated June 29, 1979, ¶8.)

R-I 8. Petitioners contend that in view of the lack of alternative storage and disposal facilities for spent fuel it is important to allow sufficient size for the spent fuel pool without the artificial mechanism of dense storage. Reactors of the Bailly type require spent fuel storage in the containment vessel and therefore adequate space in the containment must be provided for spent fuel storage. This is a problem not dealt with in the construction permit proceedings and if the containment is improperly designed, will be incapable of resolution during construction. (Joint Supplement to Requests for Hearing, dated June 29, 1979, ¶9.)

R-I 9. Petitioners contend that the operating history of boiling water reactors since the issuance of the construction permit for Bailly indicate numerous problems regarding the adequacy of boiling water reactor designs with reference to pipe cracks, vessel cracks, sparger cracks and control rod failure. 10 C.F.R. 50 Appendix A, criteria 14, 30, and 31 require an applicant to demonstrate the adequacy of material selection and control to avoid such problems. No such demonstration has been made by NIPSCO and because these are design problems they will be incapable of resolution during construction. (Joint Supplement to Requests for Hearing, dated June 29, 1979, ¶10.)

R-I 10. Petitioners contend that the issuance of the amendment requested by NIPSCO - which would constitute permission to build 99% of the Bailly plant - would be a major federal action significantly affecting the quality of the human environment. Accordingly, a detailed environmental impact statement must be prepared and NEPA must otherwise be complied with, before the amendment may be issued. This is particularly so in view of the large number of significant factual developments, identified in this document or otherwise known to the Commission, which were not and could not have been considered in the AEC's Bailly Final Environmental Statement ("FES") or in the cost-benefit analysis. These include, but are not limited to, the following:

a. A large number of public health and safety factors which affect the probability of various types of accidents and their consequences, including, but not limited to, those identified in paragraphs numbered R-I 1 through R-I 9 of this document;

b. Significant changes in the facts underlying a determination as to whether there is a need for the power to be generated by Bailly, and if so when, such as the rate of growth of demand on NIPSCO's system, additional generating sources built by NIPSCO and other utilities, and energy conservation techniques;

c. The dramatic increase to over $1.1 billion in the proposed cost of building the Bailly plant;

d. Changes in the population density surrounding the Bailly site;

e. The impact upon the Indiana Dunes National Lakeshore of the construction activities thus far carried out, including the dewatering, pumping and the effect, if any, of the slurry wall.

f. A recent NRC staff memo to the Commission recognizes that in areas of dense population Class 9 accidents are a proper subject for consideration in connection with construction of nuclear power plants. (Action Memorandum, SECY-78-137; Assessments of Relative Differences in Class 9 Accident Risks in Evaluation of Alternatives To Sites with High Population Densities, March 7, 1978.) Bailly's proximity to major urban areas, 20% of the nation's steel-making capacity, the Indiana Dunes National Lakeshore, and Lake Michigan make it particularly appropriate for Class 9 consideration. Consideration to a Class 9 accident at the Bailly nuclear plant has not been given. (Joint Supplement to Requests for Hearing, dated June 29, 1979, pp. 9-10.)

R-I 11. Petitioners contend, in the alternative, that even if the Commission rejects the conclusion that a new environmental impact statement is required, the significant new developments described in R-I 10 must be considered in a supplement to the FES and the impact of each upon the cost-benefit analysis of the Commission must be considered. (Joint Supplement to Requests for Hearing, dated June 29, 1979, pp. 10-11.)

R-I 12. Petitioners contend, in the further alternative, that each of the factors identified in R-I 10 is a significant factor in the cost-benefit analysis and the Commission is required to re-analyze its prior cost-benefit conclusion on the issuance of a construction permit for the Bailly plant. Each of these factors also requires that the Commission re-analyze its comparison of the costs and benefits of the permit issuance to the costs and benefits of alternative courses of action. (Joint Supplement to Requests for Hearing, dated June 29, 1979, p. 11.)

R-I 13. Petitioners contend that by reason of the current estimate of $1.1 billion as the cost of construction and other recent data from NIPSCO, serious doubt now exists about the financial ability of NIPSCO to design and construct the Bailly plant, without seriously impairing the financial position of the company. (Request to Institute a Proceeding, and Motion, to Suspend and Revoke Construction Permit No. CPPR-104, dated November 24, 1976, ¶5.)

