

ENVIRON, FILE (NEPA)

BEFORE THE UNITED STATES

ATOMIC ENERGY COMMISSION

5-9-72

In the Matter of	)	
	)	
Consolidated Edison Company of	)	Docket No. 50-247
New York, Inc.	)	
(Indian Point Station, Unit No. 2)	)	

ANSWER OF HUDSON RIVER FISHERMEN'S ASSOCIATION AND ENVIRONMENTAL DEFENSE FUND TO APPLICANT'S MOTION TO PRESCRIBE TIME FOR COMPLETION OF ENVIRONMENTAL HEARING

By a motion filed April 10, 1972 Con Edison moved the Licensing Board to prescribe time for the completion of the environmental hearings dealing with Con Edison's motion for an interim license allowing operation up to 90% of full power. By a letter to the Board of April 14, 1972 HRFA and EDF stated that they would answer the motion promptly after receipt of the Staff's draft environmental statement and Con Edison's answer to the HRFA and EDF brief of April 3, 1972, opposing the 90% license.

On April 19, 1972 the Staff answered Con Edison's motion saying, "The regulatory staff assumes that the Board and parties will continue with the environmental issues without undue delay contemplated by 10 CFR 50, Appendix D."

At this time HRFA and EDF contend that it is impractical to set a date certain for the conclusion of the environmental

hearing

hearing. HRFA and EDF take this position on the basis of the following factors:

1. There are outstanding radiological safety questions, principally the allegations raised by H.K. BILL and the items detailed in CCPE's motion of April 10, 1972, which are relevant to the 50% testing license and should be concluded before environmental matters on another license are taken up.
2. There has been no resolution of the legal contentions opposing the 90% license contained in the HRFA-EDF brief of April 3, 1972.
3. There are still outstanding from the informal discovery process the answers to Questions 23-27 of set V and the document requests B1 and B2.
4. There should be a prior resolution of the relevance of evidence on Bowline Point and Roseton raised in the HRFA-EDF request for a ruling of May 8, 1972.
5. There is no information at the present time on the publication dates for the Staff's final detailed environmental statement, as was requested by the Chairman in this letter of May 2, 1972.
6. There has been no consideration of what hearing time the Board has available for the consideration of environmental issues.

It is probable that Con Edison recognizes that, in these circumstances, it is simply not practical to set a date on which the environmental record will be closed. In this regard it is notable that Con Edison makes no suggestion of what time should actually be prescribed for these hearings.

HRFA and EDF contend that the Licensing Board should refuse to take evidence on Con Edison's 90% motion for the reasons set out in their briefs of April 3, 1972 and May 5, 1972.

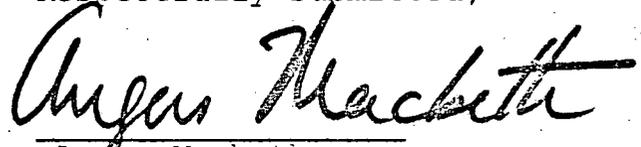
The most fruitful course for the Licensing Board to take would be to set a date for the beginning of hearings on Con

Edison's application for a full power operating license. As an initial suggestion HRFA and EDF think that a date 25 days after the publication of the final detailed environmental statement would be appropriate for commencing environmental hearings on the full power license.

If the Board decides to take evidence on the 90% license, HRFA and EDF join the Staff in assuming that the Board and the parties will continue with the environmental issues without undue delay. Further, it is simply impractical at this time to prescribe a date for the conclusion of the environmental hearings.

Con Edison's motion should be denied without prejudice to renewal should circumstances in the proceeding change.

Respectfully submitted,



Angus Macbeth  
Attorney for Hudson River  
Fishermen's Association

Dated: May 9, 1972

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Docket No. 50-247

CERTIFICATE OF SERVICE

I hereby certify that I have served documents entitled:  
"Answer of Hudson River Fishermen's Association and Environmental  
Defense Fund to applicant's motion to prescribe time for com-  
pletion of environmental hearing" by ailing copies thereof first  
class and postage prepaid to each of the following persons this  
9th day of May, 1972:

Mr. J.D. Bond  
18700 Woodway Drive  
Derwood, Maryland 20752

Algie A. Wells, Esq.  
Chairman, Atomic Safety and  
Licensing Board  
U.S. Atomic Energy Commission  
Washington, D.C. 20545

Myron Karman, Esq.  
Counsel, Regulatory Staff  
U.S. Atomic Energy Comm.  
Washington, D.C. 20545

Mr. R.B. Briggs  
Molten Salt Reactor Program  
Oak Ridge National Lab.  
P.O. Box Y  
Oak Ridge, Tennessee 37830

Dr. Walter C. Jordan  
Oak Ridge National Lab.  
Box X  
Oak Ridge, Tennessee 37830

Louis J. Lefkowitz, Esq.  
80 Centre Street  
New York, New York 1001

J. Bruce MacDonald, Esq.  
New York State Atomic  
Energy Council  
112 State Street  
Albany, New York 12207

Honorable William J. Burke  
Mayor of the Village of  
Buchanan  
Buchanan, New York 10511

Stanley T. Robinson, Jr.  
Chief, Public Proceedings Branch  
Office of the Secretary  
U.S. Atomic Energy Commission  
Washington, D.C. 20545

Dr. John C. Geyer  
Chairman, Dept. of Geog.  
& Environmental Eng.  
513 Ames Hall  
John Hopkins University  
Baltimore, Maryland 21218

Anthony Z. Roisman, Esq.  
Berlin, Roisman & Kessler  
1712 N Street, N.W.  
Washington, D.C. 20036

Samuel W. Jensch, Esq.  
Chairman, Atomic Safety  
and Licensing Board  
U.S. Atomic Energy Comm.  
Washington, D.C. 20545

Leonard M. Trosten, Esq.  
LeBoeuf, Lamb, Leiby &  
MacRae  
1821 Jefferson Place, N.W.  
Washington, D.C. 20036

*Neme Schlesinger*  
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Neme Schlesinger