

October 4, 2010

EMAIL ([dufficy.craig@epa.gov](mailto:dufficy.craig@epa.gov))

VIA CERTIFIED MAIL 7009 2820 0002 7706 8413

Mr. Craig Dufficy  
US Environmental Protection Agency (5306P)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: **Response of Northern Indiana Public Service Company, Bailly Generating Station, to Request for Information from U.S. EPA under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act**

Dear Mr. Dufficy:

By this letter, the Northern Indiana Public Service Company (“NIPSCO”) responds to the United States Environmental Protection Agency’s (“U.S. EPA’s”) Request for Information under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (“Requests”) regarding the Bailly Generating Station (“BGS”). The Requests were provided as an enclosure to a letter from U.S. EPA that was received by NIPSCO on August 27, 2010. By agreement of the parties, NIPSCO was allotted 25 business days to respond to the Requests from the date of its receipt of said letter.

Although NIPSCO has made a diligent and good faith effort to respond fully and completely to the Requests, NIPSCO nonetheless respectfully sets forth the general objections stated on the attached Exhibit A to preserve its rights. Subject to, and without waiving such general objections, NIPSCO responds as stated below to each of the 10 numbered items of the Requests based upon the information available to it and reasonably ascertainable within the time frame allotted by U.S. EPA.

**U.S. EPA Request 1:** *Relative to the National Inventory of Dams criteria for High, Significant, Low, or Less than Low, please provide the potential hazard rating for each management unit and indicate who established the rating, what the basis of the rating is, and what federal or state agency regulates the unit(s). If the unit(s) does not have a rating, please note that fact.*

**NIPSCO Response to U.S. EPA Request 1:** To NIPSCO’s knowledge, none of the units at the BGS subject to U.S. EPA Request 2 (below) have been rated under National Inventory of Dams criteria. Moreover, to NIPSCO’s knowledge, none of the impoundments at the BGS are large enough to be subject to the National Inventory of Dams criteria or those of Indiana pertaining to the regulation of dams.

**U.S. EPA Request 2:** *What year was each management unit commissioned and expanded?*

**NIPSCO Response to U.S. EPA Request 2:** A listing of all units at the BGS responsive to U.S. EPA Request 2 is stated below with each unit's corresponding year of initial service. NIPSCO has not since expanded the physical capacity of these units and notes that they replaced former units within roughly the same footprint.

Primary 1- in service 1981  
Secondary 1- in service 1981  
Primary 2- in service 1981  
Secondary 2- in service 1981  
Bottom Ash Pond- in service 1981  
Forebay- in service 1981

Although not subject to the Requests, NIPSCO notes that the BGS includes two landfills which were historically used to store dewatered material. These landfills are below-grade and are not known to contain any free liquid other than commonly migrating groundwater. RCRA corrective action is currently being taken for these landfills in cooperation with U.S. EPA. Although these historic fill areas are not subject to the Requests, NIPSCO mentions them here in an abundance of caution and in a good faith effort to error (if at all) on the side of being overly responsive.

***U.S. EPA Request 3: What materials are temporarily or permanently contained in the unit? Use the following categories to respond to this question: (1) fly ash; (2) bottom ash; (3) boiler slag; (4) flue gas emission control residuals; (5) other. If the management unit contains more than one type of material, please identify all that apply. Also, if you identify "other", please specify the other types of materials that are temporarily or permanently contained in the unit(s).***

**NIPSCO Response to U.S. EPA Request 3:** The materials contained in each of the units and impoundments described at NIPSCO's Response to U.S. EPA Request 2 are stated below.

