

6-26-75

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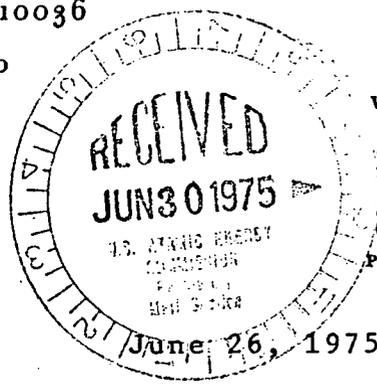
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Mr. Ben C. Rusche, Director  
Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20055

Re: I-P-Unit No. 2

Dear Mr. Rusche:

We would like to thank you for inviting us to attend the meeting of June 24 between the NRC Staff and Consolidated Edison concerning the latter's application for an amendment to the operating license for Indian Point Unit No. 2. We appreciated the opportunity to meet you and to state our position with respect to the adequacy of the application.

There are a few points we would like to make at this time. Con Edison has sought the relief requested in its application, namely 1981 as the date for cessation of operation with once-through cooling, three times before. It has always used the same justification - the desire to complete the research program before initiating construction of a closed-cycle cooling system. First, in its systems proposed findings of fact to the Licensing Board, Consolidated Edison requested that 1981 be set as the date for cessation of operation with once-through cooling. The Licensing Board denied this request and set May 1, 1978 as the date. On its appeal from the Licensing Board's decision, the company again requested the same relief. The Appeal Board, while modifying some of the findings of the Licensing Board, found that even under facts more favorable to Consolidated Edison, once-through cooling must cease by May 1, 1979, a date which did not allow for completion of the research program prior to initiation of construction of a closed-cycle cooling system. Consolidated Edison again sought to have this date modified in its petition for rehearing of the Appeal Board's decision. This request was denied.

- Beatrice Abbott Duggan  
*U.N. Representative*
- John H. Adams  
*Executive Director*

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Thus the issue which Con Edison now brings before the Commission staff has already been fully litigated. Indeed, the company has had three bites at the apple on this issue. On a record such as this the NRC should require that Con Edison include in any application the following information:

- a) All new data not previously brought to the attention of the NRC;
- b) An explicit statement of how the new data would lead to findings of fact different from those found by the Appeal Board; and
- c) An explicit statement as to how these different findings of facts would compel a different resolution to the cessation date issue.

Con Edison is not writing on a clean slate. Facts have already been determined with finality and license issued based thereon. Con Edison should not be allowed to reopen a settled issue by depositing quantities of data with the NRC without first establishing the relevance of the data and the compelling nature of it with respect to the specific question at issue.

We believe that the Staff's determination of whether or not an environmental impact statement is required with respect to its action on the application, should await submission and review of the completed application by Consolidated Edison. The Commission may deny the application because the new data does not establish anything substantially different than what was considered by the earlier impact statement, thus making a new one unnecessary.

We agree with the Staff's position that the application must address the impact on the Indian Unit No. 3 schedule of any extension of the deadline for Indian Point Unit No. 2. Our initial reaction is that an application for an amendment to the Indian Point Unit No. 2 license constitutes a de facto application for an amendment to the Indian Point Unit No. 3 license. The company has repeatedly pointed to the interlocking nature of the construction schedules for closed-cycle cooling at these two units. To ignore the effects of this application on that relationship, and on the stipulation on Indian Point Unit No. 3 entered into by Consolidated Edison only six months ago is to put on blinders.

Finally, the issue of EPA's preemption of the NRC's authority to review the effluent limitation set in the NPDES permit for the Indian Point Unit No. 2, namely the May 1, 1979 date for elimination of the thermal discharge, should be closely examined from both a legal and from a policy viewpoint prior to NRC staff action on the application.

We hope you will take these thoughts into consideration in reaching a decision with respect to your action on the present application. Once again, we thank you for inviting us to attend the meeting and comment upon the application.

Very truly yours,

*Sarah Chasis*

*Ross Sandler*

Sarah Chasis

Ross Sandler

Attorneys for Hudson River  
Fishermen's Association

cc: All parties to Indian Point No. 2 Proceeding  
Joe Gallo, Esq.