

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.

(Indian Point Station,
Unit No. 2)

4/10/78

) Docket No. 50-247

) OL No. DPR-26

) (Determination of Preferred
) Alternative Closed-Cycle
) Cooling System)

RENEWAL OF HRFA MOTION REQUESTING A FINDING
THAT ALL GOVERNMENTAL APPROVALS REQUIRED
UNDER THE LICENSE HAVE BEEN RECEIVED AND FOR
THE ESTABLISHMENT OF AN APPROPRIATE
TERMINATION DATE FOR ONCE-THROUGH COOLING

The Hudson River Fishermen's Association ("HRFA") hereby renews its motion of August 31, 1977 requesting that the Atomic Safety and Licensing Board ("the Licensing Board") make a finding that the approval of the Village of Buchanan Zoning Board of Appeals ("the Zoning Board") is no longer a required governmental approval under Paragraph 2.E.(1)(b) of the License and that, therefore, all governmental approvals required to proceed with the construction of a closed-cycle cooling system have been received. HRFA further requests that, based upon such a finding, the Licensing Board designate an appropriate termination date for operation of the plant with the present once-through cooling system.

As set forth in the supporting affidavit, the Village of Buchanan Zoning Board of Appeals has failed to issue any order granting variances embodying local or incidental

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regulation consistent with the license conditions or to take any action toward the issuance of such variances, despite the ruling of the Atomic Safety and Licensing Appeal Board ("the Appeal Board") in ALAB-453 (January 11, 1978) and the ruling of the New York State Court of Appeals in Consolidated Edison Company of New York, Inc. v. Hoffman, ___ N.Y. 2d ___ (February 17, 1978). In ALAB-453, the Appeal Board stated that 45 days after the decision of the New York State Court of Appeals in Consolidated Edison Company of New York, Inc. v. Hoffman, supra, HRFA may renew its motion of August 31, 1977 which requested the Licensing Board to make a finding that all governmental approvals required under the license have been received and for the establishment of an appropriate termination date for operation with once-through cooling.

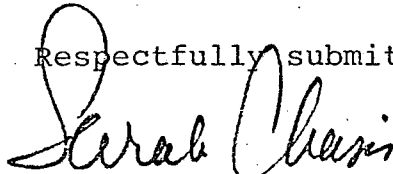
Since more than 45 days have elapsed since the New York State Court of Appeals' decision in Consolidated Edison Company of New York, Inc. v. Hoffman, and since, despite the Court of Appeals' ruling that the Village must issue the variances, no action has been taken by the Zoning Board, HRFA requests that the Licensing Board make a finding that the Zoning Board's approval is no longer a required governmental approval under Paragraph 2.E.(1)(b) of the license.

Since this Board has already extended the time for operation with open-cycle cooling until 1982 (Initial Decision Extending Time of Once-Through Cooling Until May 1, 1982, June 17, 1977)

and since, under the guidelines set forth in Paragraph 2.E.(1)(b) of the license, no later termination date is necessitated by virtue of the timing of receipt of governmental approvals, the present May 1, 1982 date for termination of once-through cooling contained in the license need not be altered or extended.

For the foregoing reasons, HRFA respectfully requests that the Licensing Board find that the Village of Buchanan Zoning Board of Appeals' permission to build a cooling tower is no longer a required governmental approval under the license and, as a consequence, all governmental approvals required to proceed with construction of a closed-cycle cooling system have been received, and finally, that the appropriate date for termination of plant operation with once-through cooling is May 1, 1982.

Respectfully submitted,



Sarah Chasis

Attorney for Hudson River
Fishermen's Association

Dated: New York, New York
April 10, 1978

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AFFIDAVIT OF SARAH CHASIS

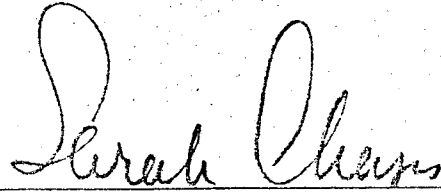
State of New York)
) ss.
County of New York)

SARAH CHASIS, being duly sworn, deposes and says:

1. I am the attorney for the Hudson River Fishermen's Association in this proceeding. I make this affidavit in support of the foregoing "Renewal of HRFA Motion Requesting a Finding that All Governmental Approvals Required Under the License Have Been Received and for the Establishment of an Appropriate Termination Date for Once-Through Cooling".

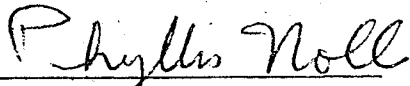
2. On April 4 and 5, 1978, I spoke with Mr. Carl D'Alvia, attorney for the Village of Buchanan, in order to determine what actions, if any, the Village of Buchanan Zoning Board of Appeals ("the Zoning Board") had taken with respect to the granting of variances for construction of the cooling tower at Indian Point 2. Mr. D'Alvia informed me that while the Zoning Board would issue the requested variances at some future date

and would not act to impose any incidental or local regulation,
no action had been taken to date with respect to issuance of
the variances.



SARAH CHASIS

Subscribed and sworn to
before me this 10th
day of April, 1978



NOTARY PUBLIC

PHYLLIS NOLL
NOTARY PUBLIC, STATE OF NEW YORK
NO. 31-4651907
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MARCH 30, 1979