

Natural Resources Defense Council, Inc.

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November 3, 1975

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

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

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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