

5/11/81
RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)

NORTHERN INDIANA PUBLIC)
SERVICE COMPANY)
(Bailly Generating Station,)
Nuclear-1))

Docket No. 50-367
(Construction Permit
Extension)

ANSWERS OF PORTER COUNTY CHAPTER OF THE IZAAK WALTON
LEAGUE OF AMERICA, INC.; CONCERNED CITIZENS AGAINST
BAILLY NUCLEAR SITE; BUSINESSMEN FOR THE PUBLIC
INTEREST, INC.; JAMES E. NEWMAN AND MILDRED WARNER
TO NIPSCO'S FIRST SET OF INTERROGATORIES

Porter County Chapter of the Izaak Walton League of America, Inc.; Concerned Citizens Against Bailly Nuclear Site; Businessmen for the Public Interest, Inc.; James E. Newman and Mildred Warner, by their attorneys and agent, hereby answer NIPSCO's First Set of Interrogatories to Porter County Chapter Intervenors.

The entire set of interrogatories is objectionable and need not be answered as propounded, because NIPSCO has addressed its interrogatories to a non-existent entity. "Porter County Chapter Intervenors" and "PCCI" are the term and the initials which have been used, for the purpose of brevity, to refer collectively to the three organizations and two individuals, named above, each of whom is a party to this proceeding. Other than as an expression of convenience for that limited purpose of reference, neither "Porter County Chapter Intervenors" nor "PCCI" exists as entities capable of answering interrogatories.



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For that reason NIPSCO's "First Set of Interrogatories to Porter County Chapter Intervenors" is misdirected. However, in an effort to reduce the level of haggling over discovery requests below that which NIPSCO has carried on, to avoid quibbling over NIPSCO's erroneous characterization and to prevent an unnecessary skirmish in what has been referred to as internecine warfare between the parties, the above-named parties nonetheless hereby answer NIPSCO's First Set of Interrogatories.

Each of these answers is based upon such information as is known to the answering parties' attorneys and agent as of the date hereof and is subject to change as further or other information becomes available through discovery or otherwise.

1. (a) We contend that the following are the reasons which are contributing factors to NIPSCO's failure to complete construction of Bailly by September 1, 1979:

- (1) the conduct of NIPSCO and its contractors;
- (2) the conduct of opponents to the construction of Bailly;
- (3) the conduct of government agencies and officials thereof;
- (4) the actions of the United States Court of Appeals for the Seventh Circuit;
- (5) the conduct of customers of NIPSCO; and
- (6) the conduct of members of the public.

1. (b) (1) (1)

(A) NIPSCO's choice to attempt to build a nuclear plant at the Bailly site, which is one of the worst sites in the country ever considered for a nuclear plant.

(B) The failure of NIPSCO and its contractors to comply with the PSAR submitted by NIPSCO as part of its application for a construction permit.

(C) The failure of NIPSCO and its contractors to submit a complete PSAR.

(D) NIPSCO's failure to undertake any construction activity after September 1977.

(E) The failure of NIPSCO and its contractors to do things that they might have done to enable construction to be completed by September 1, 1979.

(F) NIPSCO's failure to select contractors who were competent to build a nuclear plant by September 1, 1979.

(G) The failure of NIPSCO and its contractors to design a plant which could be completed by September 1, 1979.

(H) NIPSCO's decision to slow down or delay construction.

(I) NIPSCO's discharge into the Indiana Dunes National Lakeshore from its ash ponds and its contract with the Department of Interior requiring NIPSCO to seal the ash ponds.

(J) The actions of General Electric, NIPSCO's contractor, in designing the unsafe Mark II containment vessel and in failing to adequately resolve other safety problems.

(K) The disturbance of soil at the Bailly site by the attempts of NIPSCO and its contractors to jet the pilings described in the PSAR.

(L) The actions of NIPSCO's contractors in raising prices to raise the projected cost of the Bailly plant to well over \$1 billion.

(M) NIPSCO's failure to find means to preclude any impact on the Indiana Dunes National Lakeshore from its action in building and operating the Bailly plant.

(N) NIPSCO's failure to have an effective means to evacuate people in the vicinity of the Bailly plant in the event of an accident.

1. (b) (1) (2)

(A) The presence and actions of opponents of construction of the Bailly plant may have resulted in government agencies, including the AEC, the NRC, and the Department of the Interior, taking actions that they otherwise would not have taken and taking a longer time to carry out their functions than they would have taken had opposition to the Bailly plant not been present.

(B) The actions of opponents of construction of the Bailly plant may have contributed to the entry of orders by the United States Court of Appeals for the Seventh Circuit which affected construction.

