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UNITED STATES ATOMIC ENERGY COMMISSION

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IN THE MATTER OF:

CONSOLIDATED EDISON COMPANY OF  
NEW YORK, INC.

Docket No. 50-267

(Indian Point Station, Unit No. 2)

Place - Montrose, New York

Date - January 15, 1971

Pages. 453 - 500

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UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

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In the Matter of: :  
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CONSOLIDATED EDISON COMPANY OF NEW YORK, : Docket No. 50-247  
INC. :  
:  
(Indian Point Station, Unit No. 2 :  
:  
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Hendrick Hudson High School  
Albany Post Road,  
Montrose, New York

Tuesday, 19 January 1971

The above-entitled matter came on for hearing,  
pursuant to notice at 10:00 a.m.

BEFORE:

SAMUEL W. JENSCH, Esq., Chairman,  
Atomic Safety and Licensing Board.

DR. JOHN C. GEYER, Member.

MR. R. B. BRIGGS, Member.

APPEARANCES:

On Behalf of the Applicant:

ARVIN E. UPTON, Esq., LEONARD M. TROSTEN, Esq.,  
LEX K. LARSON, Esq., 1821 Jefferson Place, N. W.,  
Washington, D. C. 20036

GERARD A. MAHER, Esq., One Chase Manhattan Plaza,  
New York, N.Y., 10005

EDWARD J. SACK, Esq., 4 Irving Place, New York,  
N. Y. 10003.

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APPEARANCES (Cont'd):

On behalf of the Regulatory Staff:

MYRON KARMAN, Esq., and JOSEPH B. KNOTTS, Esq.,  
Office of General Counsel, United States Atomic  
Energy Commission, Bethesda, Maryland.

On behalf of the Atomic Energy Council of the  
State of New York:

DAVID MACDONALD, Esq., 112 State Street,  
Albany, New York 12207.

DR. WILLIAM SEYMOUR, 112 State Street,  
Albany, New York 12207.

On behalf of Intervenor Citizens Committee for the  
Protection of the Environment, and on behalf of  
the Environmental Defense Fund:

ANTHONY B. ROISMAN, Esq., 1910 N Street, N. W.,  
Washington, D. C.

On behalf of Intervenor Hudson River Fisherman's  
Association:

ANGUS MACBETH, Esq., and RICHARD M. HALL, Esq.

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P R O C E E D I N G S

1  
2 CHAIRMAN JENSCH. Please come to order.

3 This proceeding is a conference type of hearing  
4 convened following the issuance of a notice of hearing issued  
5 by the Atomic Energy Commission respecting the application  
6 filed by Consolidated Edison Company of New York, Inc., seeking  
7 authority from the Atomic Energy Commission to operate a  
8 nuclear power reactor facility which has been generally  
9 designated as Indian Point Number Two.

10 We have had, so far in this proceeding, a pre-  
11 hearing conference as well as a convening of an evidentiary  
12 hearing prescribed by the Atomic Energy Commission and as to  
13 that latter, we had two days of sessions, at neither of which  
14 was there any evidence adduced, but rather it was a conference  
15 type of proceeding at which there were received statements  
16 from persons making limited appearances as well as statements  
17 by counsel for the federal party concerning their positions  
18 and contentions and concerns respecting the application that  
19 has been filed.

20 We have, in this proceeding or in this hearing, the  
21 use of a microphone. We find, however, that there have been  
22 some disabilities suffered by the electronic equipment and you  
23 have noticed a humming noise that apparently cannot be  
24 eliminated until some repairs are made to the equipment and  
25 that is expected with reasonable assurance within a short time,

1 but not during this day. So, if you find it is difficult to  
2 hear with the humming, we will urge everybody to move up closer  
3 and we will ask the electronic equipment to be terminated in  
4 its operation and we will try to speak normally.

5 Now, there are people sitting in the back and if you  
6 are having difficulty with this humming, will you please come  
7 forward. There are a lot of seats up closer. There are some  
8 students in the balcony; we invite them to come down here or  
9 come closer to the front of the balcony so they can hear  
10 better.

