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Note to: M. Karman, Office of General Counsel

COMMENTS ON DRAFT OF STAFF'S MEMORANDUM ON THE EFFECT OF THE FWPCA ACT OF 1972 ON THE INDIAN POINT UNIT NO. 2 PROCEEDINGS

Below please find a list of my comments regarding the subject memo prepared originally by E. Lyle. Editorial comments are also presented in the enclosed copy of this draft.

1. Page, third paragraph, New York water quality standards should be spelled out in terms of only "6NYCRR 701-703" which were approved by EPA but not § 704 (thermal criteria) which were never approved by EPA. I would like to see the statement of approval of water quality standards on July 26, 1971. Con Ed received a NYS water quality certification on December 7, 1970 and this was forwarded from the AEC to EPA on January 21, 1971.
2. Page 9, paragraph 1, replace the quote "The ...Conservation" by the sentence "Applicable criteria classifies the Hudson River at Indian Point as "Class SB" (NYS Part CRR 701.4) as shown in Table 2.3-2 of the applicant's Supplement No. 1. All discharges will be subject to regulation by the New York State Department of Environmental Conservation pursuant to section 1203 of the Public Health Law and to Federal regulation under Section 21 (b) of the Water Quality Improvement Act of 1970 and Section 13 of the Rivers and Harbors Refuse Act of 1899."
3. Page 11, paragraph 1, the second and third sentences are definitely inaccurate. Please modify accordingly. "The Staff found that operation of Indian Point 2 under the conditions proposed in the FES outlined on pages vii and viii of the Summary and Conclusions would assure compliance with State water quality standards which have been continued in effect under Section 303 (a) of the FWPCA prior to the EPA letter of January 17, 1973. It thereby also determined that such operation with the aforementioned conditions would also assure compliance with New York State standards etc."
4. Page 12, last paragraph, include a sentence pertaining to the requirement of "best practicable control technology by July 1, 1977, and the best available technology by July 1, 1983" according to Section 301 of the FWPCA of 1972.
5. Page 13, paragraph 2, the Applicant did apply for water quality certification under Section 21 (b) of the Water Quality Improvement Act of 1970 and received such certification from New York State on December 7, 1970. A letter to this effect was sent from the AEC forwarding a copy of this certification to EPA on January 21, 1971.

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M. Karman, OGC

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A copy of this is provided for your information. Thus, it is not clear to me why the requirements of the April 3, 1973, date on page 13 are needed since Con Ed has already fulfilled "its duties" requiring submission of certification from the New York State to the AEC.

6. Page 14, last paragraph, Con Ed did apply on June 24, 1971, for a Section 13 discharge permit but the application was revised on October 27, 1971. Approval was supposed to be granted originally at the end of December 1972.

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

Enclosures:
 As Stated

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DATE ▶	4/4/73	4/ /73			