

8/14/81

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)	)	

NRC STAFF RESPONSE TO "PORTER COUNTY  
CHAPTER INTERVENORS' MOTION FOR  
LEAVE TO INITIATE FURTHER DISCOVERY"

On July 31, 1981 Porter County Chapter Intervenors ("PCCI") filed a "Motion for Leave to Initiate Further Discovery" to allow it to file an additional round of discovery following up on responses to interrogatories and documents served on PCCI by the NRC Staff on July 24, 1981, but not received until July 31, 1981. The present cut-off date for filing of discovery on admitted contentions is July 31, 1981.

The Staff does not believe that PCCI's mere assertion of a need for follow-up discovery, without identification of the specific interrogatories and documents as to which it requires further information, satisfies the Licensing Board's "good cause" standard for requests to extend discovery beyond Board-established dates. See Licensing Board's "Order (Summarizing Actions Taken at Conference Call of August 3, 1981)", issued on August 4, 1981. The Board also

DS07

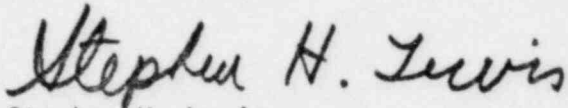
provided, however, that good cause would be found where delay in the issuance of a Board order ruling on contested discovery justified extension of a discovery deadline. Id., para. 8. In this instance, the timing of the NRC Staff Answers to Porter County Chapter Intervenors' First Set of Interrogatories (July 24, 1981) and the production of related documents in response to PCCI's "Second Request to the NRC for Production of Documents," under cover of letter dated July 24, 1981, was dependent upon issuance of a Board order making the necessary findings under 10 C.F.R. § 2.720(h)(ii) and ruling on the Staff's objection to one of the interrogatories. Such an Order was issued on July 10, 1981. Under these circumstances, we believe PCCI is entitled to a short extension of time to file an additional round of discovery based upon those interrogatory responses and documents.

The matter is different, however, with respect to the documents produced in response to PCCI's "Third Request to the NRC for Production of Documents." As indicated in our covering letter of July 24, 1981, the Staff did not view that request as relevant to any of the admitted issues in this "extension" proceeding. Nevertheless, the Staff responded to the request since the subject addressed was arguably relevant to any proceeding which the Commission might order on the "short piles." That production was undertaken in order to minimize discovery time required in any such proceeding. Since that time, however, the quantity of discovery filed in the extension proceeding has increased and it no longer is feasible for the Staff to simultaneously respond, in an

anticipatory manner, to discovery related to the monitoring of the installation of short piles (or to other matters concerning pile depth not related to issues in the extension proceeding).

Therefore, we respectfully request that PCCI's motion be denied as it relates to discovery spawned by documents produced in response to the third request.

Respectfully submitted,

A handwritten signature in cursive script that reads "Stephen H. Lewis".

Stephen H. Lewis  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 14th day of August, 1981



Atomic Safety and Licensing Appeal  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555 \*

Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555 \*

*Stephen H. Lewis*

---

Stephen H. Lewis  
Counsel for NRC Staff