11 Before proceeding, I notice we have in attendance  
12 here several attorneys. I think the applicant and the staff  
13 appearances appear to be the same; likewise, appearances of  
14 some intervenors are the same, but we will ask for a detailed  
15 list.

16 Before proceeding to do that, however, I would note  
17 some communication which we have received so that the record  
18 will show receipt. We have a communication from the Office of  
19 the Mayor of the City of New York, one part of which is a  
20 transmittal letter of a statement expressing a position of the  
21 Interdepartmental Committee on Public Utilities established by  
22 the Executive Order of Mayor John V. Lindsay, and the other part  
23 of that communication is the statements. These statements will  
24 be transmitted to the public proceeding branch.

25 It has been suggested that if we use Microphone No.3,

1 there should be sufficient cable and the hum can be eliminated.  
2 Let us try that, thank you. We will pass this microphone on,  
3 thank you. That does seem to eliminate the noise.

4 We appreciate the kindness of the students for  
5 Hendrick Hudson High School who are running the electronic  
6 equipment for us.

7 That statement from the Office of the Mayor of the  
8 City of New York will be transmitted to the public proceedings  
9 branch and included with the record of statements from persons  
10 making limited appearances.

11 In addition, we have a statement from Congressman  
12 Ogden Reid which is dated December 17, 1970, in which he  
13 expresses his position and concerns respecting the applications  
14 filed by Consolidated Edison Company. That statement, likewise,  
15 will be transmitted to the public proceedings branch of the  
16 Commission and included with those from persons making limited  
17 appearances in the proceedings.

18 In addition, we have a notice of withdrawal from a  
19 participant in the proceeding, by Mary Hays Weik, one of the  
20 intervenors whose participation has been granted. That state-  
21 ment of withdrawal is accepted by the Board and the formal  
22 statement on her behalf will be included in the record of  
23 this proceeding.

24 With that as a preface, let us inquire of a state-  
25 ment of appearances, so that we have the parties again.

1 The applicant, please?

2 MR. TROSTEN: I am appearing on behalf of the  
3 applicant. I am Leonard M. Trosten, 1821 Jefferson Place, N.W.,  
4 Washington, D. C.

5 With me here today are my partner, Arvin E. Upton,  
6 and my associate, Lex K. Larson, both of the same address and  
7 my associate, Gerard A. Maher, whose address is One Chase  
8 Manhattan Plaza, New York, New York. Also appearing with me  
9 today is Mr. Edward J. Sack of the Law Department of the  
10 applicant. His address is Four Irving Place, New York, New  
11 York.

12 CHAIRMAN JENSCH: Thank you.

13 May we have the staff?

14 MR. KARMAN: My name is Myron Karman, appearing as  
15 counsel for the Regulatory Staff of the Atomic Energy  
16 Commission. My address is 7940 Norfolk Avenue, Bethesda,  
17 Maryland.

18 With me is my colleague, Mr. Joseph B. Knotts, also  
19 counsel for the Atomic Energy Regulatory Staff.

20 CHAIRMAN JENSCH: Thank you, sir.

21 I think in view of the inclement weather that we  
22 are enjoying or suffering, I would ask the intervenors who are  
23 present for the Citizens Committee to indicate their being  
24 here and that will be the statement of appearances.

25 May we have appearances on behalf of that

1 organization and the other organization as well?

2 MR. POISMAN: I am Anthony B. Roisman, appearing on  
3 behalf of the Citizens Committee on the Protection of the  
4 Environment and the Environmental Defense Fund. My address is  
5 1910 N Street, N. W., Washington, D. C.

6 CHAIRMAN JENSCH: Thank you.

7 Is there an appearance on behalf of the Hudson River  
8 Fisherman's Association?

9 MR. MACBETH: I am Angus Macbeth. I am appearing  
10 on behalf of the Hudson River Fisherman's Association.

11 With me this morning is my colleague, Richard M.  
12 Hall, of the same address.

13 CHAIRMAN JENSCH: Thank you, sir.

14 Is there an appearance on behalf of the State  
15 organizations, Atomic Energy Council?

16 MR. MACDONALD: I am David MacDonald. I appear as  
17 counsel for the Atomic Energy Council of the State of New York,  
18 112 State Street, Albany, New York.

