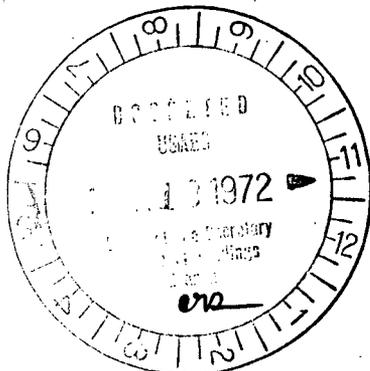


Reg. files

REG. & UTIL. FAC. 50-247



LOUIS J. LEFKOWITZ
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March 8, 1972

Samuel W. Jensch, Esq., Chairman
Atomic Safety and Licensing Board
U. S. Atomic Energy Commission
Washington, D. C. 20545

Dr. John C. Geyer, Chairman
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The Johns Hopkins University
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Mr. R. B. Briggs
Molten Salt Reactor Program
Oak Ridge National Laboratory
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Oak Ridge, Tennessee 37830

In the Matter of Consolidated Edison Company of New York, Inc.
Indian Point Nuclear Generating Unit No. 2
Docket No. 50-247

Gentlemen:

The State of New York, which has been a party to these proceedings since 1970, opposes the application of Consolidated Edison for a 50% Testing License.

Recent testing of the cooling water intake system by the applicant resulted in the killing of over 150,000 fish in a one week period. Henry Diamond, Commissioner of the Department of Environmental Conservation of the State of New York, as a result of said fish kills, by order dated February 29, 1972 has ordered Con Edison to cease all further testing of its intake system, pending a hearing and examination of the causes of the kills and a determination as to the means of preventing further extensive damage to Hudson River marine life.

The State of New York, in view of the utter failure thus far of the applicant to construct a cooling water intake system which will not do serious harm to the marine life of the River, vigorously opposes the application for a 50% Testing License, the granting of which would virtually guarantee further extensive fish kills in the Hudson, until such time as the applicant can satisfy the State that meaningful and effective steps have been taken to prevent future fish kills.

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Moreover, pursuant to 10 C. F. R. Part 50, Appendix D, Paragraph A(13), any license granted by this Board must be conditioned on approval by the State as to non-radiological matters. In view of the present order of the State Department of Environmental Conservation preventing the applicant herein from operating its cooling water intake system, this Board should defer to the State authority with responsibility and expertise in this area and deny the applicant's request for a 50% Testing License.

A copy of the aforementioned order of the Department of Environmental Conservation shall follow shortly.

Respectfully submitted,


LOUIS J. LEFKOWITZ
Attorney General of the
State of New York