

US EPA ARCHIVE DOCUMENT



R.M. Schahfer Generating Station
2723 East 1500 North
Wheatfield, IN 46392

August 5, 2010

VIA CERTIFIED MAIL 7009 2820 0002 7706 8406
RETURN RECEIPT REQUESTED

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

Re: **Supplementary and Amended Response of Northern Indiana Public Service Company, R.M. Schahfer Generating Station, to Request for Information under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")**

Dear Mr. Kinch:

As you know, NIPSCO responded to a CERCLA 104(e) request from U.S. EPA dated March 9, 2009 (the "RFT") concerning impoundments at NIPSCO's R.M. Schahfer Generating Station (the "RMSGs") via a letter to you dated March 26, 2009 (the "RFI Response"). The RFI Response was, as it itself made clear, based on NIPSCO's diligent and good faith effort to be fully responsive within the timeframe then afforded by U.S. EPA. Since that time, NIPSCO received and responded to a further information request from U.S. EPA (via its consultant, CDM) following an April 26, 2010 site inspection. During the course of NIPSCO's work with CDM, NIPSCO learned additional information regarding a former impoundment at the RMSGs. Although NIPSCO does not believe the RFI imposed a continuing obligation to provide updated information or that the RFI Response was in any way insufficient, NIPSCO nonetheless desires to supplement its aspects of its responses to questions 2, 3, 5 and 8 of the RFI Response to reflect the aforementioned additional information in a good faith effort to provide information most useful to the agency. Accordingly, by this letter, NIPSCO hereby supplements and amends its responses to RFI requests 2, 3, 5 and 8.

Although NIPSCO has made a diligent and good faith effort to provide the below-stated supplemental and amended responses, 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 further responds as stated below to questions 2, 3, 5 and 8 of the 10 numbered items of the RFI based upon information now known to NIPSCO.

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

Supplemental and Amended NIPSCO Response to U.S. EPA Request 2: The RFI Response to U.S. EPA Request 2 conveyed, in an abundance of caution and in a good faith effort to be overly responsive, that the RMSGs has two former units not subject to the RFI which are, and have been since 1982, out-of-service (the Retired Waste Disposal Area and Dry Ash Staging Area). The RFI Response to U.S. EPA Request 2 also stated that these former impoundments did not contain free liquid. A seep was recently observed from the Retired Waste Disposal Area. The presence of a seep indicates that the Retired Waste Disposal Area may, in fact, contain a volume of free liquid. It is unknown whether the Dry Ash Staging Area may also contain a volume of free liquid.

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).

Supplemental and Amended NIPSCO Response to U.S. EPA Request 3: The RFI Response to U.S. EPA Request 3 stated that former Retired Waste Disposal Area and Dry Ash Staging Area, two former impoundments outside the scope of the RFI, were dry. As indicated by the above amended response to U.S. EPA Request 2, it now appears that free liquid may be present within the Retired Waste Disposal Area. It is unknown whether the Dry Ash Staging Area may also contain a volume of free liquid.

U.S. EPA Request 5: *When did the company last assess or evaluate the safety (i.e. structural integrity) of the managements 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 those 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.*

Supplemental and Amended NIPSCO Response to U.S. EPA Request 5: The RFI Response to U.S. EPA Request 5 also indirectly referenced the Retired Waste Disposal Area and Dry Ash Staging Area as dry. As explained above, it now appears that the Retired Waste Disposal Area may contain a volume of free liquid. It is unknown whether the Dry Ash Staging Area may also contain a volume of free liquid.

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.*

Supplemental and Amended NIPSCO Response to U.S. EPA Request 8: The RFI Response to U.S. EPA Request 8 stated that former Retired Waste Disposal Area and Dry Ash Staging Area, two former impoundments outside the scope of the RFI, were dry. As indicated by the above amended response to U.S. EPA Request 2, it now appears that free liquid may be present within the Retired Waste Disposal Area. It is unknown whether the Dry Ash Staging Area may also contain a volume of free liquid.

* * * * *

I certify that the information contained in this response to U.S. 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.

Signature:



Name:

Donald L. Bull

Title:

Manager
Maintenance, Unit 17/18 Operations & Hydros
Northern Indiana Public Service Company
Rollin M. Schahfer Generating Station
2723 East 1500 North
Wheatfield, Indiana 46392

Exhibit A

General Objections

General Objection No. 1: NIPSCO objects to the RFI to the extent its requests exceed the authority granted to the U.S. EPA under Section 104(e) of CERCLA. NIPSCO specifically objects to the RFI 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 RMSGS. 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 RFI 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 RFI, NIPSCO has assumed that the RMSGS's R M Schahfer Generating Station RWS I, Indiana Permit FP 37-01 is outside the scope of the RFI as it receives only dry residuals which have been marginally conditioned for dust control or dredged and allowed to thoroughly dewater prior to disposal. NIPSCO also assumes that detention basins at RMSGS that receive *de minimus* amounts of coal dust through fugitive dust emissions are outside the scope of the RFI.

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 and as described at General Objection No. 2.

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 RFI which are also ambiguous, vague, overbroad, or too indefinite to be capable of reasonable interpretation.

General Objection No. 5: NIPSCO objects to the RFI to the extent its requests 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 RFI to the extent they call for NIPSCO to make legal conclusions concerning any statute or regulation. NIPSCO also objects to the RFI to the extent its requests 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 RFI to the extent its requests 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 RFI to the extent its requests seek information which is similarly unreasonably burdensome to obtain or produce.

General Objection No. 8: NIPSCO objects to the RFI to the extent that, through that its requests, U.S. EPA seeks information not relevant to the purpose stated in U.S. EPA's letter dated March 9, 2009 or CERCLA Section 104(e).

