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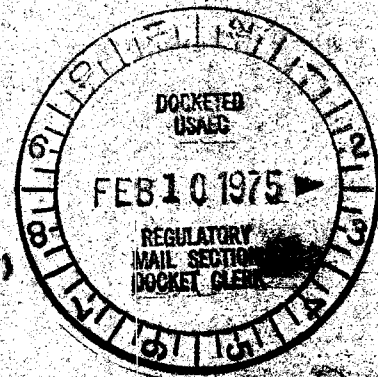
NUCLEAR REGULATORY COMMISSION



IN THE MATTER OF:

CONSOLIDATED EDISON COMPANY OF
NEW YORK, INC.

(Indian Point Station, Unit No. 3)



Docket No. 50-286

Place - Croton-on-Hudson

Date - Thursday, 6 February 1975

Pages 197 - 247

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UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION

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 In the matter of: :
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 CONSOLIDATED EDISON COMPANY OF : Docket No. 50-286
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 NEW YORK, INC. :
 :
 (Indian Point Station, Unit No. 3) :
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Regency Room
 Springvale Inn
 500 Albany Post Road
 Croton-on-Hudson, New York

Thursday, 6 February 1975

The above-entitled matter came on for prehearing,
 pursuant to notice, at 9:30 a.m.

BEFORE:

SAMUEL W. JENSCH, Esq., Chairman
 Atomic Safety and Licensing Board

R. BEECHER BRIGGS, Member

DR. FRANKLIN DAIBER, Member (Not present)

APPEARANCES:

HARRY H. VOIGT, EUGENE R. FIDELL, and MAURICE WHITE, Esqs., LeBoeuf, Lamb, Leiby & MacRae, 1821 Jefferson Place, N.W., Washington, D. C.; and
 EDWARD J. SACK, Esq., Consolidated Edison Company of New York, Inc., 4 Irving Place, New York, New York; on behalf of the Applicant.

JOSEPH GALLO and FREDERIC GRAY, Esqs., Office of the General Counsel, United States Nuclear Regulatory Commission, Washington, D. C.; on behalf of the NRC Regulatory Staff.

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APPEARANCES: (continued)

NICHOLAS A. ROBINSON, Esq., Marshall, Bratter, Greene,
Allison & Tucker, 430 Park Avenue, New York, New York
10022; on behalf of the Intervenor, Save-our-Stripers.

ANGUS MACBETH, Esq., 15 West 44th Street, New York,
New York; on behalf of the Intervenor, Hudson River
Fishermen's Association.

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P R O C E E D I N G S

CHAIRMAN JENSCH: Please come to order.

This proceeding is a special prehearing conference in the matter of Consolidated Edison Company of New York, Inc., in reference to its application to operate a nuclear power facility designated as Indian Point Station Unit No. 3.

This prehearing conference is convened in accordance with a Notice of Prehearing Conference which was issued on January 23, 1975 and given general public distribution, which included publication in the Federal Register, Volume 40, page 4194. And that publication occurred on January 28, 1975.

This prehearing conference was set after a telephone conference conversation with all of the attorneys for the parties who were available. The attorneys indicated this date and place would be convenient for the convening of this prehearing conference.

This prehearing conference, as the Notice provided, will consider procedures by which consideration can be given to a stipulation which has been executed by all attorneys for the parties who have participated in this phase of the proceedings.

The Consolidated Edison Company of New York, Inc., the Applicant in this proceeding, has sent to the Atomic Safety and Licensing Board, I believe, a duplicate original

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1 of the stipulation that was signed by the attorneys for the
2 parties.

3 That stipulation is reflected on some 15 pages
4 which set forth the terms and conditions of the stipulation.
5 I might mention at the outset that Dr. Franklin Daiber,
6 who is a member of this Atomic Safety and Licensing Board, has
7 developed an illness of influenza and contrary to his plans
8 and reservations, had to cancel his attendance today.
9 So, the Board consists of Mr. R. Beecher Briggs on my right,
10 and myself, Sam Jensch.

11 We two are sitting in accordance with the Rules
12 of Practice of the Atomic Energy Commission, which permit two
13 of the three members to proceed with the hearings in the
14 absence of one of the members of the Licensing Board.

15 In the conversation which we had with the attorneys
16 for the parties on or about January 22, or 23, 1975, one
17 of the attorneys for the Regulatory Staff indicated that the
18 Final Environmental Statement applicable in this phase of
19 the proceeding, should be available on or about February 13
20 or 14, 1975.

21 It is the wish of the Atomic Safety and Licensing
22 ~~Board~~ Board that specifically, the Final Environmental Statement
23 should be served upon the Village of Buchanan.

24 At the conclusion of the hearings on the
25 ~~consideration~~ application for an operating license for Applicant Indian

proceeding

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Point No. 2 ~~Proceeding~~, the Atomic Safety and Licensing Board was informed there may be problems in reference to cooling towers within the Village of Buchanan, due to some zoning considerations, I believe.

In any event, we request the Staff to serve a copy of the Final Environmental Statement when it is available, upon the Village of Buchanan.

There is one preliminary matter, and before we proceed I would like to note the appearance of the parties on behalf of Consolidated Edison Company, Mr. Harry Voigt and Mr. Edward Sack; Hudson River Fishermen's Association, Angus Macbeth; Regulatory Staff, Mr. Joseph Gallo. I think Mr. Gallo is chief hearing counsel of the Nuclear Regulatory Commission, which is the successor organization to the Atomic Energy Commission, as provided by the Energy Reorganization Act, which was enacted in 1974.

And, Mr. Fred Gray is appearing on behalf of the Regulatory Staff of the Nuclear Regulatory Commission.

I will note the presence of Mr. Nicholas Robinson, attorney for Save-Our-Stripers, Intervenor in this proceeding.

I do not see an appearance on behalf of the State of New York.

The Board has been giving consideration to this stipulation submitted and we have matters we would like to

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1 discuss with the parties. We are looking forward to
2 presentation of some evidence at some time after the Final
3 Environmental ~~Statement~~ ^{Statement} has been issued by the Staff and
4 the necessary 30 days have elapsed after that time.

5 One thing, maybe more formal than substantial,
6 but it has been the practice in many of these cases where
7 there are Intervenor consisting of unincorporated organizations,
8 to definitely establish upon the record the authority of the
9 persons seeking to represent those unincorporated organizations,
10 that they have the authority to do so.

11 This aspect of the matter seems especially
12 important to this Atomic Safety and Licensing Board in
13 view of the fact that these Indian Point proceedings have
14 been very rigorously contested and have been the subject
15 of some extended hearings, and it seems pertinent to this
16 Board that the authority of the attorneys to represent the
17 unincorporated organizations be definitely established to
18 execute stipulations which, in compliance with the terms, would
19 withdraw those parties from their request for hearing and
20 analyses of the several contentions which have been asserted.

21 Therefore, in the ensuing time after this
22 prehearing conference, we would request the unincorporated
23 organizations to secure some expression of approval by those
24 organizations, of the stipulation which has been executed in
25 their behalf. This is without any personal reference to the

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1 individuals, but merely consistent with the practice of the
2 Commission that unincorporated organizations have their
3 authority definitely established to participate in hearings
4 and seemingly, likewise, to withdraw from hearings of such
5 contested cases.