19 And with me is Dr. William Seymour, Staff Coordina-  
20 tor for the Atomic Energy Council.

21 CHAIRMAN JENSCH: Thank you, sir.

22 Is there an appearance on behalf of the Attorney  
23 General of the State of New York here?

24 (No response)

25 I hear no response.



1 Is there any other intervenor present here today?

2 (No response)

3 I hear no response.

4 This conference was convened at the suggestion of  
5 the parties in an effort to see if the issues in the proceeding  
6 can be more precisely related to the evidence intended to be  
7 adduced and the concerns that have been reflected by the  
8 participants in the proceeding.

9 In addition, the Board will give some consideration  
10 to some matters that it has been considering so far in the  
11 proceeding, but before doing that, let us inquire -- I believe  
12 we had a sort of tentative schedule that there would be  
13 questions and interrogatories from some of the intervenors,  
14 perhaps prepared by this time and the parties might address  
15 themselves to that problem if those interrogatories have been  
16 prepared.

17 MR. KARMAN: Mr. Chairman, just to set the record  
18 straight, before we get into this matter of discovery pro-  
19 ceedings, I believe that we did, in fact I do know that during  
20 the past session of this hearing evidence was adduced.

21 CHAIRMAN JENSCH: Yes.

22 MR. KARMAN: The applicant and the staff did present  
23 their case.

24 CHAIRMAN JENSCH: Yes, I am glad you made that  
25 mention, the fact that the entire applicant's and the staff's

1 cases have been presented and we are awaiting cross-examination  
2 after completion of the discovery, if desired.

3 Perhaps it would be well to inquire from the  
4 intervenor, Citizens Committee, what is the progress with refer-  
5 ence to the interrogatories?

6 MR. ROISMAN: Mr. Chairman, we have submitted a  
7 number of questions to the applicant and to the staff. As of  
8 this morning, we have submitted all of what we are now calling  
9 Round One of those interrogatories. We received answers to  
10 two groups of previously asked questions and one group of  
11 requests for documents, and we are awaiting receipt of the  
12 remaining questions, some of which were delivered just last  
13 week, some of which were delivered only this morning to the  
14 applicant.

15 So far everybody seems to be on schedule within the  
16 context of our understanding and we are getting ready to go  
17 into the second round of questions, once we have had a chance  
18 to analyze this first set of answers from the questions we have  
19 asked.

20 CHAIRMAN JENSCH: There are two aspects of that.  
21 The Board would like to be informed concerning the questions  
22 and the responses. If each propounding party will undertake  
23 that effort; A, that party proposing interrogatories, if they  
24 will send copies to the Board and, B, the responding party, if  
25 it will send its responses to the Board, the Board would be

1 pleased to have that.

2           It will be noted that in the public record, in my  
3 examination yesterday on my way to the transportation here, I  
4 noticed a response by the staff to certain questions apparently  
5 propounded by the Citizens Committee. The Board did not  
6 receive a copy of those questions or the responses and the  
7 Board would be pleased to have submittals in that regard. In  
8 the future, we will be kept informed concerning what questions  
9 are being raised and the responses, partly so that we will be  
10 able to appraise our time schedule which will be the next  
11 inquiry.

12           It has been suggested that all of these communica-  
13 tions will be of interest to the parties in this proceeding,  
14 as well as to the members of the public and, therefore, as  
15 the staff did in sending a copy to the public record -- or the  
16 Public Document Section in Washington, the Board suggests that  
17 all interrogatories and responses be filed here at the public  
18 library of the Hendrick Hudson High School where the  
19 Commission is anxious to maintain for the information of the  
20 public all of the information that will be available to the  
21 parties in this proceeding.

