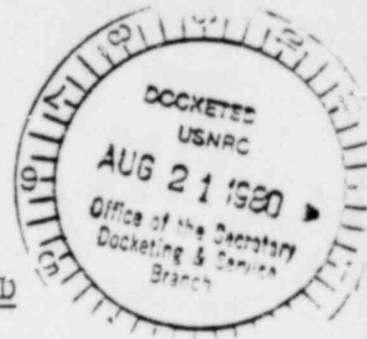


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

PORTER COUNTY CHAPTER INTERVENORS'
OBJECTIONS TO ORDER FOLLOWING
SPECIAL PREHEARING CONFERENCE

Porter County Chapter of the Izaak Walton League of America, Concerned Citizens Against Bailly Nuclear Site, Businessmen for the Public Interest, Inc., James E. Newman and Mildred Warner ("Porter County Chapter Intervenors") by their attorneys, hereby submit their objections to the Order Following Special Prehearing Conference, dated August 7, 1980 (the "Order").

1. Porter County Chapter Intervenors object to the Board's ruling denying their Contention 9 (Order, p. 61).

NIPSCO's application explicitly establishes the nexus between the requested extension and the accident at Three Mile Island ("TMI"). Moreover, in view of the fact that an accident of the seriousness of that which occurred at TMI was not considered at any time in connection with the issuance of the Bailly construction permit, such an accident must be considered now in determining whether good cause exists for the requested extension. The Atomic Safety and Licensing Board in In the matter of

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Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc. (Susquehanna Steam Electric Station, Units 1 and 2), Dockets No. 50-387 and 50-388, LPB-79-29 (Memorandum and Order concerning Class 9 Accident Contention, October 19, 1979) said that:

The fact that the TMI events occurred constitutes a prima facie showing of the probability of occurrence of such an accident, sufficient to form the basis for an acceptable contention. (Id. at p. 12)

Accordingly, the Board in that proceeding admitted the following contention:

19. The ER and FSAR are inadequate in that they do not discuss an accident such as actually occurred at the Three Mile Island Unit 2 facility, either in terms of the consequences of such an accident, their effect on the cost-benefit balance for the facility, or measures to prevent or mitigate the occurrence or effects of such an accident. (Id. at p. 13)

The Board in Susquehanna ruled that the contention includes both environmental and safety considerations (Id.)

The fact that the Susquehanna decision was in an operating licensing proceeding does not reduce its impact here. The important point is that the Board there recognized that TMI was so significant as to require a departure from past Commission decisions that Class 9 accidents could not be considered in

connection with licensing decisions. The TMI accident is precisely that type of significant development which occurred subsequent to the issuance of the Bailly construction permit which must be considered in this good cause proceeding.

In addition, the unquestionable special circumstances surrounding Bailly and this proceeding require consideration of a TMI or other Class 9 accident in this proceeding, rather than awaiting a possible operating license hearing after the plant is constructed. Those circumstances can be summarized succinctly as follows: The Bailly plant is less than 1% completed, and the requested extension of the construction permit is for a longer period of time than that covered by the original permit. The Bailly site is in one of the most densely populated areas ever considered for a nuclear power plant, and fails all six of the siting criteria set forth in NUREG 0625. The Bailly site is within close proximity to 20% of the nation's steel-making capacity. It is a site almost impossible to evacuate and thus poses an extraordinary risk to residential and worker population in the immediate vicinity. It is also immediately adjacent to the irreplaceable resources of the Indiana Dunes National Lakeshore and Lake Michigan. In short, the Bailly site and the status of construction of the plan represent more, and more compelling, special circumstances than any nuclear plant site in the entire country. There has never before been a contested construction permit extension proceeding concerning a plant at the early stage of construction at which Bailly is.

Porter County Chapter Intervenor's Contention 9 should be admitted in this proceeding.

2. Porter County Chapter Intervenor's object to the Board's denial of their Contention 11 (Order, p. 61). That contention sets forth the appropriate and legally required scope of this construction permit extension proceeding. In light of the special circumstances surrounding the Bailly plant, all significant developments relevant to public health and safety and to environmental considerations arising since the construction permit was issued must be considered to determine whether NIPSCO has shown good cause for its requested extension.

3. Porter County Chapter Intervenor's object to the Board's denial of Illinois Contention 6 (Order, p. 65), adopted and incorporated by reference in Joint Intervenor's Notice of Joinder and Adoption filed on February 27, 1980.

Illinois Contention 6 asserts matters which should be considered in this construction permit extension hearing. The contention seeks to litigate issues concerning site suitability which were not -- and could not have been -- considered at the construction permit hearing, namely those referred to on pages 6 and 7 of State of Illinois Response to Provisional Order Following Special Pre-Hearing Conference filed on June 30, 1980. The fact that Congress and the Commission have indicated that new siting

requirements may be applied to previously authorized facilities on a case by case basis, pursuant to specific statutory or Commission action, does not support the inference that this Board should be limited in its consideration of whether good cause for an extension of the Bailly construction permit has been shown.

In addition, the contention addresses the issue of changes in geological characteristics of the site due to NIPSCO's activities with respect to dewatering and pile jetting during the period of construction activity since the permit was issued. These conditions did not exist at the time of the issuance of the construction permit and thus could not have been considered then. These matters cannot await a possible operating license hearing.

Illinois Contention 6 should be admitted in this proceeding.

4. Porter County Chapter Intervenors object to the Board's denial of Illinois Contention 7C (Order, pp. 65-66), adopted and incorporated by reference in Joint Intervenors' Notice of Joinder and Adoption filed on February 27, 1980. The issue of the adequacy of the Mark II containment arose after the issuance of the construction permit and must be considered in determining whether good cause for the requested extension has been shown. The design defects in the Mark II containment was not one of the items left open for later resolution under 10 CFR §50.35(a) at the time the construction permit was issued. The issue of whether

those defects can be adequately resolved cannot properly await the operating license hearing.

DATED: August 18, 1980

Respectfully submitted,

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By



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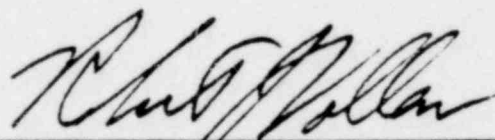
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CERTIFICATE OF SERVICE

I hereby certify that I served copies of the foregoing Porter County Chapter Intervenors' Objections To Order Following Special Prehearing Conference, on all persons on the attached Service List, by depositing same in the U.S. mail on August 18, 1980, first class postage prepaid.



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