6 The Board has met in its own conference to go over
7 the stipulation and as we have indicated in the last
8 prehearing conference which we held on this Indian Point No. 3
9 proceeding, which was held, I believe, in November 1974,
10 we were concerned that the record that is prepared here is
11 consistent with the requirements for this proceeding,
12 bearing in mind the -- if I use the term correctly -- the
13 leftover items that may be reflected by the initial decision
14 of the Atomic Safety and Licensing Board as well as the
15 decision by the Appeal Board in their review of the initial
16 decision.

17 One matter that we might mention in passing, the
18 State of New York heretofore and I believe during the summer
19 of 1974, raised some questions about seismic considerations
20 and that matter is presently before the Nuclear Regulatory
21 Commission itself, as indicated by its statement, I believe
22 two weeks ago, saying they would review the decision by the
23 Director of Regulations respecting the request for considera-
24 tion of certain seismic matters, and therefore, this Atomic
25 Safety and Licensing Board will not give consideration to

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1 such matters pending further direction to do so, or not do so
2 by the Nuclear Regulatory Commission, will consider the
3 matter.

4 ^{WONDER}
I ~~wonder~~ if it wouldn't be better if we,
5 before hearing what could be endorsement statements that
6 any one of the attorneys executing this stipulation would be
7 prepared to present at this prehearing conference, if we,
8 the Board, would indicate to the parties some of the matters
9 we feel should be developed upon the record in order to have
10 the record in the shape which we believe the Appeal Board
11 and maybe the Commission, itself, would like to see reflected
12 by presentation in an evidentiary record.

13 The procedure, I believe, which would be under-
14 taken is having qualified personnel deal with the subjects
15 we will discuss, by giving a statement under oath and
16 such questioning as the Board may desire to undertake, in
17 reference to such statements.

18 It is our present thought that the stipulation
19 by the parties in a sense waives any right on their part to
20 cross-examine about matters that the Board feels should be
21 developed on the record, since the parties, through their
22 attorneys, are adhering to the stipulation which reflects
23 their thought that upon compliance with the terms and conditions
24 thereof, none of the parties has any further inquiry
25 into these matters.

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1 Therefore, it is not presently contemplated,
2 although we are open to persuasion about the matter, or subject
3 to change when a matter of substance seems of such importance,
4 to relinquish that thought for a portion of the time.

5 If I may, if I could outline a few items and
6 Mr. Briggs will express his subjects as well as those of
7 Dr. Daiber, with whom we conferred last week.

8 One thing which does not seem reflected in the
9 stipulation is a view as to the evidentiary hearing,
10 which will later be convened, and as to all of those matters
11 which we do not request any specific response from any of
12 the parties on at this time.

13 Don't you have two other attorneys, Mr. Voigt?
14 The gentleman at my extreme left was here at the last pre-
15 hearing conference.

16 Your name is?

17 MR. WHITE: Maurice White.

18 MR. FIDELL: I am Eugene Fidell. I was at the
19 first two prehearing conferences.

20 CHAIRMAN JENSCH: Thank you.

21 The Board would like to know what is the status
22 of the proceeding by Consolidated Edison Company against the
23 Environmental Protection Agency in reference to cooling
24 towers and likewise, the parties may desire to speak to that.
25 matter at the evidentiary hearing.

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1 Supposing Consolidated Edison Company prevails in
2 its lawsuit that the cooling towers are not required under
3 the Environmental Policy Act, or is it clearly understood
4 the cooling towers provided in the stipulation are intended
5 to prevent the damage -- in view of the fact the Environmental
6 Policy Administration has jurisdiction over thermal releases?

7 Those matters we would like discussed at the
8 evidentiary hearing.

9 If Consolidated Edison Company is not successful
10 in its lawsuit and the Environmental Protection Agency
11 requires immediate construction of cooling towers in view
12 of the thermal conditions, how does that affect the stipula-
13 tion in any respect?

14 As we understand it, the cooling towers can be
15 constructed on or before the dates mentioned in the
16 stipulation. There may be no contest at all.

17 I will not undertake to discuss further the
18 reports which have been discussed both by the Appeal Board and
19 by the Final Safety Evaluation, FSAR, which has been filed
20 by the Applicant.

21 With that, I'll ask Mr. Briggs if he will discuss
22 the matters that the Board has considered.
23
24
25

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AK
Take 2
cam 1

1 MR. BRIGGS: Well, the Board has lived pretty much
2 in a vacuum since the time of the decision on Indian Point 2
3 and we have essentially no knowledge of what has gone on at
4 Indian Point since that time. It seems to us the stipulation
5 must be based on knowledge on the part of other ^{people} ~~peoples~~ con-
6 cerning schedules, cost of cooling towers, the research pro-
7 gram that was being conducted and there must be other informa-
8 tion.

9 So, the Board seeks information on a good many
10 subjects. I might say the environmental report that the appli-
11 cant has prepared has been amended several times, but even in
12 those amendments, there is relatively little information since
13 January of '73.

14 There are responses to questions of March 5, 1973.
15 There is an appendix concerning corrections of the Hudson River
16 to the mid-Atlantic Striped ^{Bass} ~~Bass~~ Fishery of October, 1973.
17 There is economic impact of Indian Point 3 ^{Bass} on the mid-Atlantic
18 Striped ^{Bass} Fishery of March, 1974, and there are other answers
19 to questions.

20 They don't provide a great deal of information we
21 think is important to us. First, we would like to be convinced
22 that the schedule that's proposed is a reasonable schedule.
23 We take note that the applicant considered schedules that
24 required cooling towers before 1981 as being an unreasonable
25 schedule previously.

m 2

1 So, we would like to see some information on the
2 status of the -- or on the schedule for a closed cycle cooling
3 system for Indian Point 2 and a schedule for a closed cycle
4 cooling system for Indian Point 3 that conforms to the stipu-
5 lation so we can compare those two to see how they fit to-
6 gether and to see that there are no conflicts in the schedules
7 which would cause the stipulation schedule to change.

8 In connection with that, I believe the Appeal Board
9 required that an environmental report for a closed cycle cool-
10 ing system for Indian Point 2 be prepared by December of 1974.
11 If I'm wrong, you can correct me on that.

12 The Board has not seen that environmental statement
13 and it would be helpful for us to see that statement, to be
14 able to review it. So, we are interested in the status, then,
15 of the closed cycle cooling system of Indian Point 2 and
16 the schedule showing how the system would be constructed for
17 Indian Point 3.

18 We would be interested, if the information is avail-
19 able, in knowing what the present estimates are of the cost of
20 such facilities. With regard to the environmental statements
21 for a closed cycle cooling system for Indian Point 2, we
22 note that certain research and development was supposed to be
23 done and we would like to know the results of that research
24 and development.

25 This was concerned with meteorological measurements

3 1 that would enable one to assess the environmental impact and
2 also the effect of salt drift. The applicant had proposed
3 what we considered to be a rather extensive program of deter-
4 mining the the effect of salt drift and both of those subjects
5 the drift and meteorological studies were to be important to
6 the impact statement.

