

RELATED CORRESPONDENCE

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	Docket No. 50-367
)	
NORTHERN INDIANA PUBLIC)	(Construction Permit
SERVICE COMPANY)	Extension)
)	
(Bailly Generating Station,)	July 30, 1981
Nuclear-1))	

NORTHERN INDIANA PUBLIC SERVICE COMPANY'S
FOURTH SET OF INTERROGATORIES TO
THE STATE OF ILLINOIS

Northern Indiana Public Service Company (NIPSCO) hereby serves its Fourth Set of Interrogatories to the State of Illinois (hereinafter "Illinois"), pursuant to 10 C.F.R. § 2.740b. Each interrogatory is to be answered fully in writing, under oath or affirmation, and include all pertinent information known to Illinois. Each answer should clearly indicate the interrogatory to which it is intended to be responsive.

Under NRC regulations (10 C.F.R. § 2.740(e)) parties are required to supplement responses to interrogatories under certain circumstances when new and/or different information becomes available.

"Illinois" shall include all agents, employees, attorneys, investigators, and all other persons directly or indirectly subject to its control in any way.

DS03
S
1/1

"Documents" means all written or recorded material of any kind or character known to Illinois or in its possession, custody or control, including, without limitation, letters, correspondence, telegrams, memoranda, notes, records, minutes, contracts, agreements, records or notations of telephone or personal conversations or conferences, inter-office communications, microfilm, bulletins, circulars, pamphlets, studies, notices, summaries, reports, books, articles, treatises, teletype messages, invoices, tape recordings, and work-sheets.

When used with respect to a document, "identify" means, without limitation, to state its date, the type of document (e.g., letter, memorandum, telegram, chart, photograph, sound reproduction, etc.), the author and addressees, the present location and the custodian, and a description of its contents.

When used with respect to a person, "identify" means, without limitation, to state his or her name, address, occupation and professional qualifications.

If Illinois cannot answer any portion of any of the Interrogatories in full, after exercising due diligence to do so, so state, and answer to the extent possible, specifying the inability to answer the remainder and stating when Illinois expects to be able to answer the unanswered portions.

NIPSCO'S INTERROGATORIES^{*/}

44. With respect to each item of conduct identified in your answer to Interrogatory 1(b)(1):
- (a) Please specify the basis for your allegation that the conduct contributed to the failure to complete construction of Bailly by September 1, 1979;
 - (b) Please explain how the conduct contributed to the failure to complete construction of Bailly by September 1, 1979;
 - (c) Please state whether the existence of the conduct contributes to your conclusion that "good cause" does not exist for the extension of the construction permit for Bailly; and
 - (d) Please specify the basis for your answer to Interrogatory 44(c).
45. (a) Please state whether each of the following is a contributing factor to your conclusion that "good cause" does not exist for the extension of the construction permit for Bailly:
- (1) that the construction permit for Bailly was issued four months later than NIPSCO had predicted in 1973;

^{*/} Numbering of the following Interrogatories continues from NIPSCO's Third Set of Interrogatories to Illinois (June 22, 1981).

- (2) that NIPSCO did not commence remobilization of its contractors prior to completion of judicial review of the issuance of the construction permit for Bailly;
- (3) that a stay of construction of Bailly was issued by the U.S. Court of Appeals for Seventh Circuit;
- (4) that a slurry wall was constructed for Bailly;
- (5) that the NRC Staff conducted a review of the pile foundation design for Bailly.

(b) Please provide a basis for your answers to Interrogatory 45(a).

46. You have alleged that:

The delay occasioned by the need to construct a slurry wall was due to NIPSCO's inadequate assessment of the environmental effects of its construction plan. Because of NIPSCO's insufficient consideration at the design stage of the proper techniques to avoid consequences of dewatering, the slurry wall was not included in the original construction schedule. The company later found it necessary to reconsider its original design and supplement it with a slurry wall.*/

You have further alleged that:

NIPSCO's assessment of the environmental impacts of dewatering was inadequate because it did not correctly identify the effects of construction dewatering on the Indiana Dunes National Lakeshore and in particular on the Cowles Bog Wetland Complex.**/

*/ "Supplemental Petition of the State of Illinois," Contention 2.A., p. 5 (Feb. 26, 1980).

**/ Answer to Interrogatory 5(b)(4).

The following interrogatories pertain to the above allegations.