(C) The actions of opponents of construction of the Bailly plant may have resulted in the dissemination of information which increased the amount of opposition and the impact of the opponents.

1. (b) (1) (3)

(A) The Nuclear Regulatory Commission directed NIPSCO not to engage in construction after September 1977.

(B) The Atomic Energy Commission issued a construction permit on May 1, 1974, for a nuclear plant to be built at one of the worst sites in the country ever considered for a nuclear plant.

(C) The Department of Interior has taken the official position that a nuclear plant should not be built at the Bailly site.

(D) The Department of the Interior entered into a contract with NIPSCO requiring NIPSCO to seal the ash ponds.

(E) The National Park Service has undertaken some efforts to fulfill its duty to protect the Indiana Dunes National Lakeshore from the effects of construction and operation of a nuclear plant at the Bailly site.

(F) Inquiries and expressions of interest by various members of Congress may have caused government agencies to do things they would not have otherwise done, and may have caused what the agencies did do to take longer than it otherwise would have taken.

(G) The response of the government and its agencies to the accident at the Three Mile Island nuclear plant and its aftermath affected the entire nuclear power industry and caused a delay in its construction and licensing of a number of nuclear plants, including Bailly.

(H) The Nuclear Regulatory Commission looked at NIPSCO's short pilings proposal.

(I) The Nuclear Regulatory Commission held hearings on NIPSCO's proposal for a slurry wall.

(J) The Nuclear Regulatory Commission referred NIPSCO's short pilings plan to the Advisory Committee on Reactor Safeguards and to the Army Corps of Engineers.

(K) The Army Corps of Engineers and the ACRS looked at NIPSCO's short pilings plan.

1. (b) (1) (4)

(A) The court issued an order staying construction pending its review of the AEC's issuance of the Bailly construction permit.

(D) The court set aside the AEC decision granting a construction permit.

1. (b) (1) (5)

(A) NIPSCO's customers reduced their consumption of electrical power.

(B) NIPSCO's customers expressed their opposition to the Bailly plant.

1. (b) (1) (6) Members of the public expressed opposition to Bailly which contributed to an environment of political and emotional hostility to the construction of Bailly, particularly after the accident at Three Mile Island.

1. (b) (2)

(1) The files of the Atomic Energy Commission, Nuclear Regulatory Commission, and Department of Interior pertaining to Bailly.

(2) The files of the United States Court of Appeals for the Seventh Circuit with respect to Case No. 74-1751.

(3) All government issuances relating to the accident at Three Mile Island and its aftermath.

(4) All documents produced by NIPSCO in discovery in this proceeding.

1. (b) (3) We make no contention as to the length of delay attributable to each reason.

1. (b) (4) We contend that none of the reasons can contribute to a conclusion that "good cause" exists for the extension of the construction permit for Bailly.

1. (b) (5) A conclusion that "good cause" exists for Bailly cannot be made.

2. (a) As of the present time, we believe that the following relate to the quoted statement: prospectuses and reports issued by NIPSCO since 1974; NIPSCO's responses to PCCI's First Set of Interrogatories to NIPSCO; and NIPSCO's answers to questions from the NRC staff, attached to the letter dated December 18, 1980 from E.M. Shorb to R.L. Tedesco.

2. (b) We do not presently know of any specific past or present NIPSCO personnel whom we contend "arrived at such a conclusion."

(c) Not applicable.

(d) Any date subsequent to that claimed by NIPSCO in support of its application for a construction permit to build Bailly.

(e) A reduction below the level of power claimed to be needed in support of NIPSCO's application for a construction permit.

(f) NIPSCO failed to proceed as promptly as it would have had it not decided to delay construction.

(g) The basis for the answer to 2(b) is our lack of knowledge; the basis for our answer to 2(c) is our answer to 2(b); the basis of our answers to 2(d) and (e) is information supplied by NIPSCO as to the rate of growth of demand on its system, its increased generating capacity, the reduced need for power, and the fact that construction did not proceed as quickly as it could have; the basis for our answer to 2(f) is the fact that construction did not proceed as quickly as it could have.

3. (a) As of the present time we believe that the following relate to the quoted statements: prospectuses and reports issued by NIPSCO since 1974; NIPSCO's responses to PCCI's First Set of Interrogatories to NIPSCO; and NIPSCO's

answers to questions from the NRC staff, attached to the letter dated December 18, 1980 from E.M. Shorb to R.L. Tedesco.

(b) We do not presently know of any specific past or present NIPSCO personnel whom we contend "arrived at such a decision".

(c) Not applicable.