7 In the Indian Point 2 proceedings and relevant to
8 the Indian Point 3 proceedings we think are several items that
9 were to be subjects of research and development. This research
10 work was not all to be completed by this time certainly, but
11 one should expect that a substantial amount of work has been
12 done and there should be important results obtained.

13 We would like to be informed on these. First, an
14 important consideration was the impact of operation of units
15 2 and 3 on the mid-Atlantic Fishery. As I understand it,
16 taking studies have been done. The state of New York and
17 Federal Government were engaged in a program and we would like
18 to be brought up to date on the knowledge that has been developed
19 concerning the effect of operations of the plants on the Hudson
20 River and on the mid-Atlantic Fishery.

21 We would like to have information, status of the
22 program on impingement at units 1 and 2 in 1973 and 1974. We
23 would like to know the results of the entrainment study and
24 in particular, what information now is available to provide
25 values for the F factors that were used in the computer model

4 1 for analyzing the effects of entrainment on the mortality to
2 the young striped bass.

3 Compensation was an important factor in determining
4 whether the plants would have a major impact and there were to
5 studies of compensatory effects. We are interested in the re-
6 sults of those studies to date and whether information has,
7 in fact, been obtained and how it has been incorporated in
8 the model that determines the effects of plant operation.

9 Presumably, such information would have been con-
10 tained in the impact of unit 3 operation on the mid-Atlantic
11 Fishery in Appendix GG, October 5, 1973, but the information
12 must have been -- there must have been little information at
13 that time and we would like to be brought up to date on that.

14 The stipulation indicates that measurements will
15 be taken to mitigate the effect of plant operation on the
16 fishery if these effects are shown to be at all serious. The
17 applicant proposed stocking of striped bass as one means of
18 mitigating the effect of plant operation on the fishery.
19 Studies must have been made on stocking.

20 I believe the schedule for reports on the applicant's
21 research program indicated that reports on stocking would be
22 available about this time. The Board is interested in knowing
23 the results of the work on the stocking program.

24 I think that probably covers most of the research
25 program. As I indicated, the stipulation suggests that

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1 mitigating measures will be taken if there is substantial
2 damage shown to the fishery. The Board is interested in know-
3 ing what the monitoring program will consist of, whether it
4 will be an extension of the research program that was proposed
5 and the monitoring program that was to be put into effect for
6 Indian Point 2, or whether there will be other additional
7 monitoring programs provided.

8 The stipulation states that if data are obtained
9 from the empirical data program that show that the damage is
10 not important, that construction of closed cycle cooling sys-
11 tem for unit 3 can be delayed and presumably could be post-
12 poned or not required.

13 The Board is interested in knowing what is the
14 last date that such data could be provided that would be ef-
15 fective in delaying construction of a closed cycle cooling
16 system and is interested in seeing how this date fits into
17 the applicant's research and development program.

18 In other words, is there going to be a substantial
19 amount of empirical data available, or is it unlikely such
20 data will be available and will influence a decision on a
21 closed cycle cooling system. It's not clear to the Board
22 whether shutdown of unit 3 from May 15 to July 31, and shut-
23 down of unit 3 during the period of impingement in the winter-
24 time is considered to be a mitigating measure that would be
25 invoked if serious damage were found in the monitoring program.

cam 6
1 We would like to have some discussion about
2 that particular mitigating measure. Further, the Board be-
3 lieves that the impact of unit 3, the effect of operation of
4 unit 3 must be considered in light of the environment as it
5 exists in the River; that is, the effects of operation of
6 other plants on the River. We know that others have dif-
7 ferences of opinion concerning this, but we would like to know
8 what is the status of knowledge that -- that may be too broad
9 a term -- but what is known about the impact of other plants
10 on the River that are in operation, or will be operating at
11 the time unit 3 begins to operate.

12 It may be that the Staff's opinions, conclusions
13 concerning this are contained in the final environmental state-
14 ment. We have not seen it, so we don't know what the Staff's
15 conclusions are, but we would like for the applicant and the
16 Staff and intervenors, too, to be able to provide their con-
17 clusions concerning these various points.

18 As Mr. Jensch indicates, we don't see that there is
19 need for an extensive cross-examination and extensive argument
20 that one ^{person's} ~~person's~~ position is wrong or the other person's po-
21 sition is wrong, but we think it's important to get the
22 positions of each of the parties put on the record.

23 As Mr. Jensch indicates, the opinion may change
24 as we go along. As far as the environmental aspects of in-
25 formation we're concerned about, I think that covers most of

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1 them. There is one concerning water quality standards and
2 what is required for the applicant -- what permits are required
3 for the applicant to begin operation of unit 3 and what is the
4 status of those permits at the present time.

5 We note in the stipulation that the applicant is
6 to move aggressively to obtain permits for construction of the
7 closed cycle cooling system. As Mr. Jensch mentioned previously,
8 we also note that in an inspection report and in a letter from
9 the mayor of Buchanan to Consolidated Edison, I believe it was,
10 Buchanan has some objections to tall structures that might in-
11 clude cooling towers.

12 We would like to know whether, in fact, it would be
13 possible if the town of Buchanan would not grant a variance
14 to Con Edison that this could hold up construction of a closed
15 cycle cooling system indefinitely. The state of New York
16 through its ^{attorneys} ~~attornies~~ at Indian Point 2 indicated the state
17 could move expeditiously on permits and the staff indicated
18 that the Atomic Energy Commission could move expeditiously
19 but it wasn't clear the town of Buchanan would move expedi-
20 tiously and we want to know what the effect of this may be.

End 2

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CHAIRMAN JENSCH: It is apparent that a great deal of this information can be submitted in documentary form and submitted prior to the date of the evidentiary hearing, which would shorten the hearing. We do not presently contemplate the parties themselves have established any specific reason for any cross-examination, although their views may be stated on the record without having cross-examination.

There was an amendment filed to this application by counsel dated Edison Company in January 1975. We will be interested to know whether the Final Environmental Statement of the Staff considers the matters reflected in that amendment and if not whether a response by the Staff or comments by the Staff can be presented to that amendment, particularly as to the adequacy of the answers given by ~~counsel~~ ^{CONSOLIDATED} dated Edison Company to the questions heretofore propounded by the Regulatory Staff.

Dr. Daiber mentioned last night on page 186 of opinion by the appeal board for ^{the} Indian Point 2 proceeding, it was indicated that some report should be filed by the Applicant following the 1974 striped bass spawning season.

We would like to see that report. We will not enumerate all of the reports indicated both in the amendment filed by ~~counsel~~ ^{CONSOLIDATED} dated Edison Company in January 1975, but those were reflected in the appeal board decision.

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1 We would direct the attention of the Applicant
2 to those reports and those were available in the time
3 period there identified should be presented to the Board
4 and the parties.

5 We are also interested in this condition of the
6 stipulation that a full power license be granted by May
7 1975.

8 Perhaps we don't understand the purport of
9 that language. But I have no recollection of the Atomic
10 Energy Commission or the successor organization issuing
11 a full power license immediately after an operating
12 license hearing nor has the Staff ever been authorized or
13 has the Staff within the scope of the authority given to
14 the Staff granted a full power license without some
15 gradual step-up of power ascension so tests can be checked
16 out as to the ability to move on to other levels of power
17 operation.

