

December 1, 1971

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

Re: Consolidated Edison Company of  
New York (Indian Point Unit No. 2)  
Docket No. 50-247

Dear Mr. Chairman:

Enclosed herewith is an Initial Statement of Contentions and Proposed Findings of Fact and Conclusions of Law of the Hudson River Fishermen's Association and the Environmental Defense Fund with respect to environmental issues. The contention and proposals are intended to provide the Board and the parties with guidance as to the development of our case. They are obviously subject to refinement, revision and addition based upon the subsequent submissions of the Staff and the evidence adduced at the hearing.

Virtually all of the proposed findings of fact contained in this statement are based upon data contained in documents prepared by the Applicant, answers to interrogatories supplied by Applicant and conversations with Applicant's employees and consultants during the course of discovery. Thus many of these proposed findings of fact are appropriate subjects for admissions pursuant to 10 CFR Part 2, Section 2.742. We intend to file such a request prior to the commencement of evidentiary hearings on the contested environmental issues.

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It is our fundamental contention that based upon the presently available evidence the operation of the plant as proposed by Applicant (i.e. once-through cooling with the modified intake structure) will impose an unacceptable burden on the environment of the Hudson River Estuary due to fish impingement and entrainment. It is therefore necessary to fully consider and eventually adopt an alternative to the once-through cooling method. Further data will have to be developed by the Applicant and the AEC to enable us to determine which alternative we believe will best protect the environment. At this time based upon the small amount of data produced and without the benefit of the AEC's studies of alternatives under Section 102(2)(D) of NEPA we believe a combination of a spray pond and natural draft cooling tower is the best alternative on the basis of cost, environmental impact, effectiveness and flexibility of operation.

This Statement is based upon Applicant's data and its burden of proof in this proceeding and this is directed primarily at the Applicant. However, it is still our contention that pursuant to NEPA the AEC Staff has the primary responsibility to develop all of the relevant facts. In particular the Staff is obligated to conduct a study of alternatives as required under Section 102(2)(D) of NEPA and to present adequate and comprehensive data on the extent of the environmental impact of the plant. This obligation requires, where appropriate, independent research and fact development when such data and analysis is not otherwise available.

Sincerely,

Anthony Z. Roisman  
Counsel for the Environmental  
Defense Fund, Inc.

Angus Macbeth  
Counsel for the Hudson River  
Fishermen's Association

AZR:AM/ah

CC: All Parties of Record