R-I 14. Petitioners contend that in addition to the matters identified in other contentions which must be considered in the environmental impact statement to be prepared in connection with NIPSCO's requested construction permit extension, the cost and availability of uranium must be considered.

The AEC decision authorizing issuance of the construction permit concluded that "the nuclear power contemplated for Bailly N-1 is preferable to the other fuels from an economic and environmental consideration." (RAI-74-4, at p. 622, ¶183.) The FES utilized a figure of 2.75 mils/kWh as operating costs. (p. XI-3).

Petitioners, as parties to the AEC construction permit proceeding under the label "Joint Intervenors", contended that the Bailly plant "will be a major consumer of uranium fuel, and in conjunction with the other nuclear plants scheduled to begin operation on Lake Michigan in the near future, will consume a major part of the entire domestic uranium fuel output of the United States." (Further Specification of Contentions, No. 33, filed August 28, 1972.) This contention was excluded from consideration in the proceeding by the Licensing Board on September 6, 1972. (Tr. 197-99.) Petitioners had also contended that the "Bailly nuclear plant is, in reality, a short term solution to meet future power demand due to the fact that known fuel reserves of uranium will be exhausted within the 40 year life of the plant." (Joint Intervenors' Supplementary Specification of Contentions - A, No. 66, filed February 12, 1973.) This contention also was barred from consideration in the proceeding by the Licensing Board. (Prehearing Conference Order, March 21, 1973.)

As of May 9, 1980, NIPSCO had said that:

> "The Company has acquired approximately one-half of the initial core requirements of uranium hexafluoride (hexafluoride) for Bailly Unit N1. The Company must negotiate a contract for fuel fabrication, for which a commitment has been made, and for the remaining requirements of hexafluoride for the initial core load. It will also have to seek bids for uranium concentrate, conversion to hexafluoride, fuel fabrication and, if allowed, reprocessing of spent fuel for reloads. The Company has an enrichment contract with the Department of Energy. There is no assurance, however, that any of the other necessary contracts will be available. The Company estimates the fuel cycle costs for the first ten years of operation will be

$548 million based on a 1987 in-service date and that costs would be higher for any later in-service date. The estimate of fuel costs is based on the assumption that the costs of fuel reprocessing would be balanced by a credit for the plutonium produced through reprocessing. In the event that fuel reprocessing is prohibited, costs for fuel would be significantly higher but cannot presently be estimated. The Company could not operate Bailly Unit N1 nor would the Company's investment therein be usable until such time as the described contracts can be secured." (Preliminary Prospectus dated May 9, 1980, p. 24.)

Petitioners contend that these matters must be included in the required cost-benefit analysis. (Request to Institute a Proceeding, and Motion, to Suspend and Revoke Construction Permit No. CPPR-104, dated November 24, 1976, ¶7.)

R-I 15. Petitioners contend that energy conservation must be considered as an alternative to the action of building the Bailly plant through granting NIPSCO's requested construction permit extension.

The AEC decision authorizing issuance of the construction permit rejected energy conservation as an alternative to that course of action. It said that:

"To deny a license as a result of speculative possibilities as to future demands is not reasonable. Our position is supported by a quotation from the AEC Memorandum and Order of January 24, 1974, in the Consumers Power Co. case, Docket No. 50-329, 50-330:

'...Furthermore, the impact of proposed energy conservation alternatives on demand must be susceptible to a reasonable degree of proof. Largely speculative and remote possibilities need not be weighed against a convincing projection of demand. Here, as with many other issues under the National Environmental Policy Act of 1969, a rule of reason applies...' (RAI-74-1, p. 24)" (RAI-74-4, pp. 619-20, ¶182.)

The projections of future demand upon the basis of which the construction permit was issued, speculative at the time made, have proved to be erroneous. Energy conservation is clearly an alternative to the construction and operation of Bailly which must be considered by the

NRC in order to comply with the mandates of NEPA in its consideration of the requested construction permit extension. (Request to Institute a Proceeding, and Motion, to Suspend and Revoke Construction Permit No. CPPR-104, dated November 24, 1976, ¶8.)