18 It may be that the language used in the
19 stipulation intended to encompass that program of power
20 level ascension.

21 In any event, we would like to have that matter
22 presented to the Board because it seems wholly unrealistic
23 to say a licensing board is going to authorize 100 percent
24 power operation when it is contrary, as we understand it, to
25 the practice of the Commission or the Staff in previous

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1 proceedings.

2 There are some reports indicated in this, I
3 believe, January 1975 amendment by the Applicant that
4 the Roseton-Bollin ~~fossil~~ ^{fuel} plant operation would have
5 some reports available, I believe, during the summer or
6 possibly the fall of '74.

7 I think the language used by the Applicant in
8 answer to a Staff question was something to this effect,
9 that when the Applicant gets them they will be glad to
10 forward them.

11 I wondered whether that reflected some diffi-
12 culty in procuring the reports or not. There is some
13 joint operation in some of these plants as I understand
14 it. It is not merely ~~have~~ ^{hot} in-hand request by the
15 Applicant to get the reports. They can secure them as
16 joint operator or joint participants in the project and
17 get those reports which we ~~could~~ ^{would} like to review and all
18 of these matters that can be submitted in documentary
19 form we would like to have for review before convening,
20 because we expect it will substantially expedite the
21 proceeding and lessen the inquires the Board would
22 like to take.

23 The Board is not inclined to take the stipu-
24 lation and sign here. We do think the previous procee-
25 dings have a substantial controlling effect on the

1 acceptance or the rejection or modification of this
2 stipulation. We do, however, want to congratulate the
3 parties for their endeavors, which will be reflected in
4 written as well as conference communication to secure the
5 stipulation.

6 I am glad to see the warring parties are down
7 to a feast of fish, maybe, and can conclude the matter.
8 We think in the public interest there are matters that
9 need to be developed on the public record. The State of
10 New York, through its Attorney General, I believe, in its
11 response to a motion made by the Applicant last August for
12 authority for fuel loading, subcritical and low power
13 testing, and a limiting operating license, indicated a
14 401 certificate under the Federal Water Pollution Control
15 Act must be issued before operating authority can be
16 granted or operating authority exercised.

17 We would like to have that matter developed
18 either in advance documentary form or some presentation at
19 the evidentiary hearing.

20 One response we could get at this time, however,
21 -- I know Mr. Cahill, who has been a regular participant in
22 these proceedings, except for the last conference. Can you
23 tell us how the loading is getting on and when do you
24 expect to have the plant in such shape as you would be ready
25 for loading?

cmw5

1 MR. CAHILL: I wish I was at the last prehearing
2 conference. The fuel loading and the work preparatory and
3 preliminary to it has been going along very well. We have
4 completed our hot functional test and have some items of
5 work to be completed including a modification to the steam
6 generators, which reflect knowledge that we developed in
7 the start-up of Unit 2.

8 Our schedule, that is, our formal schedule of
9 work planned by our contractors has this on March 15th.
10 Our own assessment is that we will be ready some time in
11 April for fuel loading. The fuel is being delivered and
12 has been delivered all this winter and will be all on-site
13 on March 15th.

14 I think in light of all the ^{experience} ~~expense~~ we had on
15 Unit 2, we are doing quite well, and I do expect that some-
16 time during April we will be ready to load the fuel.

17 CHAIRMAN JENSCH: Thank you. ~~There is~~

18 There is one matter that is kind of a carry-over
19 from the November prehearing. We gave some consideration
20 to inspection reports and quality assurance matters. We
21 would like to have the Staff, if they can, select a witness
22 who can kind of give us a wrap-up presentation. It may be
23 able to be done by a document prior to the hearing, partic-
24 ularly in reference to cracks in welds.

25 As the Regulatory Staff said that the weld

cmw6

1 situation, which will be considered during the course of
2 the extended inspection work undertaken by the Staff, will
3 be fully resolved and are there any outstanding items
4 for their concern.

5 We do think that the Staff or its assembly,
6 preparation of the inspection reports, which both Mr. Briggs
7 and I have separately studied at some length -- and my
8 review and Mr. Briggs can speak to his judgment on the
9 matter -- as Mr. Cahill indicated, the work done at
10 Indian Point 2 has been a substantial guide in their
11 progress of the work for Indian Point 3 in reference to
12 quality assurance.

13 We do have -- I think it was filed with a
14 January amendment -- a description of the quality assurance
15 matter for the requested authorized operation. There were
16 amendments to that matter, as identified by this January
17 amendment and we would like to have the Staff deal with
18 that matter because it appears that it is a comprehensive
19 program for quality control.

20 We would like to have the Staff analysis of the
21 matter for the record.

22 MR. BRIGGS: I have a question to ask the Staff
23 concerning these inspection reports. Were those reports
24 actually in the public document room or did you have to
25 assemble them from some other source?

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1 MR. GRAY: Mr. Briggs, I believe all the reports
2 that have been submitted so far have been in the public
3 document room. There are more reports to be sent to the
4 Board shortly that have not been and they date back for
5 a substantial period of time.

6 CHAIRMAN JENSCH: Those are proprietary?

7 MR. GRAY: Yes, and they haven't been reviewed.

8 MR. BRIGGS: Before we requested the Staff to
9 provide us with these documents, we inquired of the
10 public document room concerning them and we were told they
11 did not have copies and we note on each one of the letters
12 concerning the inspection reports -- These letters sent
13 to the Applicant that said that Applicant had 20 days to
14 review these report for matters of proprietary information
15 -- that they would be put in the public document room.

16 I think it is important they be put in the
17 public document room as the letters say and the public
18 document room knows they are there.

19 MR. GRAY: I agree. It had been my understanding
20 they were there and if they were not we will remedy that
21 situation.

22 MR. BRIGGS: In regard to that, it is not clear
23 to me why there need to be review of the documents that
24 were the inspection reports prior to 1972 for proprietary.
25 Was it not the practice at that time to indicate that the

1 Applicant had a certain number of days to review the
2 reports and request that parts be deleted?

3 MR. GALLO: Dr. Briggs, I can answer that.
4 The answer was Regulatory operation inspection reports
5 were not made generally available to the public prior to
6 the date you mentioned in 1972. As a result, those
7 inspection reports were not reviewed for proprietary
8 information because they were not routinely released.

9 Therefore, the exercise of determining whether
10 they indeed contained proprietary information was not
11 required. Through amendments of the Freedom of Information
12 Act and through the Attorney General's interpretation of
13 the Freedom of Information Act, we determined the reports
14 should be made available to the public and in 1972 that
15 policy was changed.

16 As a matter of routine when an inspection
17 report is developed and written, we transmit~~ed~~ it to
18 the Applicant to ask him to review it to see if it
19 contains proprietary information because many of the
20 reports discuss technical matters which could develop
21 proprietary information.

22 After the 20-day period is elapsed, we are told
23 if there is proprietary data in that and we put it in the
24 public document room at that time. Prior to '72 we did
25 not. When the Board asked for those reports we had to go

1 through the formality to determine if there was proprietary
2 information in those reports.

