

12/26/72

BEFORE THE UNITED STATES
ATOMIC ENERGY COMMISSION

In the Matter of)

Consolidated Edison Company)
of New York, Inc.)
(Indian Point Unit No. 3))

Docket No. 50-286

REPLY TO AEC REGULATORY STAFF
ANSWER BY HUDSON RIVER FISHER-
MEN'S ASSOCIATION AND SAVE
OUR STRIPERS

Pursuant to 10 C.F.R. 2.706 and 2.714, Petitioners Hudson River Fishermen's Association ("HRFA") and Save Our Stripers ("SOS") make the following Reply to the Answer of the AEC Regulatory Staff ("Regulatory Staff"):

1. By mail on December 15, 1972, the AEC Regulatory Staff served its Answer to the petitions of HRFA and SOS. Counsel for Petitioners received the Answer December 21, 1972. Pursuant to 10 C.F.R. 2.710, the time within which Petitioners may reply to the Regulatory Staff's Answer under 10 C.F.R. 2.706 and 8.03, is computed to permit timely reply by December 28, 1972. Since the Regulatory Staff filed a consolidated answer, HRFA and SOS now file a consolidated reply.

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2. Petitioners HRFA and SOS note that the Regulatory Staff believes that both HRFA and SOS have demonstrated adequately the interest of each petitioner in the above captioned proceeding (Answer at p.3), that the petitions and supporting affidavits are reasonably specific (p.3, ibid), and that the petitions meet the requirements of 10 C.F.R. 2.714 (p.4, ibid).

3. The Regulatory Staff notes that HRFA and SOS "have identified with particularity the specific aspects of the subject matter of the proceeding as to which they desire to intervene." (Answer at p.3) These include danger and harm to fish from entrainment as well as discharges, and take into consideration the cumulative and combined environmental impact of Indian Point Unit No.3 when combined with Indian Point Units No.1 and No.2, and with other water uses such as the Bowline Point and Rose-ton plants. The Regulatory Staff recognized these contentions of fact as the basis for three principal environment contentions. The Regulatory Staff did not contest the factual statements or the 3 environmental contentions arising out of the facts stated.

4. The Regulatory Staff Answer points to 3 environmental contentions raised by HRFA and SOS as follows:

(a) Any operating license issued for Indian Point Unit No.3 must be conditioned on the installation and operation of a closed-cycle cooling system at Indian Point Unit No.3.

(b) After 10 years of operating Indian Point Unit No.1, Applicant has had ample opportunity for research and present knowledge is sufficient to permit a reasoned and reasonable prediction as to the effect of Indian Point Unit No.3.

(c) The Recommendations of the Regulatory Staff to require the closed-cycle cooling system on Indian Point Unit No.2 support the HRFA and SOS contention that such a system should be required for Indian Point Unit No.3.

5. (a) The Regulatory Staff recommends that the HRFA and SOS petitions be granted and that a hearing be ordered.

(b) It recommends further that the Board limit HRFA and SOS participation to the three issues singled out by the Regulatory Staff from the petitions.

6. HRFA and SOS accept the Regulatory Staff evaluation as summarized in paragraphs 2 and 3 above. Both petitioner's oppose the recommendation summarized

above in paragraph 5(b) that their participation be limited to the 3 issues selectively identified by the Regulatory Staff and set forth in paragraph 4 above.

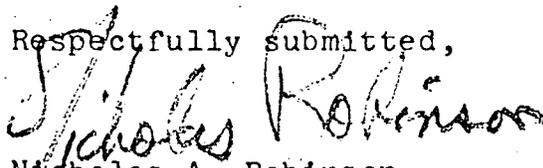
7. HRFA and SOS contend that their petitions raise a variety of issues which all concern any adverse effect of Indian Point Unit No.3 on the aquatic life and ecology and particularly the fish of the Hudson River and Atlantic coast. Both petitioners raised a variety of factual contentions about the aquatic life in the region and the impact of Indian Point Unit No.3 on it. Certainly the environmental contentions arising from these facts are focused primarily on the cooling system of Unit No.3. However, petitioners have not seen the draft statement on environmental considerations, which will be prepared pursuant to 10 C.F.R. Part 50, Appendix D, as to Indian Point Unit No.3. Accordingly, petitioners must reserve the right to comment upon any aspect of the draft or final environmental statement which will result in action having an adverse effect on the fish and ecology of the river and coast. This necessarily includes any recommendation to allow Indian Point Unit No.3 to operate on an interim basis without a closed-cycle cooling system while one is being readied, because of any alleged need for electrical power or other reason. Similarly, the need to intervene

includes evaluation of the additional and combined adverse effects which operation of Indian Point Unit No.3 will have when joined with Units 1 and 2 and other power plants and emissions in the immediate area.

8. Petitioners seek to intervene on any issue, in this Indian Point Unit No.3 application, affecting adversely their identified interests in the fish and other aquatic life and ecology of the Hudson River and Atlantic coast. Such issues by law are within the scope of these proceedings and the Atomic Energy Commission's jurisdiction over them, and will not change or enlarge the issues specified by the Notice in 37 Fed. Reg. 22816 (No.206 October 25, 1972).

Wherefore, the petitioners HRFA and SOS should be given leave to intervene, a hearing should be ordered, and HRFA and SOS should be permitted to participate wherever it appears the application raises issues that may adversely affect the fish, other aquatic life, and ecology of the Hudson River and Atlantic coast.

Respectfully submitted,


Nicholas A. Robinson
Attorney for HRFA and SOS,
Petitioners

Dated: New York, New York
December 26, 1972