22           MR. TROSTEN: Mr. Chairman, may I speak to that?

23           If the Board wishes, Mr. Chairman, we will, of  
24 course, furnish copies of the information that we are giving to  
25 the intervenors. I might add, though, Mr. Chairman, that the

1 procedure that the Board has suggested is rather inconsistent  
2 with the concept of an informal exchange of information among  
3 the parties as an aid towards preparing for the hearing itself.

4 At the present time, we are keeping this as informal  
5 as possible and for copies of this to be sent in to the Board  
6 would, I think, be inconsistent with our general concept.

7 CHAIRMAN JENSCH: Well, I think that if the situation  
8 were to develop by way of compromise and settlement, then I  
9 think confidentiality should prevail. But I think we feel  
10 that limited participation people have expressed concerns here-  
11 tofore and some of these interrogatories and responses may be  
12 related in part to those expressions of concern by the several  
13 people who came to these hearings and expressed their concerns  
14 and these matters can well be made available to the public in  
15 general and the Board desires to be kept informed, too.

16 This is a quasi judicial hearing, I think it might  
17 be well to mention. I think over at the Peekskill Auditorium  
18 at the last hearing there may have been a feeling by some  
19 parties that interruptions could be had by way of speaking out  
20 or applause or that sort of thing. The Board requests that  
21 not be done. If there are any statements desired to be made,  
22 we will take the burden or we will take the liberty of putting  
23 the burden on the staff if any member of the public desires to  
24 speak to these matters, if they will confer with counsel for  
25 the staff who can consider the relevancy and pertinancy and

1 timing of any concerns which may be expressed.

2 We desire to speak through the parties at this  
3 hearing because we are preparing a record by way of a transcript  
4 and other documentary submittals that will require care in their  
5 preparation.

6 The second aspect to which I will direct your  
7 attention, Mr. Roisman, is what are you entertaining as time  
8 schedules in this regard? You say you are going to round No. 2.  
9 What are you suggesting for time and I would like to have  
10 comments as to their suggestions about time?

11 MR. ROISMAN: Mr. Chairman, we have been meeting on  
12 a -- not regular, but at least occasional basis with counsel  
13 for applicant and at a meeting last week, discussed with them  
14 a tentative schedule which they had drawn up which seemed  
15 acceptable to us and which I will be more than happy to make  
16 a copy or the applicant will make a copy available to the  
17 Board.

18 Basically, in terms of the timing of that, they  
19 would have to us responses to all of the questions and requests  
20 for documents that we now have pending before them by the first  
21 of February. We would provide them with the questions in  
22 round 2 and that would be the last round of written questions,  
23 no later than the 22nd of February.

24 There would be our brief on the environmental issues  
25 on behalf of the Environmental Defense Fund and I should point

1 out those two intervenors, Environmental Defense Fund and the  
2 Citizens Committee are really pursuing entirely separate paths  
3 in this hearing, but since it involved my time schedule, I felt  
4 relevant to mention it. The brief for that is scheduled for  
5 March the first; the applicant has kindly given us an extra day  
6 since the 28th of February turns out to be Sunday. We  
7 appreciate that.

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1 CHAIRMAN JENSCH: I think that generosity should  
2 be noted.

3 (Laughter.)

4 MR. ROISMAN: I might say, as you will remember,  
5 the scheduling of that is related to some extent to the  
6 scheduling of a Court of Appeals briefing in the case  
7 challenging the implementation of Appendix E by the AEC.

8 That case has now reached a stage where we can  
9 start predicting dates and although the actual date on which  
10 briefs for the petitioners will be due is later than the  
11 15th of February by about seven days, it is still my plan to  
12 have our brief in by the 15th of February in that Court of  
13 Appeals and have the intervening time between the 15th of  
14 February and the first of March to prepare a brief for the  
15 purposes of this proceeding on those issues.

16 CHAIRMAN JENSCH: Will you give us one more prognos-  
17 tication, if you will, when is the arguments in that case?

18 MR. ROISMAN: We are going to make a request at  
19 the time that we file our brief, that the Court place the  
20 case on an expedited schedule, which means as soon as briefs  
21 for both sides are in, the Court schedules the case for argument.