3 MR. BRIGGS: Thank you. As I said before, it is
4 important they be in the public document room and the
5 public knows they are there.

6 MR. GALLO: You can be assured we will return to
7 Washington and check it out and if they are not there
8 we will get them there.

9 CHAIRMAN JENSCH: There is one other item. We
10 would like the Applicant to have a ~~final~~ ^{FINANCIAL} man to ^{review} ~~request~~
11 ~~the~~ ^{FINANCIAL} ~~final~~ data for the record.

12 We do not contemplate conflict about the matter,
13 but in view of several discussions on the record about
14 ~~final~~ ^{FINANCIAL} data when these data reflected in the January 1975
15 amendment should be made part of the record, we would like
16 to note that The New York Times carried an item, and your
17 man would speak to that, that Consolidated Edison increased
18 its dividend the other day. It may be of substantial
19 interest in the record.

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1 MR. BRIGGS: I would like to say that the way
2 in which we look at Indian Point 3 is related to the
3 experience we had in the proceedings for Indian Point 2.
4 They are not entirely unrelated plants.

5 Whereas Indian Point 2 issues were very seriously
6 contested concerning the safety of the plant, this has not
7 been the case in Indian Point 3, although we have received
8 letters and there were petitions to intervene on safety
9 matters.

10 So, we have some questions as to how the safety
11 should be approached, although we recognize that the Commission
12 has looked at this and has issued some decisions. I think
13 it would be useful to us to have certain information in the
14 record, whether it is used in our decision or not.

15 This information may be completely obvious to
16 everybody, but it still would be worthwhile to have it in
17 the record.

18 I think a statement on the part of the Applicant
19 and Staff concerning the ^{aspect}~~respect~~ of the quality assurance
20 program at Indian Point 2 and 3, the security programs of
21 Indian Point 2 and Indian Point 3, the management programs,
22 I will call them, for Indian Point 2 and Indian Point 3, how
23 they are related.

24 As I say, the answer may be quite obvious, but
25 I think it would be useful for us to have this on the record.

mm2

1 Mr. Jensch mentioned the controversy over the
2 ~~RAMAPO~~ ^{Ramapo} Fault is in the hands of the Commission. They will
3 make the decision as to what is to be done. It is important
4 because of the questions that arose concerning the financial
5 qualifications of the Applicant, to have on the record, a
6 statement from the Applicant and the Staff -- although the
7 statement has been incorporated in Amendment 1 of the Safety
8 Evaluation -- of the situation concerning the finances of
9 the Applicant.

10 I believe those were the major items we were
11 concerned with that lie outside the environmental matters.

12 CHAIRMAN JENSCH: There is one other matter.

13 We had discussed this at the November hearing, and
14 the public record now shows by the correspondence which has
15 occurred since the November special prehearing conference,
16 the matter of the statement by Mr. Roddis and identification
17 was given as to one location of that statement.

18 There is an additional one in the New York Times,
19 which has not been presently identified, but in any event,
20 the Applicant submitted a statement which is in the
21 public record, which indicates if Mr. Roddis is called, he
22 would undoubtedly testify as his statement reflects, and
23 in view of that we do not ^{believe} ~~believe~~ that the matter warrants
24 further presentation in this record.

25 Is there inquiry by way of clarification of the

1 requests we made, and what date would be convenient to the
2 parties for reconvening for the evidentiary hearing.

3 Perhaps we will ask Mr. Gallo -- he was the
4 gentleman at the last conference that we had among the
5 attorneys by way of telephone -- when can we expect the Final
6 Environmental Statement? If he is consistent with his last
7 statement, we would like to congratulate him.

8 Are you ready for congratulations?

9 MR. GALLO: Mr. Chairman, I am overwhelmed.
10 I am afraid congratulations are not in order. The Final
11 Environmental Statement is yet further delayed.

12 CHAIRMAN JENSCH: So what else is new?

13 (Laughter.)

14 MR. GALLO: At the 11th hour, or maybe the 12th
15 hour, it was discovered that certain data that was factored into
16 the computer runs that are utilized in the Staff calculations
17 of the entrainment model, some of the input data was in
18 error in some way that the programmers put together the
19 information.

20 As a result, the computer runs have to be rerun
21 and that is being done right now. We anticipate another
22 three-week delay while that is being done. It was literally
23 pulled from the printers to correct this mistake.

24 I am saddened ^{to say} ~~today~~, despite my representation
25 during the conference call, I can't report that we will have it

mm4

1 any sooner than that.

2 CHAIRMAN JESNCH: I wonder if we shouldn't give
3 consideration, then, to this pending motion filed last
4 August for subcritical testing and whether the stipulation by
5 the parties is intended to obviate objection by the parties
6 heretofore filed to this motion by the Applicant, and in
7 fact this motion was filed in July of 1974 for fuel loading,
8 subcritical and low-power testing and limited operating
9 license.

10 As we know, the Appeal Board has in a sense
11 invalidated the first portion of the Regulation that has
12 some consideration to a one percent phase of some kind and
13 so the limit on low-power testing does not seem to be
14 prescribed by the Rules.

15 Perhaps the parties would like to assess the
16 situation and submit some document in that regard so we can
17 have it.

18 This is no criticism of the delay in getting out
19 the Final Environmental Statement. Every time I see a Final
20 Environmental Statement, it seems more expanded, and having
21 involved a great deal more work than the earlier statements
22 of that kind in other proceedings.

23 ^{projection}
24 If Mr. Cahill's ~~project~~ on fuel loading is
25 realized, there may be a delay that is unnecessary, and perhaps
the parties can reassess their positions -- the ~~Statement~~ of

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1 New York and Hudson River Fishermen's Association, and maybe
2 Save-Our Stripers -- on the motion. If they withdraw their
3 objections to that matter, we would like to have a statement
4 by the Staff in response to the motion, and without further
5 presentation, perhaps we can consider the motions as presented,
6 if the objections are withdrawn and the comments of the Staff
7 support the motion, so there won't be the possibility of
8 unnecessary delay in this regard.

9 Would you like to speak to that matter, Mr. Voigt?

10 MR. VOIGT: Mr. Chairman, and Mr. Briggs, the
11 stipulation which has been submitted to the Board provides
12 in paragraph 2, that the parties consent to the issuance
13 of an operating license, and it specifically says at the
14 bottom of page 2:--

15 "And any other operating license that may be
16 issued earlier for such purposes as fuel loading,
17 testing and limited power operation,"
18 -- provided it contains the conditions.

19 Our position would be the parties have already
20 consented to such an action by the Board, as may be
21 necessary or appropriate in the circumstances.

22 CHAIRMAN JENSCH: The stipulation is talking about
23 a full-power license in one sense, and I think it would be
24 well to have a formal withdrawal of objections by the other
25 two parties who have objected.

mm6

1 MR. GALLO: The Staff also objected to that motion,
2 Mr. Jensch.

3 CHAIRMAN JENSCH: So, would the Staff reassess
4 its position and submit a formal statement directed specifically
5 to the outstanding motion, so by implication we don't
6 have to take a stipulation which has not been --

7 MR. VOIGT: We will undertake to contact the
8 parties, including those not formally represented here this
9 morning, and if I can obtain agreement, I will get a
10 document back to the Board as quickly as possible.

