

US EPA ARCHIVE DOCUMENT



A NISource Company

801 E. 86th Avenue
Merrillville, IN 46410

March 26, 2009

**FEDERAL EXPRESS AND
CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

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

Re: **Response of Northern Indiana Public Service Company to Request for Information under Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA")**

Dear Mr. Kinch:

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 ("Request"). The Request was included in a letter sent by U.S. EPA to the attention of NIPSCO's Chief Executive Officer on March 9, 2009. NIPSCO's R.M. Schahfer Generating Station ("RMSGs") also received a separate Section 104(e) Request for Information. RMSGs's plant management will be responding to this second Request for Information under a different cover.

Although NIPSCO has made a diligent and good faith effort to respond fully and completely to the Requests, NIPSCO nonetheless respectfully sets forth the objections stated on the attached Exhibit A to preserve its rights. Subject to, and without waiving such objections, NIPSCO responds as stated below to the Request.

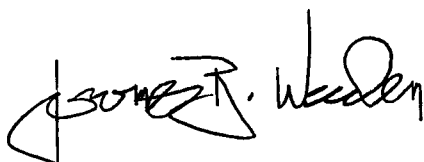
U.S. EPA Request: [P]ursuant to Section 104(e) of CERCLA, we request that you identify and furnish to EPA a list of additional facilities in your corporation to whom we have not sent an information request and which have surface impoundments or similar diked or bermed management unit(s) or management units designated as landfills which receive liquid-borne material from a surface impoundment used for the storage or disposal or residuals or by products from the combustion of coal, including, but not limited to, fly ash, bottom ash, boiler slag, or flue gas emission control residuals. If you have no additional facilities with such units, please respond by indicating that fact.

NIPSCO Response to U.S. EPA Request: To NIPSCO's knowledge, the following facilities owned or operated by NIPSCO meet the criteria of U.S. EPA's request:

- (a) Bailly Generating Station, 246 Bailly Station Road, Chesterton, Indiana 46304,
- (b) Dean H. Mitchell Generating Station, Clark Road and Lake Michigan, Gary, Indiana 46320, c/o Bert Valenkamph, NIPSCO Valparaiso Service Center, 2755 Raystone Drive, Valparaiso, Indiana 46383; and
- (c) Michigan City Generating Station, 101 Wabash, Michigan City Indiana 46360.

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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.

Signature: 

Name: Jerome B. Weeden

Title: Sr. Vice President Generation
Northern Indiana Public Service Company

Exhibit A

Objections

General Objection No. 1: NIPSCO objects to the Request to the extent that it exceeds the authority granted to the U.S. EPA under Section 104(e) of CERCLA. NIPSCO specifically objects to the Request 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 any NIPSCO owned or operated facilities. *See* 42 USC § 9604(e)(1).

General Objection No. 2: 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.

General Objection No. 3: NIPSCO objects to the term “facilities” as ambiguous, vague, overbroad, or too indefinite to be capable of reasonable interpretation. For the purposes of this response, NIPSCO assumes that the term “facilities” in the Request has the same meaning as in paragraph 1 of the U.S. EPA’s March 9, 2009 letter. NIPSCO, thus, interprets “facilities” to mean major industrial operations, like generating plants or landfills.

General Objection No. 4: NIPSCO objects to the Request to the extent that it requires NIPSCO to draw inferences about facilities owned or operated by other utilities or third parties. For the purposes of this response, NIPSCO interprets the request to call for information about only those facilities owned or operated by NIPSCO.

General Objection No. 5: NIPSCO objects to the Request to the extent that it purports 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 Request to the extent it seeks information previously provided to U.S. EPA, already available to U.S. EPA, or possessed by another governmental agency.

General Objection No. 7: NIPSCO objects to the Request 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 March 9, 2009 or CERCLA Section 104(e).