22 Based on past experience, that would probably be  
23 within three weeks to a month of the date on which the  
24 last brief, the brief for the Atomic Energy Commission was  
25 received, which we would hope would mean that by the middle

1 of April we could have our argument in the Court of Appeals  
2 on that case.

3 As I am sure you know, those are prognostications  
4 only more credible perhaps than other petitions in  
5 terms of liability.

6 Going on from then, the applicant has indicated  
7 that they would expect to have all answers to the second  
8 round of questions in by the 8th of March and then beginning  
9 from the 18th to the 22nd of March, depositions would be taken  
10 of any Con Edison witnesses which we choose to impose, and they  
11 scheduled the beginning of the hearing with cross-examination  
12 of witnesses and so forth to begin around the 5th of April.

13 Insofar as our contribution to that schedule is  
14 concerned, I don't have any difficulty and would anticipate  
15 that we could meet those deadlines.

16 Obviously, all of that would be changed to the  
17 extent that the applicants' responses are not available on  
18 the scheduled date.

19 CHAIRMAN JENSCH: Respecting the possibility, and  
20 I understand it is very tentative, but there may be some  
21 depositions. The Board indicates that it desires to  
22 participate in all aspects of this proceeding. Therefore, if  
23 there is any suggestion for deposition, the Board will  
24 endeavor to schedule a time and place convenient to all  
25 parties in that regard.



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1 We want to participate because there may be certain  
2 matters that would be of relevance to the Board during the  
3 course of presentation of testimony submitted by way of  
4 deposition.

5 Does the applicant desire to speak to this proposed  
6 schedule, and does it have any discussion as to how the  
7 factual matter can be prepared as much in advance as possible?

8 I presume that really what intervenor's counsel  
9 Citizens Committee has indicated is that they are focusing,  
10 through these endeavors, upon the areas of their primary  
11 concern and it may be that the net result will be that the  
12 parties may, in some respect, agree or disagree and express  
13 opinions on those matters in which they have not reached  
14 agreement.

15 In that regard, I wonder if the applicant would  
16 consider as a possibility of endeavoring to submit as much  
17 in advance of the hearing, and to limit the hearing time,  
18 whether it is possible for the applicant here or the staff to  
19 prepare some such list as this -- say 50 or 100 statements  
20 of fact which, even if the applicant or the staff believes is  
21 fundamental to the position asserted by the applicant or the  
22 staff, serve that upon the other parties to see whether the  
23 other parties will agree or disagree with such statements.

24 Now, sometimes that is done by requesting the  
25 parties to submit what might seem like proposed findings of

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1 fact. I think proposed findings of fact, however, can be  
2 very general in scope and maybe so-called ultimatized.

3 We would hope this suggestion would embrace the  
4 evidentiary facts, that this distinction can be recognized,  
5 so that if the parties were to agree, let me suggest  
6 something that to a layman might not seem very realistic, but  
7 supposing the applicant proposes the control rod withdrawal  
8 time is 2 milliseconds. Make a statement to that effect.

9 Does the staff agree to that? Would the  
10 Citizens Committee agree to that?

11 So that if that was accepted, as maybe an  
12 evidentiary matter, there wouldn't be any interrogation at a  
13 hearing on the control rod withdrawal time, for instance.

14 There may be other matters of an evidentiary  
15 character of that kind. So that those matters which the  
16 applicant or the staff believe are fundamental to their posi-  
17 tions, the other parties can determine whether or not they  
18 agree or disagree. Then when we come to a hearing we don't  
19 have to have a witness produced to testify about the withdrawal  
20 time for the control rod.

21 There are other instances and other matters of  
22 that kind that can be conceived and assembled for consideration  
23 by the parties.

24 MR. TROSTEN: We will certainly be happy to consider  
25 the suggestion that you have made.

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1 It is our hope that in the course of answering  
2 the questions that the Citizens Committee for the Protection  
3 of the Environment has posed to us, that we will considerably  
4 narrow the issues of fact which will have to be tried at  
5 the hearing and it may arrive at the result you are suggesting,  
6 sir.