11 CHAIRMAN JENSCH: The Board may give consideration
12 to that motion in advance of any further scheduling of
13 evidentiary hearing.

14 We have asked for a great deal of documentary
15 presentation, or rather presentation we think can be under-
16 taken by documentary presentation, and it may take more time
17 than will permit us to hold an evidentiary hearing and
18 conclude it when the Applicant is ready for fuel loading in
19 April.

20 MR. BRIGGS: Mr. Cahill, when the information is
21 provided, could you let us know as well as you can, when fuel
22 loading would start, and how long it would be before there
23 would be any substantial radioactivity in the fuel?

24 How long would it be before you go to one percent
25 of power, let's say.

1 As I recall, in the Staff's objection to the
2 original motion, part of the objection was concerned with an
3 environmental report that the Staff would be required to make.
4 The Staff, I believe, thought it would be more appropriate
5 to complete the Final Environmental Statement.

6 So I assume we will need to wait until the Final
7 Environmental Statement is out, before we can do much on this.

8 MR. VOIGT: That question has been raised previously
9 by a letter signed by the Chairman.

10 We had responded to that and pointed out that the
11 Commission's own regulations provide specifically for the
12 issuance of a testing license prior to the completion of the
13 Final Environmental Statement.

14 MR. BRIGGS: I understand that, but the question
15 was, is an Environmental Statement concerning this low-
16 power testing required, and I believe the Staff's position in
17 in their objection is they would have to provide such a
18 statement.

19 MR. VOIGT: I yield to the Staff on that, sir.

20 MR. GALLO: That is not quite the Staff position.

21 Our position was simply this: Before we could take
22 a position on the matter of a partial power license authorizing
23 power up to 91 percent of full power operation that they
24 would have to have a completed environmental assessment -- not
25 that we would need environmental assessment for purposes of

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1 supporting a partial power license, but to develop a sub-
2 ~~stantive~~ ^{stantive} position ourselves we would have to complete the
3 environmental review because the impact of 91 percent vis-a-vis
4 100 percent, there is virtually no distinction.

5 We thought we needed that assessment in hand.

6 It is in that context we wanted the Final Environ-
7 mental Statement available, which represented the Staff
8 review of the environmental impact of operation.

9 The Regulations do not require a statement per se,
10 but for us to take a position we felt we had to have that
11 assessment completed and it evidenced by having a Final
12 Environmental Statement.

13 MR. BRIGGS: Your position is stated in the stipula-
14 tion now, is that right?

15 MR. GALLO: I think that is right.

16 The stipulation represents our position with
17 respect to not only the full power license, but a partial
18 power license as well.

19 Page 2 makes reference to fuel loading, testing
20 and limited power operation. I think the parties would
21 discuss the ramifications of just what that entails. For
22 example, a definition of limited power operation, I think
23 it could be worked out.

24 In principle we have no objection based on the
25 stipulation to partial power license.

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1 MR. BRIGGS: So then the possible withdrawal of
2 your previous objection, plus the stipulation, would constitute
3 your position?

4 MR. GALLO: I think that is correct.

5 Our environmental assessment is complete, I will
6 point out. The document is not available, but we, the
7 Staff, know what the assessment is, so we are in a better position
8 to state our position with respect to the partial power license.

9 CHAIRMAN JENSCH: You will submit it with a statement
10 withdrawing your objection.

11 Is there basis for agreement as to the limit.

12 Mr. Gallo pointed out between 91 percent and 100
13 percent is perhaps not to be defined in any certain terms, but
14 pending this getting the full evidentiary hearing for whatever
15 level of power this stipulation contemplates, and what the
16 Regulatory Staff would recommend, it may be there could be a
17 limit on the low-power testing so we don't get into the
18 91 percent or 100 percent consideration, but settle for 50
19 percent for 60 days or so forth.

20 It is a thought to get a workable mechanism to
21 be used in the ^{interim} ~~term~~.

22 MR. VOIGT: We will explore that, and we will
end #423 work it out.

24

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1 CHAIRMAN JENSCH: Is there further clarification
2 that our requests require?

3 MR. VOIGT: Mr. Chairman, I want to make it clear,
4 if it wasn't clear at our last meeting, we think the Board is
5 entitled to get the documentary evidence and the background it
6 needs in order to satisfy itself about the stipulation.

7 We will furnish you as quickly as we can with
8 copies of some of the submittals that have been made under the
9 Indian Point 2 license so you can see how that information
10 reflects the current state of the art as far as the
11 environmental studies are concerned. I have to point out it
12 has been our position, and it is still our position, that
13 there is no requirement for an evidentiary hearing on those
14 matters.

15 CHAIRMAN JENSCH: We disagree.

16 MR. VOIGT: I understand that, sir. In order to
17 preserve my position, I want to make that point on the record
18 again.

19 CHAIRMAN JENSCH: We so note it.

20 MR. VOIGT: Going beyond that point of disagreement,
21 it does occur to me that some of these matters could qualify
22 well, and perhaps be better handled by a statement by Counsel,
23 either in writing or on the record at the hearing.

24 CHAIRMAN JENSCH: We would enjoy listening to you,
25 but we think a qualified witness should be on the stand in

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1 case there is inquiry that may be beyond your knowledge.

2 We think it should be done through evidentiary
3 presentation for that reason.

4 MR. VOIGT: Let me ask a question on a specific
5 example.

6 You have asked for a report on the status of the
7 legal proceeding.

8 CHAIRMAN JENSCH: We will take it from you, of
9 course. Legal matters, we expect from legal ^{representatives} ~~presentations~~.

10 MR. VOIGT: You have asked for the status of the
11 water permits.

12 CHAIRMAN JENSCH: Yes, all of those matters, of
13 course.

14 MR. VOIGT: May I assume we can do sorting and
15 picking out the matters where there would be expertise
16 involved as opposed to where we are merely reporting on the
17 status of something?

18 CHAIRMAN JENSCH: Any further clarification?

19 MR. GALLO: Mr. Chairman, in the conference call
20 you made reference to, I indicated that I would attempt on
21 behalf of the staff and parties to give a record presentation
22 of our perspective of why we believe the stipulation is in
23 the public interest and why we believe the Board should
24 accept it as such.

25 I would also like an opportunity to discuss

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1 generally the law as we see it with respect to the Board's
2 handling of the stipulation. I am somewhat overwhelmed by
3 all the questions the Board has asked and the procedures the
4 Board has outlined, but I would like the opportunity to go
5 into these matters, not only for the sake of making our
6 position clear on the record, but to get the Board, itself,
7 more perspective and insight as to how we arrived where we
8 did with respect to the stipulation.
9

10 CHAIRMAN JENSCH: We don't have a particular pro-
11 blem with why or how each person acted. We just want a
12 statement of why you did do it. It's apparent from the
13 stipulation that each party has voluntarily and willingly and
14 without oppression, duress, or improper force being applied,
15 signed the stipulation.

