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August 22, 1972

Mr. Daniel R. Muller, Assistant Director
for Environmental Projects
Directorate of Licensing
U. S. Atomic Energy Commission
Washington, D. C. 20545

In re: Consolidated Edison
(Indian Point 2)
AEC Docket No. 50-247

Dear Mr. Muller:

I have received a copy of Con Edison's response to the comments of the Hudson River Fishermen's Association on the draft environmental impact statement on the Indian Point 2 facility.

There are various inaccurate representations of the position taken by HRFA contained in the Con Edison document which I think are sufficiently obvious to go without comment at this time. I do, however, feel that it is necessary to comment on the contention that Bowline Point and Roseton are being given sufficient review by the Army Corps of Engineers to meet the terms of the National Environmental Policy Act.

In February 1971, the Corps of Engineers circulated to other governmental agencies, but apparently not to the public, an environmental statement submitted to it by Orange and Rockland Utilities, the operator of the Bowline Point plant. No final environmental statement appears to have been issued.

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This procedure, which substitutes the analysis of the applicant for that of the agency, is not adequate to meet the requirements of NEPA. The Federal Power Commission attempted the same abdication of its duties in considering an application from the Power Authority of the State of New York. The procedure was challenged by the Greene County Planning Board and condemned by the Second Circuit as failing to meet the requirements of the Act. Greene County Planning Board v. FPC, 3 ERC 1595, 1599-1600 (2d Cir. 1972).

The Corps of Engineers has not even attempted this much with regard to the Roseton plant.

It is equally important that the substantive material included in the Bowline Point reports is of a generalized and unquantified nature that falls far below the reasonable standard which the AEC showed itself striving toward in its draft impact statement on Indian Point 2. Examination of the statements by the AEC will rapidly make their weaknesses apparent and if the AEC staff has any inclination to rely on the material, I urge the staff to undertake a thorough review of it.

The fundamental point remains - the AEC must look at the particular receiving environment in which the Indian Point 2 facility will be placed. This requires that the Commission consider the present and the reasonably foreseeable effects on the estuary which are being or will be caused by other installations. Any other course fails to analyse the impact on the environment as it in fact is and will be.

Finally, as a general matter, I think it is imperative that the Commission adopt a procedure which will allow all parties to a licensing proceeding equal opportunity to respond to the comments which are submitted on a draft environmental impact statement. The counsel for the Regulatory Staff has made the comments in this proceeding available to me from time to time, but that is not a sufficient substitute for a regular communication which provides equal access to documents for all the parties to the proceeding and thus assures that the views of all parties will be fairly represented to the AEC staff.

Yours sincerely,



Angus Macbeth
Attorney for Hudson River
Fishermen's Association

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