- (a) Please identify each effect of construction dewatering on the Lakeshore or "the Cowles Bog Wetland Complex" which will occur as a result of construction dewatering.
- (b) Please specify which of the effects listed in your answer to Interrogatory 46(a) NIPSCO allegedly "did not correctly identify."
- (c) With respect to each effect identified in your answer to Interrogatory 46(b),
 - (1) Specify whether NIPSCO identified the effect;
 - (2) Identify the document(s) in which that identification is recorded;
 - (3) Specify the respect in which NIPSCO's identification was not correct;
 - (4) Specify the correct identification;
 - (5) Provide the bases for your answers to Interrogatories 46(a), (c)(1), (c)(3), and (c)(4);
- (d) Please provide the bases for your allegation that the "delay occasioned by the need to construct a slurry wall was due to NIPSCO's inadequate assessment of the environmental effects of its construction plan."

- (e) With reference to the allegation quoted in Interrogatory 46(d), are you contending that, if NIPSCO had performed an adequate assessment, it would have included construction of a slurry wall in its "construction plans"?
- (f) If your answer to Interrogatory 46(e) is yes, please provide the bases for your answer.
- (g) Please provide the bases for your allegation that NIPSCO gave "insufficient consideration at the design stage of the proper techniques to avoid the consequences of dewatering"
- (h) What are the "proper techniques to avoid the consequences of dewatering"
- (i) Please specify which of the "techniques" listed in your answer to Interrogatory 46(h), if any, are those which NIPSCO did not consider.
- (j) Please specify which of the "techniques" listed in your answer to Interrogatory 46(i), if any, are those for which NIPSCO's consideration was "insufficient."
- (k) Please provide the bases for your answers to Interrogatories 46(h), 46(i), and 46(j).
- (l) Please provide the bases for your allegation that "NIPSCO's insufficient consideration at the design stage of the proper techniques to avoid consequences of dewatering" was a cause of the failure to include the slurry wall in the original construction schedule.

- (m) Are you contending that, if NIPSCO had given sufficient "consideration at the design stage of the proper techniques to avoid consequences of dewatering," it would have included the slurry wall in the original construction schedule.
 - (n) If your answer to Interrogatory 46(m) is yes, please provide the bases for your answer.
 - (o) Please provide the bases for your allegation that NIPSCO "found it necessary to reconsider its original design and supplement it with a slurry wall."
47. Are you contending that NIPSCO was legally permitted to perform geological investigations of the Bailly site between the date NIPSCO applied for a construction permit for Bailly and the date such permit was issued, which investigations would have enabled NIPSCO to discover potential impediments to driving piles to bedrock? If yes, please specifically identify which such investigations NIPSCO could have performed which it did not perform.
48. With respect to the "NRC Staff Evaluation of the Request for an Extension of Construction Permit CPPR-104 for the Bailly Generating Station, Nuclear 1" (July 17, 1981), and the "Environmental Impact Appraisal Prepared by the Division of Licensing Regarding the Extension of Construction Permit CPPR-104 Bailly Generating Station, Nuclear-1" (July 17, 1981):

- (a) Please specifically identify each statement or statements with which you disagree.
- (b) In what respect do you disagree with each statement or statements identified in your answer to Interrogatory 48(a)?
- (c) Please provide the basis for your answer to Interrogatory 48(b).

49. With respect to the "Assessment of the Influence of Dewatering at Bailly N-1" (Nov. 1980), prepared by D'Appolonia (Project No. MW 79-720):

- (a) Please specifically identify each statement or statements with which you disagree.
- (b) In what respect do you disagree with each statement or statements identified in your answer to Interrogatory 49(a)?
- (c) Please provide the basis for your answer to Interrogatory 49(b).

50. You have alleged that

the delay [in construction of Bailly since September 28, 1977] was clearly due to inadequate research and design of the foundation by NIPSCO and its contractors.*/

- (a) Please specifically identify which aspects of NIPSCO's research for the foundation of Bailly that you are alleging were "inadequate."

*/
"Supplemental Petition of the State of Illinois" (Feb. 26, 1980), p. 5.

- (1) In what respect were the aspects identified in your answer to Interrogatory 50(a) "inadequate"?
 - (2) Please provide a basis for your answer to Interrogatory 50(a)(1).
 - (3) What action could NIPSCO have taken, which it did not take, which would have rendered adequate its research for the foundation of Bailly?
 - (4) Please provide a basis for your answer to Interrogatory 50(a)(3).
- (b) Please specifically identify which aspects of NIPSCO's design of the foundation of Bailly that you are alleging were "inadequate."
- (1) In what respect were the aspects identified in your answer to Interrogatory 50(b) "inadequate"?
 - (2) Please provide a basis for your answer to Interrogatory 50(b)(1).
 - (3) What changes could NIPSCO have made which would have rendered adequate its design for the foundation of Bailly?
 - (4) Please provide a basis for your answer to Interrogatory 50(b)(3).

