

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

12-14-70

-----X
IN RE: CONSOLIDATED EDISON
COMPANY OF NEW YORK, INC.
(Indian Point Station Unit No.2)

Docket No. 50-247

-----X
PETITION FOR LEAVE TO INTERVENE IN
THE ABOVE-CAPTIONED PROCEEDINGS.

THE HUDSON RIVER FISHERMEN'S ASSOCIATION
P.O.Box 725
Ossining, New York

Leaving

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PDR ADOCK 05000247
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I

HUDSON RIVER FISHERMEN'S ASSOCIATION ("HRFA") hereby petitions the ATOMIC ENERGY COMMISSION ("the Commission") for leave to intervene in these proceedings.

HRFA is a non-profit conservation organization incorporated in the State of New York in 1966. The purposes of HRFA are to encourage the rational use of the aquatic resources of the Hudson River and its tributaries; gather, study and disseminate information about the ecology of the Hudson watershed, particularly in regard to the life histories and needs of fishes; endeavor to protect the spawning and nursery grounds of desirable sports and commercial fishes; and assist in efforts to abate pollution. HRFA has approximately 750 members many of whom will be affected

by the proposed Indian Point Station.

HRFA is interested in maintaining the purity of the waters of the Hudson, its tributaries and the Atlantic coastal waters from pollution by radioactive waste materials, excessive heating of water and all other substances which may endanger the lives of fish, other aquatic life and the ecology of the Hudson River.

The decision of the Commission in the present matter will affect the fish and aquatic life of the Hudson River, particularly in the Indian Point area, and the Atlantic coastal waters by allowing the construction of a power generating plant drawing water from and discharging water into the Hudson at Indian Point which, if not properly safeguarded, would allow radioactive waste to enter the waters of the Hudson, and would allow excessive discharges of heat and perhaps other substances. If the plant is so designed as to allow discharges of radioactive water, heat or other substances, they would adversely affect fish and aquatic life in the Hudson, its tributaries and the Atlantic coastal waters and adversely affect the interest of the HRFA.

HRFA contends that the Commission is required to file a statement of environmental impact under Section 102 of the National Environmental Policy Act which shall include the comments and views of the appropriate Federal, state and local agencies which are authorized to develop and enforce relevant environmental standards.

HEFA believes that at a minimum the views and comments of the following agencies would be relevant:

1. The Secretary of the Interior, who under Public Law 90-669, is directed to take such steps as may be necessary to protect native species of fish and wildlife that are threatened with extinction. There are two such species in the Hudson River in the vicinity of Indian Point: the short-nosed sturgeon, which is officially classified as "endangered," and the sea sturgeon which is deemed "rare."

2. The U. S. Fish and Wildlife Service and the state agency with authority over fish and wildlife resources which under Public Law 85-624, are to be consulted by any department or agency of the U. S. Government which has been called upon to issue a permit to authorize the waters of any stream or channel to be diverted, deepened, or impounded, with a view to the conservation of the resources by preventing loss of and damage to such resources as well as providing for the development and improvement of such resources in connection with the water resource project.

3. State agencies with authority over water quality standards who under Public Law 91-224 which must issue a "certificate of reasonable assurance" that water quality standards will be met.

HEFA contends that it has an interest in the filing of a statement under Section 102 of the National Environmental Policy Act since it will allow full and fair determination of the question of whether or not the fish and aquatic life of the Hudson, its tributaries and the Atlantic coastal waters

are being properly protected.

On information and belief, HRFA contends that radioactive waste will be discharged into the Hudson which will adversely affect the fish and aquatic life in the river, its tributaries and the Atlantic coastal waters.

HRFA contends that the construction and operation of the electric generating plant to be built at Indian Point are necessary and inevitable consequences of the Commission's granting of a license; that, if the proposed design will not protect the fish and aquatic life in the Hudson, its tributaries and the Atlantic coastal waters generally, and the area around Indian Point, in particular, the Commission should not grant the license. On the basis of experience and evidence collected from the operation of Indian Point Station, Unit No. 1, HRFA contends that the design of Indian Point Station, Unit No. 2, is inadequate.

HRFA's interest in the plans for Indian Point Station, Unit No. 2, has been longstanding. In May of 1968, the president and five directors of the HRFA met privately with officials of Con Edison to warn them of dangers inherent in Indian Point Station, No. 2, and similar plants, and at the same time the HRFA offered suggestions to overcome the dangerous deficiencies. In an act of corporate arrogance and in defiance of the public welfare, Con Edison officials rejected the proposals and proffered cooperation of HRFA on the biologically bankrupt and immoral grounds that the company could secure a reclassification of the lower Hudson River from tidal saltwater

to "freshwater stream," and thus avoid meeting thermal standards.

HRFA petitions to participate in examining witnesses and is prepared to submit expert testimony on the following points:

1. Release of radioactive wastes from the plant into the water and the atmosphere would be dangerous. Fish are great concentrators of certain pollutants through the process known as biological magnification, and HRFA would be adversely affected if such magnification took place from radioactive wastes in the Hudson, its tributaries and the Atlantic coastal waters.

2. Valuable aquatic organisms, including fishes, their eggs and larvae, would be entrained in condenser cooling water and killed as a result.

3. Valuable aquatic organisms, including fishes, their eggs and larvae, would be subjected to disease, injury or death as the result of the discharge of large volumes of heated water into the Hudson by the plant. HRFA will cite the record of fish kills already caused by Con Edison in the operation of the much smaller adjacent plant, Indian Point Unit 1. In 1963, there was an enormous kill of fish shortly after this plant began operating and the slaughter extended over a six month period.

