

**ENVIRON, FILE (NEPA)**

JUN 5 1973

Docket Nos. 50-286  
and 50-247

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 EP-1 Reading File  
 Docket File (Environ.)  
 RP Reading  
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 THRU: G. W. Knighton, Chief, Environmental Projects Branch No. 1

**HIGHLIGHTS OF THE INDIAN POINT UNIT NO. 3 SPECIAL PREHEARING CONFERENCE**

On May 21, 1973, the ASLB ordered a special prehearing conference to be held at Croton-on-Hudson, New York, on identifying specific contested issues, schedules for issuance of the DES, FES, SER, and startup and conclusion of the hearing for Indian Point Unit No. 3. Environmental issues are the major issues of controversy, including the need for power. Radiological issues will be questioned but the ASLB will not make any decisions in this regard. The hearing is scheduled to begin on February 4, 1974 and Con Ed plans to submit its 1973 annual report on ecological studies on February 15, 1974. The ASLB wants to run a continuous hearing and conclude by the end of March.

Major points of this hearing are enclosed. Details of the hearing can be found in the transcripts.

Original signed by  
 M. J. Oestmann

M. J. Oestmann, Project Manager  
 Environmental Projects Branch #1  
 Directorate of Licensing

Enclosure:  
 As stated

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CRESS OFFICE	L:EP-1	L:EP-1				
4086:9;ek;4/6	<i>MJO</i>	<i>GWK</i>				
SURNAME	MJ Oestmann	GW Knighton				
DATE	6/5/73	6/5/73				

Major Points of the Special Prehearing  
Conference for Indian Point Unit No. 3  
May 21, 1973

1. Licensing Action

On October 25, 1972, a Notice of Consideration of Issuance of Facility Operating License and Notice of Opportunity for Hearing" for Indian Point Unit No. 3 was issued in the Federal Register.

On February 9, 1973, an ASL Board consisting of S. Jensch, Chairman, Dr. J. C. Geyer, and Mr. R. B. Briggs was appointed to rule on the proceedings in the Unit No. 3 hearings. On that same date, another ASLB, called the Intervention Board, was established with E. Bowers, Chairman, to rule on petitions to leave to intervene. This Board ruled, on February 28, 1973, regarding those persons which have a right to intervene. They include the Hudson River Fishermen's Association, Save Our Stripers, and the State of New York. This Board denied the petitions to intervene by the Cortland Conservation Association, Inc. and Mary Hayes Weik.

The Attorney General of New York filed a late petition to intervene in addition to that of the State of New York. The Intervention Board has yet to respond to this petition but the subject of who represents the State in the proceedings was discussed at the May 21, 1973 hearing. A ruling by the Intervention ASLB and the Hearing ASLB will be forthcoming within the next few weeks as to this matter. The ASLB requested a statement of position from the Attorney General in this hearing and an order will be made on this subject by the ASLB in the near future.

2. At the May 21, 1973, the ASLB pointed out that no evidence nor limited appearance would be permitted at this particular time but that the purpose of this special prehearing conference was to ascertain if there is a basis for arriving at some stipulation among the parties; to develop methods by which evidence may be presented; to outline the areas of concern of the parties; and to carry out discovery procedures and exchange of interrogatories among the parties in order to resolve matters existing between parties. The Board also offered to convene as many prehearing conferences as needed to present evidence and to expedite procedures in the hearing.

3. Schedules for issuance of the DES on June 29, 1973, and FES on October 12, 1973 and the Safety Evaluation Report on July 16, 1973 and ACRS Meeting on September 7, 1973 and Supplement to the Safety Evaluation on October 12, 1973 were presented by S. Treby, OGC. Con Ed stated that Unit No. 3 would be ready for core loading on April 1, 1974.
4. HRFA and SOS outlined the environmental issues of concern which include the same as for the Unit No. 2 proceeding. They will involve the added impact on the fishery from Unit No. 3 and include the issue of need for power. Con Ed vigorously opposed this issue. The ASLB asked Con Ed if the same recommendation for closed cycle cooling by the staff were to apply to Unit No. 3 as to Unit No. 2, would Con Ed ask to delay this imposition to complete the ecological studies. Con Ed said yes. The ASLB further asked about the consideration of the time to operate the plant, not the need for the plant, and the conditions to operate the plant at reduced power levels. The ASLB ruled that need for power would be an issue of the hearing.
5. The Board was concerned about the letter dated May 9, 1973 from the Mayor of the Village of Buchanan regarding local ordinances of restricting natural draft cooling towers because of their height. The Board and HRFA suggested that further proceedings on this subject may result in reopening the hearing for Indian Point Unit No. 2.
6. A stipulation between Con Ed and the intervenors is being worked out to incorporate the particular pages of the Unit No. 2 transcripts into the Unit No. 3 hearing record. OGC should definitely participate in any such stipulation. On May 16, OGC wrote the intervenors that the staff would agree to stipulate the entire record as to environmental issues for Unit No. 2.
7. Interrogatories and Discovery would begin in June with a month set up for reply.
8. After issuance of the DES and FES, the intervenors want to advise the Board of specific issues which are different from those in the Indian Point Unit No. 2 proceedings for presentation in the Unit No. 3 hearing.
9. The intervenors requested through informal discovery, the final research materials and final statements of research from the applicant. The staff also will request such information, but on a monthly basis since we would not be able to review the material in the middle of the hearing in February 1974.

10. Con Ed on May 14, 1973 filed a motion to consolidate the HRFA and SOS participation in the hearing.
11. The State of New York is concerned (1) whether operation of Unit No. 3, in conjunction with the other existing plants at the same site, will have a significant adverse effect on the fisheries and (2) whether the NYS thermal criteria will be met. NYS wants discovery on this subject.
12. Con Ed wants in the Unit No. 3 hearing only new information or supplemental information ~~that either was not available for Unit No. 2 or was not brought out clearly in the Unit No. 2 hearing.~~ However, Con Ed stated that final resolution of issues will depend on the ASLB initial decision for Unit No. 2. Con Ed plans to submit discovery requests to the Staff after issuance of the DES for Unit No. 3. Further issues will be identified after issuance of the FES.
13. Hearing schedule - Con Ed requested and ASLB agreed to, the start of the hearing on February 4, 1974 and Con Ed would issue its 1973 annual report on ecological studies on February 15, 1974. Con Ed would file additional direct testimony shortly prior to the February 4, 1974 date. The hearing would essentially be continuous and conclude by the end of March.
14. The ASLB considered the possibility of having some of the hearing scheduled in the Washington area since the public apparently uses the local public document room to keep informed by reading the transcripts rather than attend the hearings.
15. The ASLB requested the attorneys for the parties in the proceeding to submit a stipulation setting forth the kind of order that the Board will be directed to issue of the matters accomplished after the special prehearing conference.
16. The ASLB stated that it would have inquiries as to radiological safety issues (including quality assurance) which were not included in this hearing. Con Ed objected strongly to this subject based on the Palisades case by the Appeal Board. The Board stated that it could not make any decisions on safety issues but reserves the right to ask questions on the matter.