(d) NIPSCO failed to proceed as promptly as it would have had it not decided to delay construction.

(e) The basis for the answer to 3(b) is our lack of knowledge; the basis of the answer to 3(c) is the answer to 3(b); the basis of the answer to 3(d) is the fact that construction did not proceed as quickly as it could have.

4. (a) Any date subsequent to September 1, 1979.

(b) (1) No.

(2) Not applicable.

(3) We make no contention that any date should have been selected.

(c) We make no contention as to the unreasonableness of NIPSCO's failure to amend its application in the respect referred to.

(d) We make no contention as to whether NIPSCO should have amended its application in the respect referred to.

(e) (1) Yes.

(2) A conclusion that good cause exists for an extension of the Bailly construction permit cannot be made and therefore the matter referred to cannot contribute to such a conclusion.

(3) Not applicable.

5. (a) (1) We make no contention as to whether NIPSCO should have commenced remobilization in the respect referred to.

(2) Not applicable.

(b) (1) We make no contention as to any period of time that should have been required in the respect referred to.

(2) The pleadings filed in this proceeding.

(3) Yes. A conclusion that good cause exists for an extension of the Bailly construction permit cannot be made and therefore the matter referred to cannot contribute to such a conclusion.

(c) (1) We make no contention as to the specific period of delay attributable to the matter referred to.

(2) The pleadings filed in this proceeding.

(3) Yes. A conclusion that good cause exists for an extension of the Bailly construction permit cannot be made and therefore the matter referred to cannot contribute to such a conclusion.

6. (a) Yes. A conclusion that good cause exists for an extension of the Bailly permit cannot be made, and therefore the matter referred to cannot contribute to such a conclusion.

(b) We make no contention as to what NIPSCO knew or should have known with respect to the matter referred to.

(c) We do not know whether or not NIPSCO did not "learn of the concept of a slurry wall" until after the issuance

of the construction permit and therefore the interrogatory cannot be answered.

7. (a) Yes. A conclusion that good cause exists for an extension of the Bailly construction permit cannot be made, and therefore the matter referred to cannot contribute to such a conclusion.

(b) We make no contention with respect to when NIPSCO was legally permitted to perform geological investigations of the site.

(c) We make no contention as to performance of geological investigations in the respects referred to.

(d) We make no contention with respect to what NIPSCO should have done or was required to do in the respect referred to.

8. (a) Yes. Under the circumstances of this proceeding, no extension should be granted, and therefore an extension of any length is unreasonable.

(b) Under the circumstances of this proceeding, no length can be a reasonable length of extension.

(c) We make no contention regarding the average time required for construction of a nuclear power plant either now or in 1974.

(1) Not applicable.

(2) Not applicable.

(d) We make no contention as to the unreasonableness of "any" requested length of extension in the respect referred to, but contend that under the circumstances of Bailly, no extension is reasonable.

(e) No, but we contend that under the circumstances of this proceeding, no extension is reasonable.

(1) Not applicable.

(2) Under the circumstances of this proceeding any extension is unreasonable and therefore there is no reasonable provision for contingencies.

(f) We make no contention as to the unreasonableness of the estimates in the respects referred to.

(1) Not applicable.

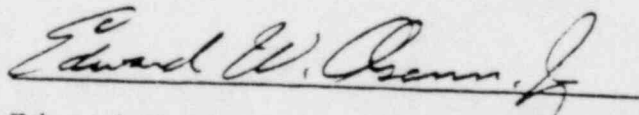
(2) Not applicable.

(3) Not applicable.

DATED: May 11, 1981

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

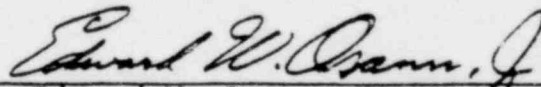
by:



Edward W. Osann, Jr., their agent

AFFIRMATION

I, Edward W. Osann, Jr., hereby affirm that I am an attorney for Porter County Chapter of the Izaak Walton League of America, Inc.; Concerned Citizens Against Bailly Nuclear Site; Businessmen for the Public Interest, Inc.; James E. Newman and Mildred Warner; that I have the authority as agent for those parties to submit their answers to Northern Indiana Public Service Company's First Set of Interrogatories to Porter County Chapter Intervenors dated April 10, 1981, and do so as agent; that I have read the foregoing Answers to Northern Indiana Public Service Company's First Set of Interrogatories to Porter County Chapter Intervenors and have conferred with other attorneys for the parties concerning them and that they are true and correct to the best of my knowledge and belief.



Edward W. Osann, Jr., as agent

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