7 CHAIRMAN JENSCH: If it is achieved at that level,  
8 then we have no suggestion for the others.

9 But if there are any that aren't resolved,  
10 facts that the parties may agree on, even though they are  
11 not included in the interrogatories, nevertheless the staff  
12 and the applicant should seek admissions which may be funda-  
13 mental to the staff and the applicant.

14 Now, will the applicant speak to the suggestion  
15 from the attorney for the Citizens Committee?

16 MR. TROSTEN: Yes, Mr. Chairman.

17 Mr. Roisman has summarized very well the under-  
18 standing we have reached with him, and I do not have anything  
19 to add with respect to the schedule for informal exchange of  
20 information.

21 I might add that our tentative schedule does  
22 envision hearing sessions in February and March which, I  
23 believe I should address myself to later, Mr. Chairman,  
24 unless you wish me to speak to that now.

25 CHAIRMAN JENSCH: Yes, as long as you mentioned it.

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1 MR. TROSTEN: In addition to the schedule for the  
2 exchange of information, it is our feeling that it would be  
3 profitable if additional hearing sessions were held in  
4 February and also in March. Perhaps mid March.

5 At this time we feel it would be appropriate to  
6 conduct the sort of exchange that we are carrying on today  
7 so that we can be certain that the case is proceeding on  
8 schedule and, in addition, if there are other matters on  
9 which evidence should be taken which become apparent  
10 as time progresses that we could also deal with that at  
11 these hearing sessions.

12 So it is our feeling that there should be  
13 additional hearings scheduled for mid February and mid March.

14 I would suggest that an additional hearing be  
15 scheduled for February 17th.

16 I would further suggest, Mr. Chairman, that we  
17 defer consideration of the March hearing date until the  
18 February hearing date. I think it would be more profitable  
19 if we took it step by step.

20 CHAIRMAN JENSCH: Well, is it your thought that  
21 partly the endeavor on February 17th would be related to a  
22 conference type of hearing to consider any other procedural  
23 matters aside from the matters of evidence, but the possibility  
24 would exist of some presentation?

25 MR. TROSTEN: That is right.

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1 CHAIRMAN JENSCH: As to the latter, would that be  
2 governed by your delivery of the interrogatories or responses,  
3 or can you mention now what you would suggest as an agenda  
4 for presentation of evidence?

5 MR. TROSTEN: At the present time I do not have  
6 any suggestion for presentation of evidence on the 17th of  
7 February, Mr. Chairman.

8 I would suggest that we would devote ourselves  
9 to a conference type hearing, but I would also suggest  
10 that we hold open the possibility of receipt of evidence in  
11 the same fashion of the Board's order convening this hearing  
12 held that possibility open.

13 In the event it appears desirable that evidence  
14 be adduced at the hearing, we would communicate this in  
15 advance to the Board and discuss it with the intervenors.

16 CHAIRMAN JENSCH: I think it would be important  
17 that the public notice issue with any reference to the sections  
18 of the hearing should indicate the possibility or not of  
19 presentation of evidence. Some members of the public may be  
20 more interested in the presentation of evidence rather than  
21 the seemingly endless discussion of procedure.

22 I think all of these matters are pertinent and  
23 important.

24 MR. TROSTEN: AT the present time, Mr. Chairman,  
25 we will discuss in a motion with the Hudson River Fisherman's

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1 Association, it is not our understanding that any evidence  
2 will be presented with respect to the case of the Hudson  
3 River Fisherman's Association, or the Citizens for the  
4 Protection of the Environment on February 17.

5 CHAIRMAN JENSCH: What day would that be?

6 That week is out.

7 MR. TROSTEN: Well, may I suggest then that we  
8 convene on the 22nd of February?

9 CHAIRMAN JENSCH: The calendar is getting a little  
10 twisted, but I think there is a holiday with reference to  
11 Washington's birthday.

