

# Natural Resources Defense Council, Inc.

15 WEST 44TH STREET  
NEW YORK, N.Y. 10036

212 869-0150

RECEIVED

Washington Office  
917 15TH STREET, N.W.  
WASHINGTON, D.C. 20005  
202 737-5000

Western Office  
664 HAMILTON AVENUE  
PALO ALTO, CALIF. 94301  
415 327-1080

## BOARD OF TRUSTEES

Stephen P. Duggan  
Chairman  
James Marshall  
Vice Chairman  
Dr. George M. Woodwell  
Vice Chairman  
Dr. Dean E. Abrahamson  
Mrs. Louis Auchincloss  
Boris I. Bittker  
Frederick A. Collins, Jr.  
Dr. Rene J. Dubos  
James B. Frankel  
Robert W. Gilmore  
Lady Jackson, D.B.E.  
Hamilton Kean  
Dr. Joshua Lederberg  
Anthony Mazzocchi  
Paul N. McCloskey, Jr.  
Michael McIntosh  
Eleanor Holmes Norton  
Owen Olpin  
Franklin E. Parker  
Dr. Gifford B. Pinchot  
Charles B. Rangel  
John R. Robinson  
Laurance Rockefeller  
J. Willard Roosevelt  
Whitney North Seymour, Jr.  
David Sive  
Beatrice Abbott Duggan  
U.N. Representative  
John H. Adams  
Executive Director

1975 NOV 10 AM 9 21  
November 3, 1975

Bernard Rusche  
Director of Nuclear Reactor  
Regulation  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

USAEC  
GGC-BETHESDA

Re: Issuance of Facility Operating License for  
Indian Point Unit No. 3 (Docket No. 50-286)

Dear Mr. Rusche:

We are writing to make known our objection to the issuance by the Nuclear Regulatory Commission Staff of any license for Con Edison's Indian Point Unit No. 3 plant. Although we have filed a petition to review the ALAB decision in the U. S. Court of Appeals for the Second Circuit, without prejudice to our rights in that forum, we also must oppose the issuance of any further construction or operating license until such time as the Commission's present review of the issues before it is completed, and the Commission directs the ALAB to approve the stipulation in the manner intended by the parties or alternatively reject the stipulation and reinstate the rights of the parties to a full hearing. Our grounds for opposition are based on the following procedural points.

I. The issuance of any license, whether it be for continued construction, fuel-loading and testing, partial power operation or full power operation, prior to resolution of the issues certified to the Commission for review would severely prejudice the interests of the parties and would flaunt the requirements of the National Environmental Policy Act (NEPA), The Atomic Energy Act, as amended, and the Commission's Rules and Regulations, 10 C.F.R. Parts 2 and 51. These require opportunity for hearing to determine compliance with NEPA, prior to the issuance of the facility operating license. The Commission's review may possibly result in discontinuance of the consents which created the stipulation, a reinstatement of the parties' hearing rights and a consequent hearing on the environmental issues relating to Con Edison's application for an operating license. Only by staying

8110310236 751113  
PDR ADDCK 05000286  
PDR

Rec'd Off. of Dir.  
of Nuclear Reactor  
Regulation

Date

11/5/75

4:35 PM

Mr. Rusche

-2-

November 3, 1975

the issuance of a license at this time can appropriate compliance with that procedure as the law requires, i.e. prior to issuance of an operating license, be assured.

II. The stipulation entered into by all the parties to the proceeding on Con Edison's application for a facility operating license for Indian Point Unit No. 3 has not in fact been accepted by the Atomic Safety and Licensing Appeal Board. Therefore, as far as HRFA and SOS are concerned, the stipulation has not received the approvals necessary to make the stipulation binding. Until it is so approved, you do not have any authority to issue any operating license. The ALAB's acceptance of the stipulation and authorization of issuance of a license based on the stipulation as the ALAB construct it is without basis. No action can be taken at this time by the Commission staff in reliance on that approval.

We would appreciate advance notification should the Staff plan to take action with respect to issuance of a license for this plant.

Yours sincerely,

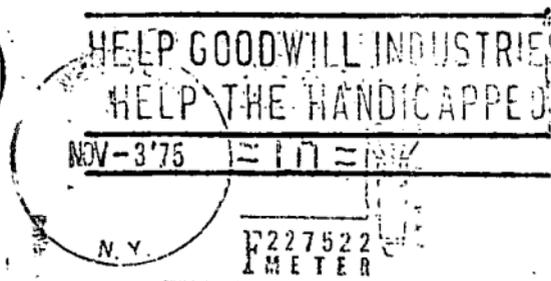


Sarah Chasis  
Nicholas Robinson  
Attorneys for Hudson River  
Fishermen's Association  
and Save Our Stripers

cc: All active parties

Natural Resources Defense Council, Inc.

15 WEST 44TH STREET NEW YORK, N.Y. 10036



Bernard Rusche  
Director of Nuclear Reactor Regulation  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555



100% Recycled Paper