Primary 1- receives flow from the Bottom Ash Pond, and boiler blowdown, boiler fireside wash water, filter backwash, reverse osmosis reject water, ion exchange waste water, and other miscellaneous low volume wastes  
Secondary 1- receives flow from Primary 1 and Primary 2 (note: this unit receives a very limited volume of solids)  
Primary 2- receives flow from Bottom Ash Pond and boiler blowdown, boiler fireside wash water, filter backwash, reverse osmosis reject water, ion exchange waste water, and miscellaneous low volume wastes  
Secondary 2- air heater wash water (note: this unit receives a very limited volume of solids)  
Bottom Ash Pond- boiler slag/economizer ash, sanitary treatment plant discharge  
Forebay- receives flow from Secondary 1 and can also receive flow from Secondary 2 (note: this unit receives a very limited volume of solids)

***U.S. EPA Request 4: Was the management unit(s) designed by a professional engineer? Is or was the construction of the waste management unit(s) under the supervision of a professional engineer? Is inspection and monitoring of the safety of the waste management unit(s) under the supervision of the Professional Engineer?***

**NIPSCO Response to U.S. EPA Request 4:** The design and construction of the above-described units and impoundments was carried out by qualified contractors working under the supervision of Professional Engineers. NIPSCO currently conducts visual inspections of the units under the supervision of a Professional Engineer at least biannually. Routine visual inspections of the units are currently conducted in accordance with inspection procedures approved by a Professional Engineer.

**U.S. EPA Request 5:** *When did the company last assess or evaluate the safety (i.e. structural integrity) of the management unit(s)? Briefly describe the credentials of those conducting the structural integrity assessments/evaluations. Identify actions taken or planned by facility personnel as a result of these assessments or evaluations. If corrective actions were taken, briefly describe the credentials of those performing the corrective actions, whether they were company employees or contractors. If the company plans an assessment or evaluation in the future, when is it expected to occur?*

**NIPSCO Response to U.S. EPA Request 5:** The units were visually inspected by a Professional Engineer and a senior environmental manager on September 3, 2010. As a result of that inspection, NIPSCO intends to implement brush and vegetation control activities. The work will be performed by qualified contractors during the next calendar quarter. The next routine inspection of the units is expected to occur in October 2010.

**U.S. EPA Request 6:** *When did a State or Federal regulatory official last inspect or evaluate the safety (structural integrity) of the management unit(s)? If you are aware of a planned State or Federal inspection or evaluation in the future, when is it expected to occur? Please identify the Federal or State regulatory agency or department which conducted or is planning the inspection or evaluation. Please provide a copy of the most recent official inspection report or evaluation.*

**NIPSCO Response to U.S. EPA Request 6:** NIPSCO is not aware of any past or planned State or Federal regulatory inspection or evaluation regarding the safety or the structural integrity of the above-described units.

**U.S. EPA Request 7:** *Have assessments or evaluations, or inspections conducted by State or Federal regulatory officials conducted within the past year uncovered a safety issue(s) with the management unit(s), and, if so, describe the actions that have been or are being taken to deal with the issue or issues. Please provide any documentation that you have for these actions.*

**NIPSCO Response to U.S. EPA Request 7:** NIPSCO is not aware of any State or Federal regulatory inspection or evaluation regarding the safety of the above-described units within the past year.

**U.S. EPA Request 8:** *What is the surface area (acres) and total storage capacity of each of the management units? What is the volume of material currently stored in each of the management units? Please provide the date that the volume measurement was taken. Please provide the maximum height for the management unit(s). The basis for determining maximum height is explained later in this enclosure.*

**NIPSCO Response to U.S. EPA Request 8:** NIPSCO understands U.S. EPA Request 8 to seek information regarding the capacity of units to store material and the volume of material currently stored in each unit. The estimated area, material storage capacity, current material storage volume, and maximum dam height of each unit described in NIPSCO's Response to U.S. EPA Request 2 are stated immediately below. The listed operational capacities were estimated in August 2010 and represent sums slightly less than each unit's theoretical maximum capacity. The stated current material storage volumes were also estimated in August 2010. Units heights are not stated below because all of the units are incised.

Primary 1- 5.85 acres, capacity 66,111 CY, currently storing 33,055 CY

Secondary 1- 1.61 acres, capacity 28,519 CY, currently storing 2852 CY

Primary 2- 5.85 acres, capacity 75,555 CY, currently storing 7555 CY  
Secondary 2- 2.87 acres, capacity 48,611 CY, currently storing 4861 CY  
Bottom Ash Area - 0.71 acres, capacity 3889 CY, currently storing 778 CY  
Forebay - 0.14 acres, capacity 2567 CY, currently storing 128 CY

**U.S. EPA Request 9:** *Please provide a brief history of known spills or unpermitted releases from the unit within the last ten years, whether or not these were reported to the State or Federal regulatory agencies. For purposes of this question, please include only releases to surface water or to the land (do not include releases to groundwater).*

**NIPSCO Response to U.S. EPA Request 9:** To NIPSCO's knowledge, there have been no known spills or unpermitted releases from the units subject to the Requests.