12 We still have to look at the fact that February  
13 22nd is Washington's birthday.

14 MR. TROSTEN: The real public holiday is  
15 the 15th of February.

16 CHAIRMAN JENSCH: Well, that is an extra. I think  
17 we had better stick to what the first reference shows.

18 MR. TROSTEN: Would you suggest the 23rd, then,  
19 Mr. Chairman?

20 CHAIRMAN JENSCH: February 23 seems to be satisfac-  
21 tory. It will be followed by a further public order in this  
22 regard, and for the members of the public who are here, I  
23 would make this assertion which I had not before, but all  
24 those who have heretofore requested notices of hearings and  
25 the receipt of orders issued in reference to hearings will

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1 continue to receive those notices and those orders.

2 If, in addition, there are other persons present  
3 here today who do desire to be informed concerning the  
4 reconvening of this hearing in the Federal session, you are  
5 requested to send your request in that regard to the  
6 Secretary of the Atomic Energy Commission, Washington, D.C.,  
7 requesting that you be informed to receive copies of notices  
8 of hearing, and orders of convening hearings and the Commission  
9 is anxious that all of you be informed and you will receive  
10 copies of notices and orders.

11 In view of that desire by the Commission, I  
12 have undertaken to say that I am sure those who have heretofore  
13 requested to be informed, will continue to be informed as  
14 published orders are issued and public notices are given  
15 respecting sessions of hearings in this petition.

16 Well, let us -- we have gone that far --

17 MR. ROISMAN: Mr. Chairman, I would like to speak  
18 to the question of the propriety of the hearing in February.  
19 Let me say on behalf of the Citizens Committee that there will  
20 be no evidence introduced by the Citizens Committee in the  
21 month of February under any circumstances.

22 I don't anticipate or understand where that possi-  
23 bility lies. I assume it falls in the same category of the  
24 applicant putting the possibility of the maximum credible  
25 accident.

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2 We think the hearing is serving no purpose  
3 except to cost us money and time coming up from Washington.  
4 We would rather conserve, if some hitch develops in the  
5 schedule that the Citizens Committee or any of the other  
6 intervenors have worked out with the applicant and the staff,  
7 it seems to me that a letter to the Board indicating that  
8 and then requesting that a hearing be held to resolve some  
9 issue, would be more fruitful than committing us now, that  
10 we have to be back there.

11 I have no objection to setting a date now that  
12 if a hearing is required in February it could be the 23rd,  
13 and we will reserve the time. But I think it would be useful  
14 for us to speak to the question as to whether there should  
15 be a hearing.

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CHAIRMAN JENSCH: I think that probably is a good  
3 suggestion and we will consider February 23rd as a possible  
4 date for a hearing if one seems to be advisable and as to  
5 which I think the Board will have to know at least two weeks  
6 or more prior to February 23rd because otherwise we are not  
7 going to be able to get out an order and have it published  
8 and circulated to all members of the public in time for them  
9 to make their plans.

10 So rather than saying we will have a hearing, we  
11 will say if it does seem advisable to have a hearing, we  
12 will have it on February 23rd. I think the Board is entitled  
13 to rely upon the endeavors made by the parties, certainly as  
14 to their readiness to proceed. As I infer from the statements  
15 made here, the parties have been negotiating in the sense  
16 they have been submitting interrogatories and preparing  
17 responses and I think it is helpful to move the case in that  
18 regard and the Board would like to hear the suggestions of the  
19 parties before issuing any final orders in this respect.

20 Have you completed, Applicant Counsel, in that  
21 regard?

22 MR. TPOSTER: I have completed with respect to  
23 the schedule for the Citizens Committee for the Protection of  
24 the Environment.

25 CHAIRMAN JENSCH: Do you have any suggestion as to  
what we might be doing now to perhaps focus the matters of

ln2 1 evidence more directly to the issues raised by the Commission  
2 for consideration at this hearing?

