

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

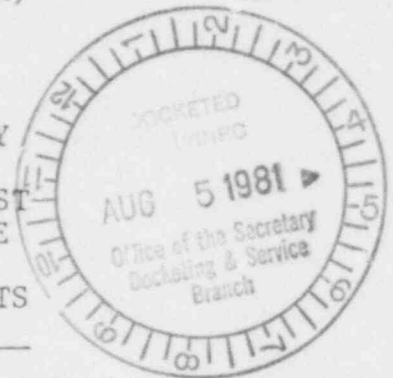
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In the Matter of)
)
NORTHERN INDIANA PUBLIC)
SERVICE COMPANY)
(Bailly Generating Station,)
Nuclear-1))
)

Docket No. 50-367
(Construction Permit
Extension)

ANSWERS AND OBJECTIONS 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 THIRD SETS
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, each hereby answer
and object to NIPSCO's Third Set of Interrogatories directed to
each of them. NIPSCO provided the identical interrogatories to
each of these parties and the answers and objections of each are
identical. Therefore, this one document is being submitted on
behalf of all five parties, who are sometimes hereinafter
referred to collectively at "PCCI". Each of these answers is
based upon such information as is known to the answering parties,
their attorneys, and their agent as of the date hereof and is
subject to change as further or other information becomes
available through discovery or otherwise.

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28(a). The specific adverse impacts will be a function of the specific periods and levels of construction dewatering, which are not known to us. However, at least those impacts which are specified in Porter County Chapter Intervenor's Contention 4 and in the 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 Second Sets of Interrogatories in response to Interrogatory 21(b), at pp. 7-8 are threatened from any extended period of construction dewatering.

(b) Yes.

29(a). The "point(s) of introduction" are those points of introduction described in NIPSCO's mitigation plan.

(b) Those water levels within the interdunal ponds and Cowles' Bog basin, and ground water table levels within the Indiana Dunes National Lakeshore, which would have existed had there been no excavation at the Bailly site, no dewatering of the Bailly site, no effect of ash pond seepage, no effects of ash pond sealing and no other impacts resulting from activities of NIPSCO.

(c) A "dry excavation" is an excavation in which the water table is sufficiently below the lowest elevation of the excavation to permit construction.

(d) Our current understanding of the "depth needed" is that depth testified to by Herbert Read during the Bailly construction

permit proceeding, which testimony was based upon drawings supplied by NIPSCO.

(e) That length of time during which dewatering will be carried out beyond the amount of time during which NIPSCO had represented in the construction permit proceeding dewatering would be carried out.

(f) (1) All areas of the Indiana Dunes National Lakeshore, with the possible exception of the Hoosier Prairie and Pinhook Bog areas.

(2) Our knowledge and understanding of the hydraulic connections and/or relationships between the Bailly site and all areas of the Indiana Dunes National Lakeshore.

(3) Those water levels which would have existed had there been no excavation at the Bailly site, no dewatering of the Bailly site, no effects of ash pond seepage, no effects of ash pond sealing and no other impacts resulting from activities of NIPSCO.

(4) The basis for determining the "natural water levels" identified in the answer to Interrogatory 29(f)(3) is our position that "natural water levels" are those which would have occurred in the absence of any NIPSCO activities at the Bailly site.

(g) Yes.

30(a). (1) Those interdunal pond levels which would have existed had there been no excavation at the Bailly site, no dewatering of the Bailly site, no effects of ash pond seepage, no effects of ash pond sealing and no other impacts resulting from activities of NIPSCO.

(2) All natural interdunal pond levels with the possible exception of those of the Hoosier Prairie and Pinhook Bog areas.

(3) The basis for determining the "natural interdunal pond ... levels" identified in the answer to Interrogatory 30(a)(2) is our position that the natural wetland levels are those which would have occurred in the absence of NIPSCO activities at the Bailly site.

(b) (1) Those wetland levels which would have existed had there been no excavation at the Bailly site, no dewatering of the Bailly site, no effects of ash pond seepage, no effects of ash pond sealing and no other impacts resulting from activities of NIPSCO.

(2) All natural wetland levels with the possible exception of those of the Hoosier Prairie and Pinhook Bog areas.

(3) The basis for determining the "natural ... wetland levels" identified in the answer to Interrogatory 30(b)(2) is our position that the natural wetland levels are those which would have occurred in the absence of NIPSCO activities at the Bailly site.

(c) (1) Those water table levels which would have existed had there been no excavation at the Bailly site, no dewatering of the Bailly site, and in the absence of any effects of ash pond seepage and of ash pond sealing and of any other impacts resulting from activities of NIPSCO.