16 We accept that premise. We take it and it's
17 implicit by their signatures they endorse it. There are quite
18 a few cases that deal with a fact a stipulation doesn't
19 automatically command termination of the proceeding.

20 You might take a look at RAI 74-7 on Page 107,
21 where several cases are cited. RAI 74-2, and maybe 73-11,
22 Page 1062. In any event we will be glad to have your state-
23 ment submitted in documentary form, and we will give it
24 consideration as we approach the evidentiary hearing.

25 MR. GALLO: We would be glad to provide a brief

bwm 4

1 on how we think the Board should proceed. One aspect I am
2 concerned with specifically is the evidentiary nature of the
3 information that the Board has asked for.

4 I think a clear distinction has to be made that the
5 inquiry of the Board is for the purpose of determining whether
6 or not the settlement itself is in the public interest and
7 is reasonable, not for the purpose of attempting to go to
8 the merits and decide whether or not the applicant's
9 entrainment model or the staff's entrainment model is right.

10 If the Board attempts to sort those matters out,
11 the stipulation is vitiated because Mr. Voigt is then forced
12 to defend his position, and I am forced to defend my position,
13 and we may as well not have entered into the stipulation.

14 CHAIRMAN JENSCH: Don't worry too much about that.

15 MR. BRIGGS: I tried to made it clear we were
16 interested in your position and what Mr. Voigt's position
17 was, and we didn't want argument back and forth to defend the
18 positions.

19 As it stands now, we don't know what your position
20 is or Mr. Voigt's position is.

21 MR. GALLO: If I can be permitted, I would like
22 to ask a question.

23 In getting statements of position, I assume the
24 Board will try to get ^a feeling as to whether or not the
25 stipulation should be accepted, as opposed to writing a

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1 partial initial decision or initial decision which would
2 make a finding that with respect to certain initial matters,
3 certain matters are true or not true, as opposed to any
4 number of the issues, whether it be the cost of the cooling
5 towers, whether it be the impact on striped bass or whatever.

6 CHAIRMAN JENSCH: It is premature to give an
7 answer to that question. I don't think a party to a public
8 interest proceeding before any regulatory commission can
9 limit the consideration by an adjudicatory group.

10 I think that these statements and these presenta-
11 tions that we request are intended to ^{be} ~~see~~ the basis for the
12 ~~stipulation~~
~~stipulation~~

13 Now, what happens beyond that, we are not in a
14 position to indicate. You can be sure as the preface
15 to the stipulation points out, the regulations of the
16 Atomic Energy Commission, now the Nuclear Regulatory
17 Commission, encourage the parties to stipulate or settle
18 issues and contentions, and the Board expects to respect the
19 regulation to the fullest extent possible.

20 MR. GALLO: One final thought: The parties, them-
21 selves, that entered into the stipulation had in mind the
22 public interest. As you no doubt observed, hearing rights
23 are provided throughout the stipulation, not only for the
24 parties to the stipulation, but no doubt for any other
25 interested party as the events proceed and as the stipulation

bwm 6

1 provides.

2 CHAIRMAN JENSCH: The stipulation is broad in
3 that regard, and the parties are to be commended that
4 ~~provisions~~ ^{PROVISION WAS} made in that respect. As time goes on, as you,
5 Mr. Gallo have indicated, an interested party can come in
6 and have a hearing to test out the developments that occur
7 subsequent to this stipulation. I think it must have taken
8 several hours of working to get that in the stipulation.

9 I think the parties should be congratulated that
10 they achieved that presentation.

11 We have the problem as an adjudicatory group that
12 there be a record that others may review in light of these
13 long proceedings, so that the presentations will be
14 apparent to all.

15 MR. ROBINSON: On behalf of the Hudson River
16 Fishermen's Association and Save-Our-Stripers we agree that
17 making this type of record is appropriate for this Board.

18 In clarification of one of our comments as to how
19 we present the position of the intervenors, the stipulation
20 in effect is a stipulation of the parties that the cooling
21 towers are necessary unless at some future date the
22 applicant can show there is sufficient data to require re-
23 opening that question.

24 We agreed to disagree as to whether or not the
25 sufficient data will be sufficient to require reopening it.

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1 It is the Fishermen's position that sufficient
2 data exists to require the towers and new data will not
3 result in any change in that finding.

4 In so far as it is necessary in the evidentiary
5 hearing which you have outlined to make out position clear
6 on this point, I hope there would be the kind of flexibility
7 you indicated that either by rebuttal statements or brief
8 cross-examination where appropriate, we could make our points
9 to this effect, rather than going into the same full-fledged
10 presentation that the applicant and staff may be obliged to
11 do.

12 CHAIRMAN JENSCH: We do not expect any cross-
13 examination. You can submit a statement of your position on
14 the presentation by other ^{parties} ~~parties~~, either orally or in
15 further documentary presentation, but comment would be more
16 appropriate than cross-examination.

17 MR. ROBINSON: The only difference, Mr. Chairman,
18 is in ^{so far} ~~as far~~ as we make statements not under oath or in
19 written form, and you have the evidentiary record under oath,
20 you have different standards of acceptability.

21 CHAIRMAN JENSCH: It ordinarily would be true, but
22 we would assume your comments are legal in character and in
23 that respect we would take a statement of a lawyer to be of
24 the same force and effect as a witness under oath.

25 When coming to legal matters from a legal

b1m 8

1 representative, it would be the same.

2 MR. ROBINSON: You said there may be appropriate
3 circumstances during the hearing where need for limited
4 cross-examination would arise. We would make it clear by
5 entering into the stipulation we do not consider it a waiver
6 of any right we may have under the rules of practice of the
7 Nuclear Regulatory Commission to raise questions on cross-
8 examination where appropriate, and in light of the limited
9 inquiry into the stipulation, to indicate where we have
10 agreed to disagree for a short period of time with the other
11 parties.

12 CHAIRMAN JENSCH: We do not envision that the
13 stipulation is such or the presentation that we have
14 requested to be made will necessitate any cross-examination.
15 We intend, as far as these matters can be presented in
16 documentary form -- we expect merely that a person taking the
17 responsibility for factual presentation would be qualified
18 for the record and be dismissed.

19 You will have the statement or presentation prior
20 to the reconvening of the evidentiary hearing and have
21 opportunity to frame your own comments, and, if you desire
22 to have a factual presentation in answer to something, you
23 prepare it in documentary form and your man can take the
24 stand and qualify him and he will be dismissed.

25 We do not contemplate cross-examination because a

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1 stipulation does not envisage that. We are merely seeking,
2 as Mr. Briggs pointed out, the reasons why each party
3 felt it was in the interest of that party and the public
4 interest to propose this stipulation for separate answers.
5 That is really the scope of our request.

6 MR. BRIGGS: Mr. Robinson, I think it would be
7 helpful for us to know where you disagree with the appli-
8 cant's position, but it could be accomplished through a
9 statement that you have a different viewpoint and state what
10 it is, and you can do it without questioning the witnesses
11 of the applicant or staff.

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23 End 5

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1 CHAIRMAN JENSCH: Is there any other matter?

