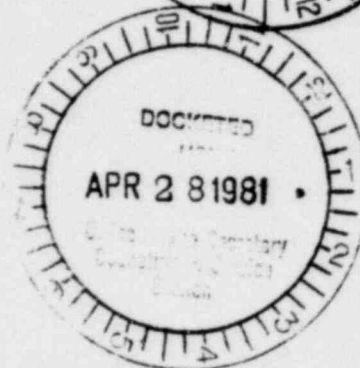


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April 24, 1981



Herbert Grossman, Esquire, Chairman
Administrative Judge
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Re: In the Matter of Northern Indiana Public Service
Company (Bailly Generating Station, Nuclear-1)
Docket No. 50-367
(Construction Permit Extension)

Dear Mr. Chairman:

We are in receipt of a document entitled "Notice of Intention to Seek Stay" filed on March 31 in the Bailly construction permit extension proceeding by counsel for the Porter County Chapter Intervenors.

NRC regulations contain no reference to such a "Notice" or responses thereto. However, we wish to furnish the Board with brief comments on the document lest there be any misunderstanding of NIPSCO's position.

The "Notice" is, of course, without legal effect. If PCCI decides to seek a stay of construction at the Bailly site, it can do so and the merits of that request will be judged on the basis of applicable law and facts. There is no reason to believe that a "Notice of Intention" can "save" an otherwise inadequate stay request or one that is made in untimely fashion.

The Notice presents no arguments for the grant of a stay; it only states in an entirely conclusory way that the requirements for a stay are met. We disagree but cannot--and need not--respond to arguments not made. We would note in particular PCCI's "position"--i.e. that no construction can lawfully commence before a valid extension [of the construction permit] is granted." (Notice, p. 2.) That bare assertion is in our view simply wrong; the permit continues in effect by virtue of a timely application for renewal.

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Herbert Grossman, Esquire,
Chairman

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If any stay request is ever filed, we shall respond to it at that time.

Yours very truly,

EICHHORN, EICHHORN & LINK

By:


William H. Eichhorn

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cc: Dr. Robert L. Holton
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