There were smaller kills of fish from 1964 to 1969. Starting in the fall of 1969 and running into January, 1970, there was another enormous kill of fish at Indian Point which came to

public notice after Richard J. Garrett, president of the HRFA, complained to Governor Rockefeller. Company officials admitted to killing 150,000 fish. This appalling toll represented dead counted by Con Ed on only twelve selected days over a period of months.

Again in March, 1970, there were dead fish all over the east bank of the river near Indian Point. Two fishermen and a photographer who penetrated inside the plant during the height of the kill reported seeing a pipe discharging boiling water and a discharge pipe "vomiting thousands upon thousands of fingerling striped bass and white perch along with catfish, tomcod, yellow perch and an occasional sturgeon."

4. Valuable aquatic organisms would be killed by biocides used to remove fouling organisms from the plant condenser. HRFA believes that chemical pollution of this character has played a role in past kills by Indian Point Unit 1.

II

HRFA makes the following showing of good cause for its late filing and petitions to intervene in the hearings despite the late filing.

Dominick J. Pirone, Consulting Biologist to HRFA and not an attorney, wrote the Commission asking to present testimony at the hearing on Indian Point Station Unit No. 2 on November 25, 1970.

The Commission wrote to Mr. Pirone on December 3, 1970 informing him that his letter did not constitute a petition.

If Mr. Pirone's letter had been accepted as a petition, the filing would have been timely.

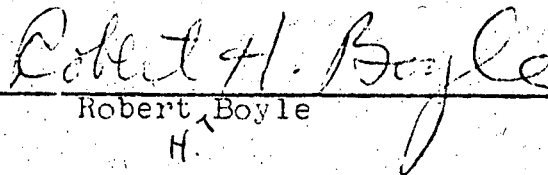
HRFA has moved as quickly as possible after the receipt of the letter which the Commission sent to Mr. Pirone. HRFA should not be penalized for the failure of its pro se good faith effort to make a timely filing.

Wherefore HRFA requests that it be permitted to intervene in this proceeding and be treated as a party thereto with the right to have notice of and to participate in any further proceedings, to appear thereat, to present testimony, and to be heard in person or by counsel upon brief and oral argument, if oral argument be granted.

HUDSON RIVER FISHERMEN'S ASSOCIATION
P.O. Box 725
Ossining, New York

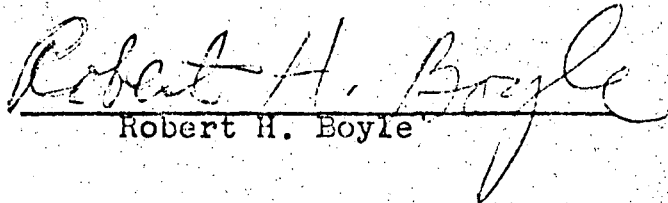
Dated: New York, N.Y.
December 14, 1970

by

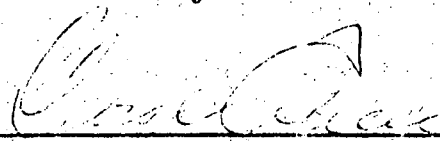

Robert H. Boyle

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS

ROBERT H. BOYLE, being duly sworn, deposes and says that he is a Director of the Hudson River Fishermen's Association; that he is empowered by the Board of Directors of the Hudson River Fishermen's Association to make, sign and verify this Petition for Leave to Intervene; that he has read the petition and knows the contents and that the contents are true to the best of his information and belief.


Robert H. Boyle

Subscribed and sworn before
me this 14th day of December, 1970.



GEORGE C. [unclear]
Notary Public, State of New York
No. 51-000-100
Qualified in New York County
Commission Expires March 30, 1971

December 15, 1970

Mr. Edward I. Strubeln Jr.
Resources for the Future
1755 Massachusetts Avenue, N.W.
Washington, D.C. 20036

To Whom It May Concern:

I hereby certify that on the 15th day of December, 1970, I served the annexed Petition for Leave to Intervene upon all parties of record in said proceeding, a list of which is annexed hereto as Exhibit 1, by depositing the same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office Department within Washington, D.C., or by delivering the same by hand to the address as noted in Exhibit 1.

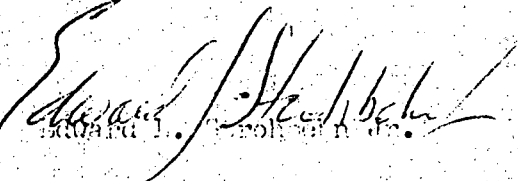

Edward I. Strubeln Jr.

Exhibit A

Mr. H.B. Briggs
Associate Director, Molten Salt Reactor Program
Oak Ridge National Laboratories
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Oak Ridge, Tennessee 37830

Dr. John C. Meyer
Chairman, Department of Geography & Environmental Engineering
The Johns Hopkins University
Baltimore, Maryland 21218

Mr. Samuel A. Jensch
Chairman, Atomic Safety & Licensing Board
United States Atomic Energy Commission
Washington, D.C. 20545

Mr. Joseph A. Knotts
Regulatory Staff Counsel
United States Atomic Energy Commission
Washington, D.C. 20545

The Honorable Louis J. Leftowitz
Attorney General, State of New York
60 Centre Street
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Mr. J. Bruce McDonald
New York State Atomic Energy Council
State Department of Commerce
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Mr. Gerard A. Maher
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Exhibit A

Mr. Anthony Z. Roisman
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Mr. Edward J. Sack
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Mr. Irvin S. Lipton
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Mrs. Mary Hays Feik
Box 143
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