

Reg files

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

4/29/76

----- -x

In the Matter of	:	
CONSOLIDATED EDISON COMPANY	:	Docket No. 50-286
OF NEW YORK, INC., and	:	
POWER AUTHORITY OF THE STATE OF	:	Determination of Preferred
NEW YORK	:	Alternative Closed-Cycle
(Indian Point Station, Unit No. 3)	:	Cooling System

----- -x

PETITION FOR LEAVE TO INTERVENE

Pursuant to §2.714 of the Rules of Practice of the Nuclear Regulatory Commission, 10 C.F.R. §2.714 and the Notice of Availability of Licensees' Report on "Economic & Environmental Impacts of Alternative Closed Cycle Cooling Systems for Indian Point Unit No. 3," issued on March 29, 1976, 41 Fed. Reg. 12933, the Hudson River Fishermen's Association ("HRFA") and Save Our Stripers, Inc. ("SOS") hereby request leave to intervene with respect to the issuance of an amendment to the facility operating license for Indian Point Unit No. 3, which amendment would designate a natural draft, wet cooling tower system as the preferred alternative closed-cycle cooling system for installation at Indian Point Unit No. 3.

Acknowledged by card *5-3-76, era*

8110310135 760429
PDR ADOCK 05000286
G PDR



I. PETITIONERS

HRFA is a non-for-profit organization incorporated in the State of New York in 1966. Its purposes are as follows: to encourage the rational use of the aquatic resources of the Hudson River and its tributaries; to gather, study and disseminate information about the ecology of the Hudson watershed, particularly in regard to the life histories and needs of fishes; to endeavor to protect the spawning and nursery grounds of desirable sports and commercial fishes; and to assist in efforts to abate pollution.

SOS was incorporated in 1969 for the purpose of actively encouraging the conservation of the marine species known as striped bass in the waters of the State of New York for present and future generations; to promote greater interest in the sport of fishing for this species; and to enlighten the public with regard to the recreational value of striped bass sport fishing within the State of New York.

HRFA has approximately 750 members and SOS has between 600 and 700 members. Many of these members are affected by the operation of Indian Point Unit No. 3 with a once-through cooling system. HRFA and SOS are interested in maintaining the purity of the waters of the Hudson, its

tributaries and the Atlantic coastal waters from pollution by excessive heating of water and all other substances or uses which may endanger the lives of fish and other aquatic life in the Hudson River. HRFA and SOS are especially interested in assuring the choice of an alternative closed-cycle system which will provide the greatest protection of the Hudson River fishery.

II. PETITIONERS' INTERESTS IN THIS PROCEEDING

The interest of HRFA and SOS in this proceeding derives in large measure from their involvement as active parties in the licensing proceeding for Indian Point Unit No. 3 (Docket No. 50-286) and as signatories of a stipulation, the terms of which are incorporated into the license issued for Indian Point Unit No. 3. HRFA and SOS' interventions in that proceeding related to many of the issues raised by the proposed designation of a preferred alternative closed-cycle cooling system for Indian Point Unit No. 3. The present report on "Economic & Environmental Impacts of Alternative Closed-Cycle Cooling Systems for Indian Point Unit No. 3," has been submitted pursuant to the conditions placed upon the licensees which conditions HRFA and SOS advocated and supported in the licensing proceeding and in the stipulation which followed.

HRFA and SOS' members derive considerable recreational, social, economic and other benefits from the fish resources of the Hudson River. They have, as organizations and as individuals, a great interest in protecting these resources.

The type and operation of the cooling system at Indian Point Unit No. 3 is crucial to the protection of the fish resources of the Hudson. HRFA and SOS need to point no further than the Final Environmental Statements related to operation of the Indian Point Unit No. 3 as support for this statement.

The present once-through cooling system has a significant adverse impact on fish and other aquatic life of the Hudson River. The installation of a closed-cycle cooling system, a requirement of the facility operating license for Unit No. 3, will significantly reduce water withdrawal from the Hudson River. Reduction of volume of water withdrawn will reduce the amount of fish and other aquatic organisms passing through the cooling system of Indian Point Unit No. 3. Reduction of volume will also substantially reduce the number of fish killed on the screens. Thus the designation of the closed-cycle cooling system which will best assure protection of the Hudson River fishery by reduction of fish impingement

and entrainment is of direct and immediate interest to HRFA and SOS and to their members.