(2) All natural water table levels with the possible exception of those in the Hoosier Prairie and Pinhook Bog areas.

(3) The basis for determining the "natural water levels" identified in the answer to Interrogatory 30(c)(2) is our position that the natural water levels are those which would have occurred in the absence of NIPSCO activities at the Bailly site.

(d) (1) We do not know.

(2) We do not know.

(3) We do not know.

(e) (1) We do not know.

(2) We do not know.

(3) We do not know.

(f) (1) The water table levels will be different from what the natural water table levels would have been without NIPSCO's activities at the Bailly site. Some of the additional probable environmental consequences are described in PCCI Contention 4 and in our response to Interrogatory 21(b).

(2) The interdunal pond levels will be different from what the natural interdunal pond levels would have been without NIPSCO's activities at the Bailly site. Some of the additional probable environmental consequences are described in PCCI Contention 4 and in our response to Interrogatory 21(b).

(3) The wetland levels will be different from what the natural wetland levels would have been without NIPSCO's activities at the Bailly site. Some of the additional probable environmental consequences are described in PCCI Contention 4 and in our response to Interrogatory 21(b).

(g) The impacts described in PCCI Contention 4 and our answer to Interrogatory 21(b).

(h) The impacts described in PCCI's Contention 4 and in our answer to Interrogatory 21(b).

(i) Our legal position; the knowledge, opinions and observations of Herbert P. Read; Joint Intervenor's evidence during the construction permit proceeding; Report on the Special Vegetation of the Indiana Dunes National Lakeshore, NPS Report 80-01; Final Panel Report "Effects of Dewatering on the IDNL", dated November 26, 1980.

31(a). Those seasonal cycles which occur naturally.

(b) Those water levels which alledgedly would be achieved under NIPSCO's proposed replacement program.

(c) The basis is NIPSCO's proposed water replacement program which, from the information presently known to us does not assure that the water levels in the Indiana Dunes National Lakeshore will rise and fall consistent with, and coinciding with, the seasonal rises and falls which would have occurred naturally in the absence of any construction activity by NIPSCO.

32(a). We do not know the characteristics of the proposed replacement water. However, the removal of groundwater results in a change in the characteristics of the remaining water, notwithstanding the characteristics of the replacement water. Further, even if the water removed from the excavation is used as replacement water, it would have different characteristics than the natural water of the interdunal ponds, bogs, and groundwater of the Indiana Dunes National Lakeshore.

(b) No response is required in view of our response to Interrogatory 32(a).

33(a). That water within the interdunal ponds and Cowles' Bog basin, and groundwater within the Indiana Dunes National Lakeshore, which would have existed had there been no excavation at the Bailly site, no dewatering of the Bailly site, no effects of ash pond seepage, no effects of ash pond sealing, and no other impacts resulting from activities of NIPSCO.

(b) We do not know.

(c) We do not know.

(d) We do not know the flow rate of the replacement water, but we contend that the replacement water and its flow rate will differ from the natural water and its flow rate.

(e) No answer is required in view of our answer to 33(d).

(f) No answer is required in view of our answer to 33(d).

(g) It is not fully understood by the scientific community why water in a depression will become an alkaline marsh on one hand, or an acid bog on the other, because all of the natural processes which result in a bog-type environ are not known. The degree of circulation is another of the known natural processes.

34(a). Temperature, chemical makeup, pH, amount and type of suspended and dissolved solids, degree of aeration, the existence or absence of any element or compound, bacteria types and levels, benthos analysis, specific conductance, sulphate, anions, cations, nutrients, minerals, chlorides, fluorides, bicarbonates, ammonia, nitrates, trace elements, hardness, salts, minerals and nutrients, including the identification of all of the substances.

(b) All characteristics.

(c) Temperature, chemical makeup, pH, amount and type of suspended and dissolved solids, degree of aeration, the existence or absence of any element or compound, bacteria types and levels, benthos analysis, specific conductance, sulphate, anions, cations, nutrients, minerals, chlorides, fluorides, bicarbonates, ammonia, nitrates, trace elements, hardness, salts, minerals and nutrients, including the identification of all of the substances.

(d) All characteristics.

(e) Temperature, chemical makeup, pH, amount and type of suspended and dissolved solids, degree of aeration, the existence or absence of any element or compound, bacteria types and levels, benthos analysis, specific conductance, sulphate, anions, cations, nutrients, minerals, chlorides, fluorides, bicarbonates, ammonia, nitrates, trace elements, hardness, salts, minerals and nutrients, including the identification of all of the substances.

