

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)

PORTER COUNTY CHAPTER INTERVENORS'
APPLICATION PURSUANT TO
10 CFR §2.720(h)(2)(i)

Porter County Chapter Intervenor ("PCCI"), by their attorneys, hereby apply to the Board, pursuant to 10 CFR §2.720(h)(2)(i), for an order requiring the attendance and testimony at his deposition of James G. Keppler, pursuant to Porter County Chapter Intervenor's Notice of Deposition of James G. Keppler being filed simultaneously with this application.

In support of this application, PCCI state as follows:

Ten CFR §2.720(h)(2)(i) provides that named NRC personnel may be required to give deposition testimony, in certain circumstances:

[T]he presiding officer may, upon a showing of exceptional circumstances, such as a case in which a particular named NRC employee has direct personal knowledge of a material fact not known to the witnesses made available by the Executive Director for Operations require the attendance and testimony of named NRC personnel.

Porter County Chapter Intervenor submit that the requisite circumstances are present in this case to require Mr. Keppler's attendance and deposition testimony.

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The testimony of Mr. Keppler on the matters set forth in the deposition notice is required by PCCI for adequate preparation of their case. As indicated in the Memorandum for James Sniezek, Director, Division of Resident and Regional Reactor Inspections, IE, from James G. Keppler, Director, Region III, dated January 8, 1981 (served on all parties to this proceeding on January 21, 1981.), Mr. Keppler has direct personal knowledge of material facts concerning the Bailly plant which are the subject of that memorandum, and which could not be known to M. David Lynch, the witness thus far indicated as available by the staff.* Mr. Keppler is Director of Region III of the Resident and Regional Reactor Inspection division of the NRC's Office of Inspection and Enforcement and as such has been involved in inspecting and monitoring NIPSCO's attempt to build Bailly. He thus has personal knowledge of material facts pertaining to NIPSCO's quality assurance program, under what conditions Region III will allow NIPSCO to proceed with construction, and other matters set forth in the accompanying Notice of Deposition.

For the foregoing reasons, a finding of exceptional circumstances under 10 CFR §2.720(h)(2)(i) should be made, and Mr.

* The deposition of Mr. Lynch, Bailly Project Manager for the NRC staff, has not been taken due to illness in Mr. Lynch's family. See PCCI Response to NRC Staff Motion for Protective Order, filed November 19, 1980.

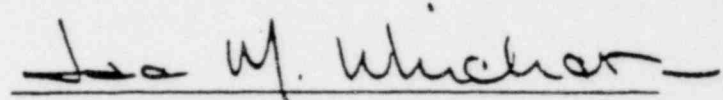
Keppler should be required to appear for deposition as set forth in the Notice.

DATED: May 19, 1981

Respectfully submitted,

Robert J. Vollen
Jane M. Whicher

By:

A handwritten signature in dark ink, appearing to read "Jane M. Whicher", written over a horizontal line.

Jane M. Whicher
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