

1-28-74

BEFORE THE UNITED STATES

ATOMIC ENERGY COMMISSION

In the Matter of)

Consolidated Edison Company of)
New York, Inc.)
(Indian Point Station, Unit No. 2))

Docket No. 50-247

BEFORE THE ATOMIC SAFETY
AND LICENSING APPEAL BOARD

RESPONSE OF HUDSON RIVER FISHERMEN'S
ASSOCIATION TO APPENDIX TO APPLICANT'S
PROPOSED CORRECTIONS TO THE TRANSCRIPT

January 28, 1974

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Footnote 1: For adverse effects on striped bass population of removing immature fish, see Tr. 9070-9072; Lawler on Contribution of Hudson to Middle Atlantic Fishery, February 5, 1973 at 9-10, following Tr. 9405. For relation of present exploitation of immature fish to population size, see Goodyear on Striped Bass Population, April 9, 1973 at 9-13, following Tr. 10,826.

Footnote 2: For evidence relating changes in population size to fishery regulations and operation of shad fishery, see Tr. 9068-9072.

Footnote 7: For relation of population growth to protection of immature fish, see Tr. 9070-9072. For relation of present exploitation of immature fish to population size, see Goodyear on Striped Bass Population, April 9, 1973 at 9-13, following Tr. 10,826.

Footnote 17: Cf. Goodyear on Artificial Propagation, April 23, 1973, following Tr. 11,220.

Footnotes 23-32: These footnotes deal with Con Edison's proposed research program and the cited support is primarily the Applicant's Proposed Findings. The Proposed Findings of HRFA and of the Staff on this issue should be consulted, as well as the data on which the Proposed Findings are based. HRFA's Proposed Findings, June 11, 1973 at 70-75, ¶s 8.1-8.11; Staff's Proposed Findings, June 11, 1973 at 73-80, ¶s 01-011.

Footnote 33: The cited material appears to have nothing to do with the tagging program at all.

Footnote 41: Not even the Applicant can give serious weight to this testimony. If serious weight were given to it, it would undermine the major factual basis on which Applicant's predictions of the effect of Indian Point rest. Tr. 7253-7257. Moreover, if Applicant gave serious weight to it, the company would then logically have to propose a river-wide egg and larvae sampling program of much greater scope and duration than was undertaken for Carlson-McCann. No such sampling proposal has been made; in fact, egg densities will be measured only between river miles 40 and 59. McFadden and Woodbury on Indian Point Studies to Determine Environmental Effects, February 5, 1973 at 24-29, following Tr. 9405.

Footnote 42: The actual factual testimony elicited at Tr. 7603-7605 cited in the footnote refutes the proposition for which it is cited; "really good data" were obviously collected throughout those parts of the river in which striped bass eggs and larvae were present. Nothing at Tr. 8623 appears to be relevant to the point for which the citation is supplied. For an analysis of the river-wide Carlson-McCann data, see 1 FES App. V-3.

Footnote 43: This point is responded to in HRFA's Brief In Opposition to Applicant's Exceptions, November 26, 1973 at 22-25.

Footnote 44: The cited testimony has little if any relevance to whether 70-90% of the young striped bass pass Indian Point in entrainable form. The pointed discussion of this issue is at 1 FES A-V-61 to A-V-73.

Footnote 48: The statement contends that the Final Environmental Statement and the Carlson-McCann studies demonstrate Con Edison's point about older larval distribution. The material cited as support makes absolutely no reference to either the FES or Carlson-McCann, thus it does not support the statement. It is also very dubious that it demonstrates anything about the distribution of older larvae.

Footnote 49: In relation to the entire discussion of F factors, see HRFA's Brief in Opposition to Applicant's Exceptions, November 26, 1973 at 36-47 and all record citations therein.

Footnote 50: This citation appears unresponsive to the question posed by Dr. Quarles. Dr. Quarles' question refers to research to determine what part of the river cross-section the intake water is withdrawn from. The cited material refers to monitoring parameters of natural environmental variation, including, among other items, water currents. If this is actually a reference to an analysis of the intake's zone of withdrawal, it is so cryptic as to be undecipherable.

Footnotes 52-58: These footnotes are obviously misnumbered in Applicant's Proposed Corrections to the Transcript. Each footnote should bear a number one greater, i.e. footnote 52 in the Proposed Corrections clearly corresponds to footnote 53 in the Appendix to Applicant's Proposed Corrections. Further reference will be to the numbers used in the Appendix.

Footnote 52: The cited material appears unrelated to the F factors. It appears to appertain to the determination of the general population level.

Footnote 56: For evidence on the lack of any data to support the number chosen by Con Edison, see Tr. 9807-08. The material cited at Tr. 7501-04 is utterly irrelevant to the statement which the Applicant cites it for. In addition, it is a colloquy between lawyers and the Licensing Board and would not be evidence in any case. Counsel for HRFA regrets that he has been unable to check the reference to Tr. 4487-88, but since this refers to the early parts of the hearing before the environmental considerations in relation to the full-term full power license were taken up, counsel did not procure a copy of the transcript.

Footnote 57: The cited material contains no reference to growth rates of striped bass and white perch in the Hudson nor any indication of their compensatory reserve. In fact, the material contains the following statement: "No empirical observations on operation of compensatory processes during different life history stages for striped bass in the Hudson River per se are known by me to exist."

Footnote 62: Con Edison is entirely correct in pointing the error of counsel for HRFA in reporting the correction of errata at pages 100 and 101 of the Initial Decision. At 101, line 1, the Licensing Board substituted "once-through" for "closed-cycle" rather than "without" for "with." The sense of the errata correction pointed out by counsel for HRFA is, of course, the same with either correction.

Footnote 69: The witness who gave the cited testimony not only did so cautiously, but in discussing the relation of saline drift to the fauna of the Hudson Valley was frank to point out that "I am beyond my realm of expertise." Tr. 10,470.

Footnote 74: See HRFA Exhibit V.

Footnote 75: The Scenic Hudson letter is obviously in evidence for the purpose for which counsel for HRFA cited it. The question raised was whether people had had a chance to present their views on the aesthetics of the tower. Oral Argument. Tr. 118. The Scenic Hudson letter was cited in response. It was admitted to show compliance with applicable requirements. The requirement shown to have been met was to give people a chance to state their views on the environmental impact of Indian Point 2. Scenic Hudson took that opportunity. 2 FES 134-136.