III. SPECIFIC MATTERS OF INTEREST

HRFA and SOS contend that the Licensees' report on Economic and Environmental Impacts of Alternative Closed Cycle Cooling Systems for Indian Point Unit No. 3, dated January 1, 1976, the Final Environmental Statements related to operation of Indian Point Unit No. 3, and the Draft Environmental Statement for selection of the Preferred Closed Cycle Cooling System at Indian Point Unit No. 2 support the designation of a wet natural cooling system as the most effective means of mitigating the impacts of plant operation on the Hudson River fishery and as the least environmentally harmful in terms of smogging, noise, icing, blowdown. However, HRFA and SOS would not oppose designation of another form of closed cycle cooling system, should another system be found preferable, so long as it is effective in mitigating the adverse impacts related to entrainment and impingement of fish.

IV. PETITIONERS' RIGHT TO INTERVENE

Under the provisions of the Atomic Energy Act of 1954, as amended, and the Commission's Regulations, 10 C.F.R. §2.714, and the National Environmental Policy Act of 1969,

HRFA and SOS assert their right to intervene, having identified their interest in specific issues. HRFA and SOS have raised issues of fact and contentions which are properly within the jurisdiction of the U. S. Nuclear Regulatory Commission under these Acts and Regulations. HRFA and SOS believe their intervention will be the only means to press and preserve their interests and that they will assist in developing a sound record.

HRFA and SOS, pursuant to 10 C.F.R. §2.712(b), hereby designate for the service of all papers, its attorney-at-law, who is as follows:

Sarah Chasis, Esq.
 (Natural Resources Defense Council,
 Inc.)
 15 West 44th Street
 New York, New York 10036

WHEREFORE, HRFA and SOS respectfully seek leave to intervene with respect to the issuance of an amendment to the facility operating license for Indian Point Unit No. 3, which amendment would designate a wet natural draft system as the preferred alternative closed-cycle system for Indian Point Unit No. 3.

Respectfully submitted,

HUDSON RIVER FISHERMEN'S ASSOCIATION
 P. O. Box 303
 Coldspring, New York
 David M. Seymour, President

Dated: New York, New York
 April 29, 1976

SAVE OUR STRIPERS
 P. O. Box 116
 Massapequa Park, New York 11762
 Robert J. Rance, President

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

----- x
In the Matter of :
CONSOLIDATED EDISON COMPANY OF :
NEW YORK, INC., and the : SUPPORTING AFFIDAVIT
POWER AUTHORITY OF THE STATE OF :
NEW YORK : Docket No. 50-286
(Indian Point Station, Unit No. 3) :
Determination of Preferred :
Alternative Closed-Cycle System :
----- x

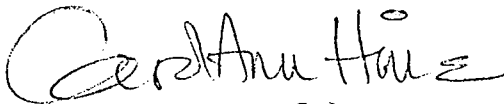
STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

I, DAVID M. SEYMOUR, being duly sworn, depose and state that:

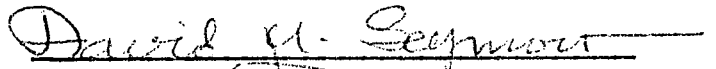
1. I am the President of the Hudson River Fishermen's Association and am empowered by its Board of Directors to make, sign, and verify the annexed Petition to Intervene dated April 29, 1976.
2. I have read the enclosed Petition to Intervene dated April 29, 1976, and know its contents, and that the contents are true to the best of my information and belief.
3. I hereby incorporate by reference the enclosed Petition identifying the aspects of the subject matter of the

proceeding as to which the Hudson River Fishermen's Association wishes to intervene. I incorporate here those facts specifically stated and the Association's contentions with regard to those facts.