(f) All characteristics.

(g) We do not know.

35(a). This quoted phrase is from Contention 5D, not 5E as stated in note */ on p. 11 of each of NIPSCO's sets of interrogatories. We do not know the precise rates, but we do know that it will be different from the natural rate of groundwater movement.

(b) That groundwater which would have existed had there been no excavation at the Bailly site, no dewatering of the Bailly site, no effects of ash pond seepage, no effects of ash pond sealing, and no other impacts resulting from activities of NIPSCO.

(c) We are unable to answer the interrogatory because we do not know the characteristics of the water as it presently exists, nor do we know the characteristics of the water which NIPSCO plans to introduce into the system, nor do we know the characteristics of the water as it existed in its natural state before NIPSCO's construction activities at the Bailly site.

36(a). The recent study referred to in Contention 5E is USGS report 78-138, "Effects of Seepage from Fly-Ash Settling Ponds and Construction Dewatering on Ground-water Levels in Cowles

Unit, Indiana Dunes National Lakeshore, Indiana" (Meyer and Tucci). Insofar as the interrogatory seeks a listing of studies relied upon or referred to in drafting Contention 5E, it is objectionable on the grounds that it seeks information as to the work product and mental processes of the attorneys for Porter County Chapter Intervenor who drafted the contention and on the ground that information about the process of "drafting" a contention is irrelevant.

(b) Those sections titled "Geology", "Vertical Movement Between Units 1 and 3", "Model Simulator of Construction Dewatering", "Summary and Conclusions".

37(a) aquifer referred to in USGS reports 78-138 and 80-1105 as "Unit 3". We are presently unable to describe the precise "location, depth, and physical dimensions" of Unit 3.

(b) One of the direct connections is in the white cedar area of the spring mire within the Cowles Bog basin, also known as the Great Marsh. There are others along the northern edge of the Cowles Bog basin and elsewhere within the Great Marsh complex, the evidence of which may have disappeared due to NIPSCO's interference with the groundwater system.

(c) Dewatering will decrease the hydraulic head, or lower the upward pressure, of the water in Unit 3. We do not know the rate of dewatering which NIPSCO claims will be necessary, nor the rate of dewatering which actually would be necessary if NIPSCO is permitted to engage in dewatering, and therefore we cannot answer the remainder of the Interrogatory.

(d) Removal of water from the aquifer will reduce the inflow of water from Unit 3 to Unit 1, including the Cowles' Bog area, reduce the upward pressure in the "Spring Mire" portion of the Bog, and make the Indiana Dunes National Lakeshore drier than it would have been had no water been removed from the aquifer. Some additional environmental consequences are described in our Contention 4 and in our answer to NIPSCO's Interrogatory 21(b).

38. Objection. Contention 5 was formulated by the attorneys for Porter County Chapter Intervenors. The Interrogatory seeks information as to the work product and mental processes of those attorneys in drafting a contention. Moreover, information about the process of "formulating" a contention is irrelevant.

39. Objection. Contention 5 was formulated by the attorneys for Porter County Chapter Intervenors. The Interrogatory seeks information as to the mental processes and work product of those attorneys. Moreover, information concerning the process of "formulating" a contention is irrelevant.

40. To the best of our recollection, the documents specifically referred to or relied upon are the following: "Effects of Seepage From Fly-Ash Settling Ponds and Construction Dewatering on Ground-Water Levels in the Cowles Unit, Indiana Dunes National Lakeshore, Indiana" USGS 78-138; "Reassessment of the Effects of Construction Dewatering on Groundwater Levels in the Cowles Unit, Indiana Dunes National Lakeshore, Indiana," USGS 80-1105; "Final Panel Report 'Effects of Dewatering on the Indiana Dunes National Lakeshore,'" U.S. Department of the Interior National Park Service, November 26, 1980, Joint Intervenors' testimony in Bailly construction permit proceeding; "How the Bailly

Nuclear Plant Could Dry Up the Dunes National Lakeshore" (Lake Michigan Federation, March 1980); "Report on the Special Vegetation of the Indiana Dunes National Lakeshore," NPS Report 80-01; "Relationship Between Some Physical Properties and the Vegetation Found in Cowles Bog National Landmark, Indiana" (Paper presented at the Second Conference on Scientific Research in the National Parks, 26-30 November 1979, San Francisco, California); "Soil Parameters Used in USGS Report 78-138" (D'Appolonia, May 1980); NIPSCO memo dated June 22, 1977, Attn: Russell J. Bohn re interdunal pond levels and makeup criteria.