**U.S. EPA Request 10:** *Please identify all current legal owner(s) and operator(s) at the facility.*

**NIPSCO Response to U.S. EPA Request 10:** NIPSCO currently owns and operates the BGS. In addition, a contractor, Pure Air on the Lake Limited Partnership, operates a flue gas desulfurization system at the BGS.

\* \* \* \*

I certify that the information contained in this response to EPA's request for information and the accompanying documents is true, accurate, and complete. As to the identified portions of this response for which I cannot personally verify their accuracy, I certify under penalty of law that this response and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.



Mr. David Dorsch  
Plant Manager  
Bailly Generating Station

## Exhibit A

### **General Objections**

General Objection No. 1: NIPSCO objects to the Requests to the extent that they exceed the authority granted to the U.S. EPA under Section 104(e) of CERCLA. NIPSCO specifically objects to the Requests to the extent that U.S. EPA has not presented “a reasonable basis to believe that there may be a release or threat of release of a hazardous substance or pollutant or contaminant” at the BGS. See 42 USC § 9604(e)(1).

General Objection No. 2: NIPSCO objects to the introductory paragraph (i.e. the first, unnumbered paragraph) (“Introductory Paragraph”) of the Requests on the grounds that the paragraph is ambiguous, vague, overbroad, or too indefinite to be capable of reasonable interpretation. For the purposes of responding to the Requests, NIPSCO assumes that detention basins at the BGS that receive *de minimus* amounts of coal dust are outside the scope of the Requests.

General Objection No. 3: NIPSCO objects to the terms “management unit” and “unit” as ambiguous, vague, overbroad, or too indefinite to be capable of reasonable interpretation. By “management unit” and “unit,” NIPSCO assumes, for the purpose of this response, that U.S. EPA intends the terms to refer to the basins, ponds, impoundments and disposal facilities which receive or store liquid-borne coal combustion byproducts or residuals except incidentally in *de minimus* quantities. NIPSCO also assumes for the purposes of this response that U.S. EPA does not intend the terms to refer to former units which are believed to contain no free liquids other than commonly migrating groundwater given that the presence of such groundwater cannot reasonably be viewed to affect impoundment safety.

General Objection No. 4: NIPSCO objects to the term “material” as ambiguous, vague, overbroad, or too indefinite to be capable of reasonable interpretation. By “material,” NIPSCO assumes, for the purposes of this response, that U.S. EPA intends the term to refer to liquid-borne coal combustion byproducts and residuals. NIPSCO additionally objects to other aspects of the Requests which also ambiguous, vague, overbroad, or too indefinite to be capable of reasonable interpretation.

General Objection No. 5: NIPSCO objects to the Requests to the extent they purport to require NIPSCO to divulge information protected by the attorney-client privilege, the work product privilege, or any other privilege recognized under applicable law.

General Objection No. 6: NIPSCO objects to the Requests to the extent they call for NIPSCO to make legal conclusions concerning any statute or regulation. NIPSCO also objects to the Requests to the extent they require NIPSCO to (a) conduct inspections, assessments, calculations or other activities not otherwise required by an applicable law or (b) develop or create documents that do not exist or that NIPSCO is not otherwise required to create or maintain by applicable law.

General Objection No. 7: NIPSCO objects to the Requests to the extent they seek information previously provided to U.S. EPA, already available to U.S. EPA, or possessed by another governmental agency. By way of example and not limitation, this objection includes information regarding prior state or federal governmental inspections. Requests for such information are duplicative and unreasonably burdensome. NIPSCO also objects to other aspects of the Requests to the extent they seek information which is similarly unreasonably burdensome to obtain or produce.

General Objection No. 8: NIPSCO objects to the Requests to the extent that, through that Request, U.S. EPA seeks information not relevant to the purpose stated in U.S. EPA's letter dated August 27, 2010 or CERCLA Section 104(e).

CH2\9157786.1