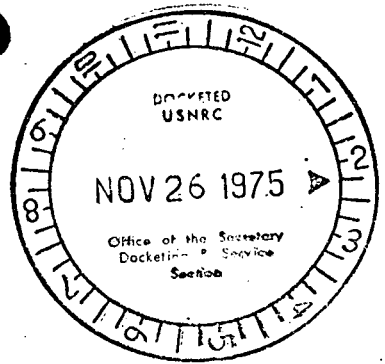


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



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In the Matter of :

CONSOLIDATED EDISON COMPANY OF :
NEW YORK, INC. :

(Indian Point Station, Unit No. 3) :

----- X

Docket No. 50-286

AFFIDAVIT IN SUPPORT
OF MOTION FOR A STAY

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

DAVID M. SEYMOUR, being duly sworn, deposes
and says:

1. I am President of the Hudson River Fishermen's Association, Inc. ("HRFA"), and am duly authorized by the officers and board of directors to make this affidavit in support of HRFA's and SOS' motion dated November 24, 1975 for an order of this Commission staying the effect of the Appeal Board decision pending review by the Commission.

2. The decision under review was issued September 3, 1975 pursuant to 10 C.F.R. §2.785 and made final the decision of the NRC's Atomic Safety and Licensing Board's Order "Approving Stipulation for Settlement Proposed by Parties and Decision Respecting Concerns Related to the Authorization of

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a Full-Term, Full-Power Operating License," LBP-75-31, NRC I-75/6 593 of June 12, 1975. 10 C.F.R. §2.770. The decision of the Atomic Safety and Licensing Board authorized issuance of an operating license for Indian Point Unit No. 3. The Commission issued a further order of October 23, 1975 to review the Appeal Board decision but expressly refused to stay the effect of the Appeal Board decision pending such review. Thus a license may issue for Indian Point Unit No. 3 at any time.

3. HRFA withdrew its request for a hearing in this case and consented to issuance of an operating license conditioned upon the requirement that the Applicant, Con Edison, and any successor-in-interest to the Applicant, must construct a closed-cycle cooling system for use at Indian Point Station Unit No. 3 (Indian Point No. 3) and upon the further requirement that interim operation shall only be permitted to the extent that Applicant and any successor-in-interest satisfies all license provisions to protect the aquatic biota of the Hudson River from any significant adverse impacts and that any necessary mitigating measures will be taken promptly.

4. The Stipulation of settlement entered into by the parties to this case which contains, inter alia, the

above-stated conditions, requires the approval of both the Atomic Safety and Licensing Board and the Atomic Safety and Licensing Appeal Board to become final and binding upon the parties. The Licensing Board approved the Stipulation without modification. The Appeal Board approved the Stipulation in name, but materially modified the terms of the Stipulation most critical to HRFA, thus seeking to bind HRFA to something it had never agreed to.

5. Unless the decision of the Appeal Board is vacated and the Stipulation approved by the Commission without modification, the Stipulation must fall and HRFA's statutory right to a full evidentiary hearing on the non-radiological environmental issues must be reinstated and a hearing held before any license is issued.

6. The issuance of any license for Indian Point No. 3 at this time, based on the Appeal Board decision, would violate HRFA's most basic right to resolution of the issue of the need for a closed-cycle cooling system at Indian Point No. 3 before issuance of a license, via either Commission approval of the Stipulation of settlement without modification or Commission decision following a full evidentiary hearing on the issue. To date, since there has been no final and binding approval of the Stipulation as required by

Paragraph 12 of the Stipulation, there has been no final resolution of the environmental issues in contention.

7. The issuance of any license for Indian Point Unit No. 3, based on the Appeal Board decision, would flaunt the stated policy of this Commission which is to encourage reasonable and fair settlement of issues in contention.

HRFA entered into the Stipulation with the full expectation that the Commission would act in good faith. However, the Appeal Board has attempted to reinterpret the Stipulation in a manner directly contrary to the stated intent of the parties and thus bind HRFA to a Stipulation it never agreed to. If a license is issued, based on an "approval" of this nature, settlement of issues will be actively discouraged rather than encouraged.

Carol Ann Hine

CAROL ANN HINE
NOTARY PUBLIC, STATE OF NEW YORK
NO. 31-4512742
QUALIFIED IN NEW YORK COUNTY
COMMISSION EXPIRES MARCH 30, 1978

Sworn to before me this
24th day of November, 1975.

David M. Seymour

David M. Seymour

CERTIFICATE OF SERVICE

I hereby certify that foregoing Motion for Stay and Supporting Affidavit were served upon the following parties by mailing copies of same, first-class postage prepaid this 24th day of November, 1975:

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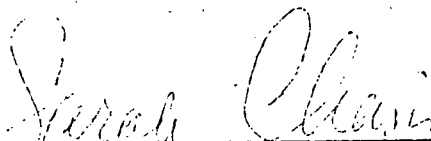
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