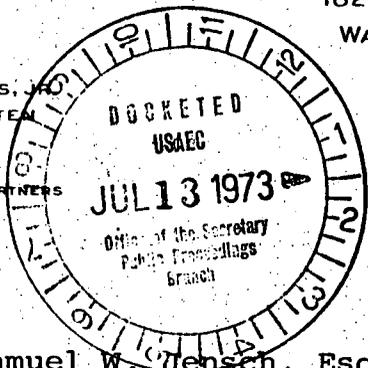


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Re: Consolidated Edison Company
of New York, Inc.
Indian Point Unit No. 2
AEC Docket No. 50-247

Gentlemen:

Having reviewed the environmental technical specifications for the full-term, full-power operating license for Indian Point 2 proposed by the Regulatory Staff and distributed on July 2, 1973 Applicant submits the following general comments for the Board's consideration.

The environmental technical specifications proposed by the Applicant on April 30, 1973 and transmitted to the Board and the parties on May 2, 1973, including the detailed ecological study program as described in Section 8A therein, are the requirements which should be implemented for the full-term, full-power operation of Indian Point 2 in the

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once-through cooling configuration.

Although the Staff's proposed environmental technical specifications incorporate Applicant's proposal in part, the Staff has not only merged the ecological research program proposed by the Applicant into the Staff's proposed environmental monitoring program but has also unnecessarily and unreasonably expanded and modified the Applicant's proposal in a manner which would increase the cost of Applicant's ecological research program by approximately \$35,000,000. Applicant's present research program is probably the most extensive study ever undertaken to determine the environmental impact of a power plant. To impose further expanded requirements as proposed by the Staff would transform a scientist's survey into a dilettante's dalliance. Indeed, the Staff's expanded program requires the continuation of studies which have already been completed or which are not essential to the proper evaluation of the impact of the operation of Indian Point 2. Furthermore, the Staff has adopted a confusing and seemingly illogical administrative program for the implementation of its proposed technical specifications.

The Staff's proposal is particularly surprising because it expands upon the very program which the Staff has so vehemently repudiated during the course of the hearing. Although denigrating the utility of Applicant's program, the Staff now demands an ill-conceived implementation of such program. The proposition that Applicant's program is inadequate to achieve its objective--to determine whether a modification to the present once-through cooling system is required-- but is adequate to determine the Staff's objective--to determine the effect of operation of Indian Point 2 with its once-through cooling system on the Hudson River and its biota--is supported only by the deletion of one sentence from the Applicant's proposed technical specifications. (See attachment.)

Although the Staff's technical specifications are requirements for full-term operation, it is inconceivable to

the Applicant that the Staff would contemplate that its entire so-called monitoring program should continue throughout the life of Indian Point 2. It is evident from the Staff's position that it would expect such programs to continue only until a modification to the once-through cooling system would be implemented at Indian Point 2. In fact, the incremental cost attributable to the Staff's proposal assumed only that such programs would be continued through 1977.

The Staff's expansion of Applicant's ecological study program is excessive. For example, not only has the number of different species to be studied been expanded but also the duration of each study has been prolonged beyond that time necessary for adequate results. The Staff's unilateral action results in a proposed program which exceeds Applicant's laboratory and sample storage facility capability and which is not supported by the objectives to be obtained. Furthermore, it appears uncertain whether the modifications set forth in Section 4.1.2a(1)B.(3)(b) of the Staff's proposal are discretionary with the Applicant. Research programs require such flexibility and discretion. Specifically, Applicant's objections include:

1. The continuation of studies to identify and quantify variations in phytoplankton, zooplankton, benthos and fish which have for the most part been completed;

2. The continuation of the phytoplankton survey which has been completed;

3. The continuation of a benthic program which fails to reflect appropriate modifications resulting from the first year of study;

4. The requirement of gill nets for fish sampling, a technique which studies have proved to be unnecessary;

5. The extension of ichthyoplankton sampling until 1977 when the requirements for the program will be fulfilled in 1973 or 1974;

6. The requirement for the identification of subpopulations and ecological relationships of other major fish species which is unnecessary for an evaluation of the impact of the operation of Indian Point 2;

7. The expansion of the entrainment study with respect to time, species and sampling stations which will not add substantially to the statistical significance or contribute to understanding of the impact of plant operation on the white perch and striped bass populations;

8. The requirement for daily impingement counts which are unnecessary for statistical significance and the reporting of unusual impingement rates.

Furthermore, the Staff would require the verification of models used by the Applicant during the course of this proceeding as an objective for its monitoring program. These models were presented as aids in determining the preliminary estimate of the environmental impact from the operation of Indian Point 2. Although such models "are useful to illuminate the critical and sensitive elements of population dynamics and to provide guidance in the design of the data collection effort," the results of particular ecological studies based on empirical data "better reflect the actual impact of plant operation than those of existing experimental models which are based on limited data." (Applicant's Proposed Findings of Fact, May 17, 1973, Finding D2.) The results of the studies rather than verification of mathematical models should be the objective to which attention must be directed.