Hudson River Fishermen's
Association
P. O. Box 303
Cold Spring, New York 10516



CAROL ANN HINE
NOTARY PUBLIC, STATE OF NEW YORK
NO. 31-4512742
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MARCH 30, 1977


David M. Seymour

Sworn to before me this
29th day of April, 1976.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

- - - - - x

In the Matter of :

CONSOLIDATED EDISON COMPANY OF :
NEW YORK, INC., and the :
POWER AUTHORITY OF THE STATE OF :
NEW YORK :
(Indian Point Station, Unit No. 3) :

SUPPORTING AFFIDAVIT

Docket No. 50-286

Determination of Preferred :
Alternative Closed-Cycle System :

- - - - - x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

I, ROBERT J. RANCE, being duly sworn, depose and state that:

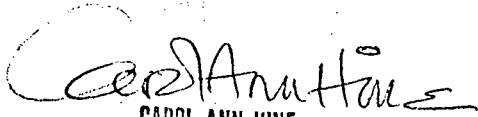
1. I am the President of Save Our Stripers, Inc., and am empowered by its Board of Directors to make, sign, and verify the annexed Petition to Intervene dated April 29, 1976.

2. I have read the enclosed Petition to Intervene dated April 29, 1976, and know its contents, and that the contents are true to the best of my information and belief.

3. I hereby incorporate by reference the enclosed Petition identifying the aspects of the subject matter of the proceeding as to which Save Our Stripers, Inc. wishes to intervene. I incorporate here those facts specifically stated

and SOS' contentions with regard to those facts.

Save Our Stripers, Inc.
P. O. Box 116
Massapequa Park, New York 11762


CAROL ANN HINE
NOTARY PUBLIC, STATE OF NEW YORK
NO. 31-4512742
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MARCH 30, 1977


Robert J. Rance
President

Sworn to before me this
29th day of April, 1976.

ATTORNEY'S AFFIRMATION OF SERVICE

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

I, SARAH CHASIS, attorney at law, affirm that on the 29th day of April, 1976, I served the annexed Petition to Intervene and Supporting Affidavits by mailing copies thereof, first class postage prepaid and properly addressed, to the following persons:

Secretary of the Commission
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555
Attn: Docketing and Service Section

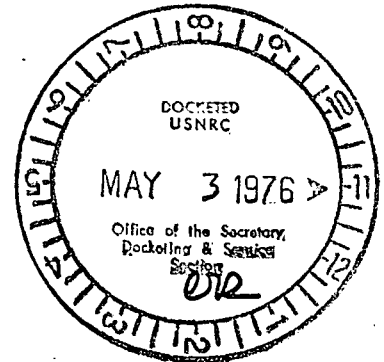
Michael Curley, Esq.
Counsel, N. Y. State
Department of Commerce
99 Washington Avenue
Albany, New York 12210

Office of the Executive Legal Director
Chief Hearing Counsel
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Arvin E. Upton, Esq.
LeBoeuf, Lamb, Leiby & MacRae
1757 N Street, N.W.
Washington, D.C. 20036

Nicholas A. Robinson, Esq.
Marshall Bratter Greene
Allison & Tucker
430 Park Avenue
New York, New York 10022

Paul Shemin, Esq.
Assistant Attorney General
State of New York
2 World Trade Center, Room 4776
New York, New York 10047



Sarah Chasis

SARAH CHASIS

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
CONSOLIDATED EDISON COMPANY) Docket No. 50-286
)
(Indian Point Nuclear Generating Station,)
Unit No. 3))

SUPPLEMENTAL SERVICE LIST

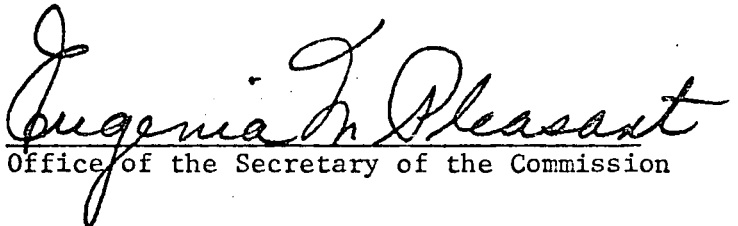
I hereby certify that I have this day served the foregoing document upon each of the persons listed below:

Samuel W. Jensch, Esq., Chairman
Atomic Safety and Licensing Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. R. Beecher Briggs
110 Evans Lane
Oak Ridge, Tennessee 37830

Dr. Franklin C. Daiber
College of Marine Studies
University of Delaware
Newark, Delaware 19711

Dated at Washington, D. C. this 3rd ay of May 1976


Office of the Secretary of the Commission

cc: Mr. Karman
ASLBP
ASLAB
Reg Files
J. Lee
M. Slater



OFFICE OF THE
CHAIRMAN

Reg. File

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

PROD. CONTROL NO. 50-3,247,286
NUMBER
CONTROL NO. 50-443,444
NUMBER
CONTROL NO. 50-471

APR 29 1976



Anthony Z. Roisman, Esq.
Roisman, Kessler and Cashdan
1712 N Street, N. W.
Washington, D. C. 20036