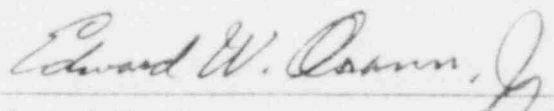
41. In addition to the attorneys for Porter County Chapter Intervenor, the following person was consulted:

- (a) Herbert P. Read
- (b) 70 East State Park Boundary Road, Chesterton, Indiana 46304;
- (c) Chicago Housing Authority; Senior Engineer, Construction;
- (d) Each interrogatory;
- (e) technical, historical and observational information and aid.

DATED: August 3, 1981

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

by:



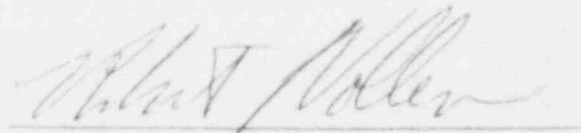
Edward W. Osann, Jr., agent of
each of the above parties

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by:

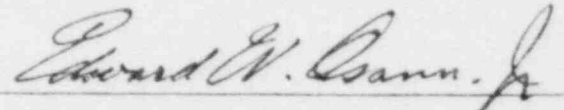


Robert J. Vollen, one of the attorneys
for each of the above parties

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 each of those parties to submit their respective answers to Northern Indiana Public Service Company's Third Set of Interrogatories to Porter County Chapter of the Izaak Walton League of America, Inc.; Northern Indiana Public Service Company's Third Set of Interrogatories to Concerned Citizens Against Bailly Nuclear Site; Northern Indiana Public Service Company's Third Set of Interrogatories to Businessmen for the Public Interest, Inc.; Northern Indiana Public Service Company's Third Set of Interrogatories to James E. Newman; and Northern Indiana Public Service Company's Third Set of Interrogatories to Mildred Warner, dated June 22, 1981, and do so as agent; that I have read the foregoing Answers and Objections 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 Third Sets of Interrogatories and have conferred with other attorneys for these

parties concerning them and that they are true and correct to the best of my knowledge and belief

A handwritten signature in cursive script, reading "Edward W. Osann, Jr.", written over a horizontal line.

Edward W. Osann, Jr., as agent

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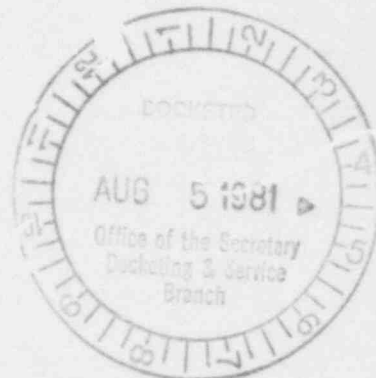
Attorneys for Porter County
Chapter Intervenors

**BPI****Business and Professional People for the Public Interest**

109 North Dearborn Street, Suite 1300 • Chicago, Illinois 60602 • Telephone: (312) 641-5570

RELATED CORRESPONDENCE

August 3, 1981



Mr. William H. Eichhorn, Esq.
 Eichhorn, Eichhorn & Link
 5243 Hohman Avenue
 Hammond, Indiana 46320

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

Dear Bill:

According to news reports appearing on August 1, 2, and 3, 1981 in at least the Chicago Tribune, the Wall Street Journal, and the Gary Post-Tribune, NIPSCO has released new financial reports which apparently have been qualified because of the status of the Bailly plant. We would appreciate your furnishing to us copies of such financial statements at your earliest convenience.

Very truly yours,

Robert J. Vollen
 One of the Attorneys for Porter
 County Chapter Intervenors

RJV:beg

cc: Service List

Directors

Robert B. Lifton
President
 Donald Dann
 Alan Saks
 Gora Williams
Vice Presidents
 Richard P. Kiphart
Treasurer
 Sylvia S. Lusfeld
Secretary

James W. Ashley
 John C. Bachman
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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)

CERTIFICATE OF SERVICE

I hereby certify that I served copies of:

Answers and Objections 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 Third Sets of Interrogatories; and

letter to William H. Eichhorn from Robert J. Vollen,
dated August 3, 1981

on all persons on the attached service list, by causing them
to be deposited in the U.S. mail, first class postage prepaid,
on this 3rd day of August, 1981.

DATED: August 3, 1981

Robert J. Vollen
Jane M. Whicher

by: Jane M. Whicher

Jane M. Whicher

Robert J. Vollen
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