

Regulatory Docket File

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September 17, 1976

Director of Nuclear Reactor Regulation
ATTN: Director, Division of Site Safety
and Environmental Analysis
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

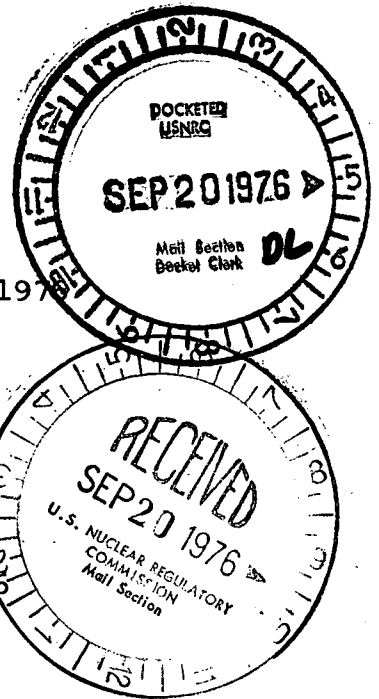
Re: Indian Point 2 - License No. DPR-26
Docket No. 50-247

Dear Sir:

Consolidated Edison Company of New York, Inc. (Con Edison) respectfully submits the following comments on the letter dated August 27, 1976 from Sarah Chasis, Esq. to you submitting comments of the Hudson River Fishermen's Association (HRFA) on the Draft Environmental Statement for Facility License Amendment for Extension of Operation with Once-Through Cooling for Indian Point Unit No. 2. The comments of HRFA contain such a gross distortion of the record of the Indian Point 2 proceeding that a Con Edison response is essential.

The HRFA comments overlook entirely the decision of the Atomic Safety and Licensing Appeal Board in ALAB-188 (April 4, 1974), which is the law of the case in this proceeding. HRFA implies that May 1, 1979 is a date fixed in concrete. The Appeal Board held just the reverse and said that "some flexibility is needed in the selection of the termination date for operation with once-through cooling" 74-4 RAI 406. The May 1, 1979 date is described by the Appeal Board and in the license as being the then apparent "reasonable termination date".

HRFA goes on to state that there will be a mass destruction of 34-50% of the young-of-the-year striped bass population. The Appeal Board specifically rejected the calculations which led to this number and said that Con Edison's model was closer to reality. The Appeal Board in ALAB-188 repeatedly decided contested environmental issues in Con Edison's favor so that HRFA's statements of environmental harm from the once-through cooling system are their unproven



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allegations which are contrary to the governing Commission decision in this proceeding.

The Final Environmental Statement for Indian Point 3, while constituting a restatement of the NRC staff's position, in no way supersedes the Appeal Board decision, since that Final Environmental Statement was not subject to adjudication and in any event was issued in another docket. That document has been accepted as sufficient under NEPA to support the Indian Point 3 operating license with stipulated conditions generally parallel to those ordered by the Appeal Board for Indian Point 2. In no way do these developments in the Indian Point 3 docket alter the fact that ALAB-188 is the law of the case for Indian Point 2.

In the Indian Point 2 proceeding, the Commission staff took the position that plant operation with once-through cooling through five spawning seasons would be acceptable. The Appeal Board relied on that position in establishing the May 1, 1979 date. It is important to note that Indian Point 2 did not operate during the 1976 spawning season. Accordingly, the requested extension to May 1, 1981 constitutes an extension of operations through only one additional spawning season, and the environmental impacts of the requested license amendment are even less than that set forth in the Environmental Report which accompanied Con Edison's application.

HRFA's claim that Con Edison has been investigating the issues in this proceeding for eleven years is misleading and false. The earlier investigations related to a pumped storage plant at Cornwall. Cornwall and Indian Point both will generate electricity but the similarity ends there. A pumped storage plant and a nuclear plant may look alike to a Fisherman but not to a fish. The entrainment processes are substantially different, and the environmental impacts of the pumped storage plant are a radically different subject from the environmental impacts of a nuclear power plant.

Until very recently, the survival of organisms through a thermal power plant was not a matter of environmental concern. In the early 1970's the issue of potential entrainment mortality arose. By 1972 Con Edison had developed a program to commence a detailed investigation of this phenomenon. This effort is nearing completion for Indian Point 2.

HRFA is well aware of the evolution of environmental concerns at Indian Point. The initial concerns in the 1960's were with impingement and thermal discharges. Con Edison thoroughly evaluated the thermal discharge problem and it is no longer considered a serious environmental concern. Con Edison also made substantial progress in reducing impingement. HRFA is also well aware of the fact that the entrainment issue at Indian Point first surfaced in the early 1970's and their attempt to relate it to the Cornwall plant is highly improper.

HRFA also erroneously states that there is a conflict between the present cooling tower schedule for Indian Point 3 and the requested new schedule for Indian Point 2. Although Con Edison believes it is too early to discuss in detail possible conflicts in construction schedules several years in advance because of all the contingencies involved in such major projects, we do note that there is at present no conflict in the proposed schedule. Since Indian Point 3 did not operate a sufficient amount of time during the 1976 spawning season as defined in the license, the date for termination of operation with the once-through cooling system automatically is extended by the provisions of that license to September 15, 1982.

Finally, HRFA's assertion that the May 1, 1981 date is the date originally proposed by Con Edison is erroneous. In the Findings and Conclusions for the Indian Point 2 proceeding, Con Edison's suggested date for termination of operation with the once-through cooling system was September 1, 1981.

Very truly yours,

A handwritten signature in dark ink, appearing to read "William J. Cahill, Jr.", with a stylized flourish at the end.

William J. Cahill, Jr.
Vice President

(original + 25 copies)

cc:

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