Dear Mr. *T. Roisman*:

This is in response to your letter of April 9, 1976, concerning the practices of the regulatory staff with respect to transmission of information developed in one licensing proceeding to other proceedings where the same information may be relevant. You referred specifically to information developed in the Pilgrim Unit 2 proceeding which you assert should have been disclosed more promptly and fully in the Seabrook and Indian Point seismic proceedings.

As you know, the Appeal Board panel in the Indian Point proceeding has taken your April 9 letter to me as a challenge to the accuracy of explicit representations made by the staff to the Board, and is looking into the matter so far as that proceeding is concerned. In addition, your letter has been referred to the Executive Director for Operations for investigation and such response as may be appropriate with respect to the Pilgrim Unit 2 and Seabrook proceedings. Inasmuch as these proceedings will ultimately be subject to Commission review on the basis of fully developed records, it would be inappropriate for the Commission to involve itself in particular aspects of those proceedings at this juncture.


Apart from these particular cases, however, your letter raises a generic issue concerning the nature and extent of the staff's obligation to coordinate and disclose information that may be relevant to more than one pending proceeding. There is no governing Commission rule. The Commission is asking the Director of Nuclear Reactor Regulation to

Anthony Z. Roisman, Esq.

2

review this issue from a generic standpoint and to report to it. We will have a further response to your letter after we have received the Director's report.

Sincerely,


Marcus A. Rowden
Chairman

cc: All parties on the service lists for:
Boston Edison Co., et al. (Pilgrim Nuclear Generating Station,
Unit No. 2)
Public Service Co. of New Hampshire, et al. (Seabrook Station,
Units 1 and 2)
Consolidated Edison Co. of New York, Inc. and Power Authority
of the State of New York (Indian Point, Units 1, 2 and 3)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

CONSOLIDATED EDISON COMPANY)
OF NEW YORK, INC.)

(Indian Point Nuclear Generating)
Units 1, 2, and 3)

Docket No.(s) 50-3
50-247
50-286

(Seismic)

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this

29th day of April 1976.

Peggy Downing
Office of the Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
CONSOLIDATED EDISON COMPANY)
OF NEW YORK, INC.) Docket Nos. 50-3
) 50-247
(Indian Point Nuclear Generating) 50-286
Units 1, 2, and 3))
(Seismic)

SERVICE LIST

Michael C. Farrar, Esq., Chairman
Atomic Safety and Licensing Appeal
Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. John H. Buck
Atomic Safety and Licensing Appeal
Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Dr. Lawrence R. Quarles
Atomic Safety and Licensing Appeal
Board
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Myron Karman, Esq.

Counsel for NRC Staff
U. S. Nuclear Regulatory Commission
Washington, D. C. 20555

Carmine J. Clemente, Esq.
J. Bruce MacDonald, Esq.
New York State Atomic Energy Council
Department of Commerce
99 Washington Avenue
Albany, New York 12210

Arvin E. Upton, Esq.
LeBoeuf, Lamb, Leiby and MacRae
1757 N Street, N. W.
Washington, D. C. 20036

Anthony Z. Roisman, Esq.
Roisman, Kessler and Cashdan
1712 N Street, N. W.
Washington, D. C. 20036

Nicholas A. Robinson, Esq.
Marshall, Bratter, Greene, Allison
and Tucker
430 Park Avenue
New York, New York 10022

Sarah Chasis, Esq.
Natural Resources Defense Council
15 West 44th Street
New York, New York 10036

Honorable Louis J. Lefkowitz
Attorney General
State of New York
2 World Trade Center
New York, New York 10047

Edward J. Sack, Esq.
Joyce P. Davis, Esq.
Consolidated Edison Company of
New York, Inc.
4 Irving Place
New York, New York 10003

Mrs. Kay Winter, Librarian
Hendrick Hudson Free Library
31 Albany Post Road
Montrose, New York 10548

William H. Cuddy, Esq.
Gerald Garfield, Esq.
Day, Berry and Howard
One Constitution Plaza
Hartford, Connecticut 06103