- (c) Please provide a basis for your allegation that the "inadequate research and design of the foundation" of Bailly was the cause of the delay in construction of Bailly since September 28, 1977.

51. You have alleged that

the stratigraphic analysis prepared for NIPSCO was deficient in that it did not correctly identify the various geological strata through which the proposed pilings would have to penetrate.*/_

- (a) Please identify the stratigraphic analysis to which you are referring.
- (b) What "geological strata through which the proposed pilings would have to penetrate" are you alleging were not correctly identified?
- (1) In what respect were the geological strata identified in your answer to Interrogatory 51(b) incorrectly identified?
- (2) Please specify the basis for your answer to Interrogatory 51(b)(1).
- (3) Please identify the correct "geological strata through which the proposed pilings would have to penetrate."
- (4) Please provide a basis for your answer to Interrogatory 51(b)(3).

*/_ Id.

(c) What actions could have NIPSCO taken, which it did not take, which would have rendered adequate its "stratigraphic analysis"?

(1) Please provide a basis for your answer to Interrogatory 51(c).

(d) Are you contending that the delay in construction of Bailly since September 28, 1977, would not have occurred if NIPSCO had "correctly identif[ied] the various geological strata through which the proposed pilings would have to penetrate." If yes, please provide a basis for your answer.

52. You have alleged that

NIPSCO and its contractors failed to perform adequate testing, by borings or other means, prior to construction to identify the problems at the pre-construction stage including the inability to drive the piles to bedrock.*/
_/

(a) Please specifically identify the "other means" to which you are referring.

(b) Please specifically identify the aspects of NIPSCO's "testing" which you are alleging were inadequate.

(1) In what respect were the aspects identified in your answer to Interrogatory 52(b) inadequate?

(2) Please provide a basis for your answer to Interrogatory 52(b)(1).

*/ Id., p. 6.

- (3) Please specify the actions which NIPSCO could have performed, but failed to perform, "prior to construction to identify the problems at the pre-construction stage including the inability to drive the piles to bedrock."
- (c) Are you contending that it was possible "prior to construction to identify the problems at the pre-construction stage including the inability to drive the piles to bedrock"? If yes,
 - (1) Please provide a basis for your answer;
 - (2) State whether you are contending whether NIPSCO should have identified prior to construction "the problems at the pre-construction stage including the inability to drive the piles to bedrock."
- (d) Please provide a definition of the term "problems at the pre-construction stage."
- (e) Please specify each of the "problems at the pre-construction stage" to which you are referring.
- (f) What is the basis for your allegation that there was any "inability" by NIPSCO "to drive piles to bedrock"?
- (g) Are you contending that the delay in construction of Bailly since September 28, 1977, would not have occurred if NIPSCO had "perform[ed] adequate testing"? If yes, please provide a basis for your answer.

53. You have alleged that

NIPSCO and its contractors did not devise a proper construction program which would have made it possible to utilize the original [foundation] design.*/

(a) Please specifically identify each aspect of NIPSCO's "construction program" which you are alleging was not "proper."

(1) In what respect was each aspect identified in your answer to Interrogatory 53(a) improper?

(2) Please provide a basis for your answer to Interrogatory 53(a)(1).

(3) Please specify those changes, if any, which NIPSCO could have made in its "construction program" which would have rendered the "construction program" "proper."

(4) Please provide a basis for your answer to Interrogatory 53(a)(3).

(b) Are you contending that the delay in construction of Bailly since September 28, 1977, would not have occurred if NIPSCO had "devised a proper construction program"? If yes, please provide a basis for your answer.

54. Please identify each document to which you referred or upon which you relied in answering Interrogatories 44-53.

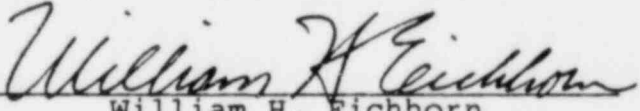
*/ Id.

55. Please identify each person whom you consulted in answering Interrogatories 44-53 giving the following information for each such person:

- (a) Name;
- (b) Address;
- (c) Place of employment and job title;
- (d) Number (including subpart) of each Interrogatory with respect to which that person consulted, aided or provided or furnished information; and
- (e) The nature of the information or aid furnished.

Respectfully submitted,

EICHHORN, EICHHORN & LINK
5243 Hohman Avenue
Hammond, Indiana 46320

By 
William H. Eichhorn
Attorneys for Northern Indiana
Public Service Company

LOWENSTEIN, NEWMAN, REIS
& AXELRAD
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036