2 MR. VOIGT: Mr. Chairman, Mr. Briggs mentioned
3 his desire to have a statement as to how the security plans
4 for Indian Point 2 and Indian Point 3 were related.

5 I just wanted to get some clarification on that
6 because if we are going to go into detail about the security
7 plans, we will have to have an in-camera session.

8 MR. BRIGGS: The Appeal Board went into great
9 detail in Indian Point 2. We are interested in knowing,
10 are the security plans for Indian Point 3 the same as those
11 of Indian Point 2. Is the security plan for the entire
12 site or do you have a different security plan for 3; does
13 it have different provisions in it?

14 This is the thing we are interested in.

15 MR. VOIGT: We can clarify that point without
16 going in-camera.

17 CHAIRMAN JENSCH: We do not contemplate that
18 kind of proceeding.

19 Is there any other matter? If not --

20 MR. VOIGT: Mr. Chairman, I think it would be
21 appropriate to talk a little about scheduling before we
22 adjourn today.

23 CHAIRMAN JENSCH: I would like to do it but we
24 can't do anything on scheduling until 30 days following
25 the release of the final environmental statement.

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1 MR. VOIGT: I do not believe it is correct, Mr.
2 Chairman.

3 CHAIRMAN JENSCH: That is what the regulations
4 provide.

5 MR. VOIGT: The license may not be issued until
6 30 days after the FES.

7 CHAIRMAN JENSCH: It can't be authorized either.

8 MR. VOIGT: The regulations have specific
9 provisions for a split hearing of environmental matters
10 and safety and health matters. I think clearly you could
11 proceed to dispose of the health and safety questions without
12 awaiting the FES. As far as the environmental matters are
13 concerned it is almost a circular proposition because if
14 no evidentiary hearing is required then, in turn, there is
15 nothing in the regulations to say you can't receive the
16 documentary presentations of the parties prior to or
17 shortly after the FES. The 30 day provision does not
18 restrict you in that regard.

19 CHAIRMAN JENSCH: I think the original division
20 between radiological safety and environmental was compelled
21 by the Calver Cliffs decision. The Commission, in its
22 endeavor to move the cases along provided a schedule
23 whereby the hearing insofar as radiological safety are
24 concerned could go forward awaiting the environmental matters.
25 As the things move along and they are on even keel, I don't

fm3

1 think the Commission felt the division was so compelling.
2 The environmental matters are interrelated in the radio-
3 logical safety. It has been difficult for me to see a
4 sharp division between the two because the environmental
5 matters will be affected by the radiological releases and
6 that sort of thing but the posture of this case is differ-
7 ent from the others.

8 We are in the consideration of a stipulation.
9 We are seeking and thought we were provided a schedule for
10 documentary presentation that doesn't involve the neces-
11 sity of separate ~~considerations~~ ^{CONSIDERATIONS}. We hoped that this stip-
12 ulation plus the data we have requested will permit us in
13 one day's final session to conclude this hearing.

14 To do it within the scope of the regulations
15 requires the release of the final ~~environmental~~ ^{ENVIRONMENTAL} statement
16 first. We are hopeful with that, plus the consideration of
17 the motion for low power testing -- If you care to consider
18 further your regulations, I will stop discussing the
19 matter with you and I will have you finish your review and
20 we will proceed further.

21 MR. VOIGT: I made my statement. It is my
22 understanding of the regulations that the prohibition is
23 against the issuance of a license and that in turn says
24 to the maximum extent practicable. That is not an

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1 inflexible rule. I want to urge the Board to schedule
2 further proceedings.

3 CHAIRMAN JENSCH: We will schedule the further
4 hearings as soon as we get the final environmental state-
5 ment out.

6 MR. VOIGT: That is the problem.

7 CHAIRMAN JENSCH: There is no problem to us.

8 MR. BRIGGS: Mr. ^{VOIGT}~~Voight~~, could I ask a question
9 or two? When can you provide us with the information
10 I requested? Is it a matter of a week or two weeks or
11 three weeks?

12 MR. VOIGT: I would say the information falls
13 basically into three categories. Category one is what I
14 might term status reports such as, where do we
15 stand on our permits. Obviously, we can tell you what the
16 status of that is as of any moment in time and it would
17 only take a day or two to prepare the information.

18 MR. BRIGGS: That information won't take much
19 study on our part either.

20 MR. VOIGT: The second category is getting for you
21 copies of the reports that have been submitted pursuant to
22 other license provisions. To the extent those are pre-
23 sently available we will transmit them to you as quickly
24 as we can bundle them up. If they are not available, we
25 will advise you that is the case. In one or two instances

fm5

1 those reports will not be available until sometime after
2 we will hope and expect to have a license in this case.

3 The third category involves such matters as having
4 a witness or statement on the company's present financial
5 position and the quality assurance program, this type
6 of thing. There obviously we would want at least two
7 to three weeks to try to put together a prepared statement.

8 But my feeling is we could move rather rapidly
9 on this entire matter if we had a hearing date or hearing
10 target.

11 On the other hand, it now appears we can't do
12 anything until the Staff comes out with the final environ-
13 mental statement and the Staff admits there will be further
14 delay.

15 MR. BRIGGS: Let me take the third category.
16 There is some information required in the third category.
17 For instance, the schedules which you may already have --
18 Some carefully considered information as to where does one
19 stand on F factors in the analysis of entrainment. Also
20 the information on what has been learned about compensa-
21 tory effects. I think it may not be in a report yet,
22 though hopefully it could be. I think that maybe these
23 statements fall in that third or three-week time. So
24 it would look to me like this information and the Staff
25 environmental report come together at the same time.

fm6

1 We would hope that. I'm not as hopeful as Mr. Jensch is about
2 a one-day hearing but I don't think there need be many
3 days of hearing to complete this.

4 MR. VOIGT: In general, I think that what we are
5 going to present to you on those matters is the latest
6 available report. In one or two specific cases, the
7 consultant or expert may be able to furnish additional
8 commentary. These things tend to be done in time frames.
9 I get the date for spawning runs during 1974 and the
10 report is prepared based on that data. It is not a moving
11 target. It is a series of steps. The best we can do
12 in most of the cases is take whatever step we are on and
13 present you with the most current review of it.

14 MR. BRIGGS: We will see what it develops.

15 CHAIRMAN JENSCH: If it isn't so current that it
16 omits something in the past it would be helpful.

17 Mr. Woodbury complained that Texas Instruments
18 withdrew the qualified people from the reporting and we
19 hope that situation is not present in the situation here.
20 We will alleviate your serious concern by giving consid-
21 eration to the low power testing motion. We don't think
22 you will be prejudiced in any way.

23 Any other matters, Mr. Gallo?

24 MR. GALLO: We have nothing except, Mr. Chairman,
25 when we return to Washington we will get an absolute

1 fix on the final environmental statement in terms of
2 when it will be issued and we will make sure it gets issued
3 at that time. I even hate to say that.

4 CHAIRMAN JENSCH: Since there is a motion for
5 low power testing, it is not of that much concern as it
6 would otherwise be. If there is nothing further, the pre-
7 hearing conferences is completed.

8 (Whereupon, at 11:00 a.m., the hearing was
9 adjourned.)

end 6

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