6. Petitioners believe that the prompt issuance of a final order following the prehearing conference is in the best interests of all parties, and therefore urge the Board to rule as quickly as possible. If the Board concludes that some matters require further study by the Board, or if the submission of further views by the parties on some issues is appropriate, Petitioners nonetheless urge the Board to rule promptly at least that a hearing will be held and that Petitioners will be parties to it. There is, we suggest, no room for serious doubt that the record establishes that Petitioners have satisfied standing, one valid contention, and all other requirements of 10 CFR §2.714. Thus, there is no occasion to delay a final order determining at least that a hearing will be held. Petitioners and the public have a right to have that much established as promptly as possible.

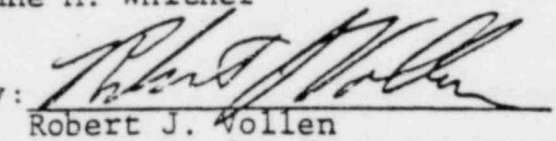
One additional point should be made concerning scheduling. The Order (p. 23) provides that no determination will be made on the acceptability of the contentions regarding the short pilings issue until after the Board receives the responses to the four questions posed, which responses will not be required until 10 days after the issuance of the final order. Petitioners believe that the existing record clearly demonstrates the acceptability and propriety of the short pilings contentions and, therefore, urge the Board to rule promptly that they are acceptable.

If, however, the Board disagrees and still wants the questions answered before ruling on the short pilings contentions, we believe that the answers can be submitted sooner than 10 days after the final order. Accordingly, in the alternative, Petitioners urge the Board to promptly enter an order directing that the short pilings questions be answered within 10 days of service of the order.

DATED: June 30, 1980

Respectfully submitted,

Robert J. Vollen
Edward W. Osann, Jr.
Robert L. Graham
Jane M. Whicher

by: 
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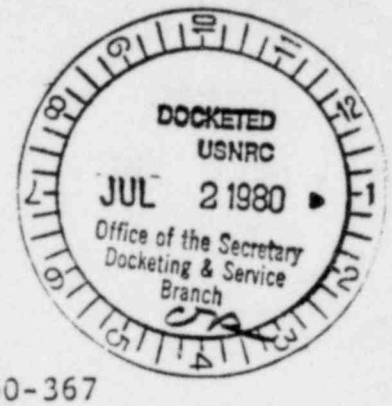


UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
NORTHERN INDIANA PUBLIC SERVICE COMPANY	)	Docket No. 50-367
	)	
	)	(Construction Permit
Bailly Generating Station, Nuclear 1	)	Extension)
	)	

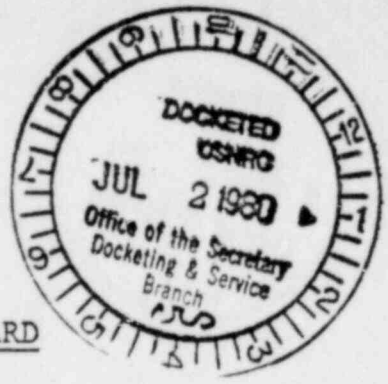
NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with §2.713, 10 C.F.R. Part 2, the following information is provided:

Name	-	Jane M. Whicher
Address	-	109 N. Dearborn Street Chicago, IL 60602
Telephone Number	-	(312) 641-5570
Admission	-	Iowa Supreme Court, Missouri Supreme Court U. S. District Court for the Western District of Missouri
Name of Party	-	Porter County Chapter of the Izaak Walton League of America, Inc.; Concerned Citizens Against Bailly Nuclear Site; Businessmen for the Public Interest; James E. Newman and Mildred Warner

Jane M. Whicher
Attorney for Porter County Chapter of the Izaak Walton League of America Inc.; Concerned Citizens Against Bailly Nuclear Site; Businessmen for the Public Interest; James E. Newman and Mildred Warner

Dated at Chicago, Illinois
this 30th day of June, 1980



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
	)	
NORTHERN INDIANA PUBLIC SERVICE COMPANY	)	Docket No. 50-367 (Construction Permit Extension)
	)	
(Bailly Generating Station, Nuclear-1)	)	

CERTIFICATE OF SERVICE

I, Robert J. Vollen, hereby certify that I served copies of the foregoing Porter County Chapter Petitioners' Objections to, Comments On, Requested Revisions Of and Reworded Contentions in Response To Provisional Order Following Special Prehearing Conference, and the foregoing Notice of Appearance, on all persons on the attached Service List, by depositing same in the U.S. mail on June 30, 1980, first class postage prepaid.

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