In addition to requiring the Nuclear Facilities Safety Committee to exercise review and audit functions over the non-radiological monitoring program, the Staff has included in its environmental technical specifications a number of sections relating to radiological matters. Applicant believes it would be better for an Environmental Protection Committee to be formed within the Company to assume appropriate responsibilities for the auditing of the environmental technical

specifications. Applicant also believes that those sections concerning radiological matters be retained in the radiological technical specifications contained in "Appendix A." Applicant believes, however, that the requirement for meteorological studies should remain in the environmental technical specifications. This requirement, with the provisions for a general terrestrial ecological survey, provides for the evaluation of the environmental impact of cooling towers at Indian Point, which the Staff now appears to consider mandatory.

In response to the Board's request on July 2, 1973 concerning the corrective action available in the event of an occurrence for which corrective action is required (Tr. 139), Applicant submits that such specific corrective action would depend upon the individual occurrence and the specific conditions at Indian Point at the time of such occurrence.

As agreed by the parties Applicant will submit proposed language revisions to the Staff's proposal incorporating, among other things, the details of these general comments by July 16, 1973.

Very truly yours,

LEBOEUF, LAMB, LEIBY & MACRAE
Attorneys for Applicant

By



Edward L. Cohen

Attachment

cc w/attachment:

Myron Karman, Esq.
Angus Macbeth, Esq.
Anthony Z. Roisman, Esq.
J. Bruce MacDonald, Esq.
Honorable Louis J. Lefkowitz
Secretary, U. S. Atomic Energy Commission (2)
Atomic Safety and Licensing Board Panel

ATTACHMENT

REGULATORY STAFF'S PROPOSED APPENDIX B
TO FACILITY OPERATING LICENSE DPR-26
DATED JUNE 30, 1973

[Page 4-7]

"4.1.2a Biotic-Aquatic

"4.1.2a (1) General Ecological Survey

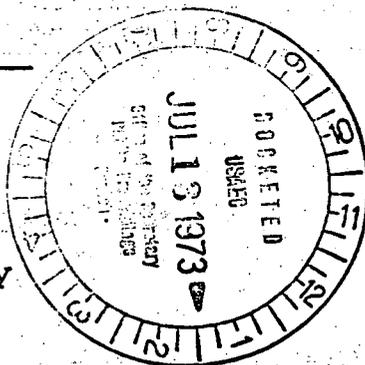
"Objective

"The major objective of the Indian Point Ecological Surveillance and Special Studies program is to evaluate the effects of operation of the once-through cooling system of the Indian Point Units Nos. 1 and 2 on the Hudson River ecosystem, to determine the effects on the biotic stresses in the river and to devise means and methods for minimizing adverse effects.

"Specification

"A. Specific objectives of the Indian Point Ecological Surveillance program include the following:

"(1) Determine the biological significance of



APPLICANT'S PROPOSED APPENDIX B
TO FACILITY OPERATING LICENSE DPR-26
DATED APRIL 30, 1973

[Page 8A-2]

"8A. Ecological Survey

"Objective

"The objective of these studies is to evaluate the effects of the operation of Indian Point 1 and 2 once-through cooling systems on the ecosystem of the river and to devise means and methods for minimizing adverse effects. This is for the purpose of determining the need for modification of the once-through cooling system within the guidelines of the National Environmental Policy Act.

"The Indian Point Ecological Study has three major objectives which are as follows (References 8-1 and 8-2):

"(1) Determine the biological significance on the Hudson River

impingement of screenable fishes at the intake of Indian Point Units Nos. 1 and 2.

ecosystem of impingement of screenable fishes at the intake of Indian Point Units 1 and 2.

- "(2) Determine effects of plant operation on non-screenable organisms (eggs, larvae and plankton) in the coolant water passing through the once-through cooling systems for Units Nos. 1 and 2.
- "(3) Determine the biological significance on the Hudson River ecosystem of thermal and chemical additions from Indian Point Units Nos. 1 and 2.
- "(4) Determine the biological significance on the Hudson River ecosystem of aquatic organisms passing through or being attracted to the thermal plume and/or into the effluent canal or intake.
- "(5) Determine the acute and chronic effects of temperature on life stages and migratory habits of key fish species, on the behavior of these organisms, the upper and lower temperature tolerance of these organisms and relate these data to plant operations.
- "(6) Develop and use mathematical models to predict the effects of entrainment and impingement on the population of striped bass."

"(2) Determine the biological significance on the Hudson River ecosystem of aquatic organisms passing through or being attracted to the thermal plume and/or into the effluent canal or intake.

"(3) Determine the biological significance on the Hudson River ecosystem of thermal and chemical additions from Indian Point Units 1 and 2, and the acute and chronic effects of temperature on life stages and migrating habits of key fish species, on the behavior of these organisms, the upper and lower temperature tolerance of these organisms, and relate these data to plant operations."

[Compare pages 4-13 through 4-28]

[Compare pages 8A-2 through 8A-27]