3 MR. TROSTEN: Yes, Mr. Chairman.

4 I think it would be appropriate at this point in  
5 time for there to be a discussion of the contentions of the  
6 Hudson River Fishermen's Association. The Hudson River  
7 Fishermen's Association is duly represented by counsel in  
8 this proceeding; we have been conducting discussions with  
9 counsel for the Association and I would be prepared to discuss  
10 the substance of these understanding if you wish or they  
11 could, as you see fit.

12 CHAIRMAN JENSCH: Let's hear first from them.

13 As to the statements by the Citizens Committee,  
14 you are satisfied with that?

15 MR. TROSTEN: That is right.

16 CHAIRMAN JENSCH: Hudson River Fishermen's Asso-  
17 ciation.

18 MR. MACBETH: The Hudson River Fishermen's  
19 Association is concerned about the possibility of radiological  
20 effect on the fish, which the emissions would presently have  
21 and we are also concerned with the nonradiological and environ-  
22 mental effects which we understand will be first of all a legal  
23 question to be briefed towards the end of February.

24 We would like to join the schedule already estab-  
25 lished on the nonradiological environmental effects and we

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1 had a discussion yesterday with counsel for the applicant on  
2 a discovery procedure for the radiological question and we  
3 reached an agreement that we would present a first round of  
4 questions to the applicant by the first of February. They  
5 would have their answers to us within the next two weeks and  
6 by the 22nd we would present a second round and the answers  
7 again would be determined within two weeks and if we needed  
8 any depositions they would be taken in early March and we would  
9 be prepared to cross-examine the applicant's witnesses towards  
10 the middle or late March.

11 CHAIRMAN JENSCHE: Well, let me inquire, you say  
12 you are concerned with the radiological effects on fish, do  
13 you intend to aduce evidence in that regard?

14 MR. MACBETH: We would first want to get through  
15 the discovery procedure and perhaps cross-examine the  
16 applicant's witnesses.

17 Frankly, we would want to see what came out of  
18 that discovery and cross-examination before we would want to  
19 be firm as to whether or not we want to put on witnesses of  
20 our own. We might but we might also come to the conclusion  
21 that in fact there would not be serious radiological effects  
22 and that we should simply drop that side of the case.

23 I would be frank to say that the fishermen treat  
24 the nonradiological environmental effects as a much more  
25 serious issue and while we want to look into the radiological

ln4 1 effects as part of our case, the biggest part would be the  
2 legal issue we are taken up in March and if the Board hears  
3 the nonradiological evidence, that will be the more significant  
4 part of our case.

5 CHAIRMAN JFNSCH: Does the applicant desire to speak  
6 to those matters?

7 MR. TROSTEN: I have essentially nothing to add  
8 to what Mr. Macbeth has stated, Mr. Chairman, that is a correct  
9 statement of the schedule we have reached.

10 As Mr. Macbeth indicated, it is our understanding  
11 that the interest of the Hudson River Fishermen's Association  
12 with respect to radiological matters is directed to the  
13 possible effects on fish and aquatic life.

14 CHAIRMAN JFNSCH: Does the staff desire to speak  
15 to some of these matters now?

16 MR. KAPLAN: Mr. Chairman, we have no problem with  
17 the scheduling as indicated by Mr. Roisman and acquiesced to  
18 by the applicant. However, I would just like to make clear  
19 whether the Hudson River Fishermen's Association is intending  
20 to ask questions of the staff on the same time schedule as  
21 that of the applicant?

22 MR. MACBETH: Yes, we would put the questions to  
23 the staff at the same time as we put them to the applicant, if  
24 that would be agreeable to the staff.

25 MR. KAPLAN: We have no objection to that.

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1 MR. MACBETH: I should confirm Mr. Trosten is  
2 correct, our interest is with the fish and other aquatic  
3 life and these are the main issues that will be taken up.

4 CHAIRMAN JFNSCH: You speak of the other aquatic  
5 life, all of these organisms we have been hearing about, does  
6 your interest concern that spectrum?

7 MR. MACBETH: It will insofar as the fish are  
8 dependent on the other forms of life in the river. If there  
9 were, for instance, effects on the food the fish ate in the  
10 river which would in turn affect the fish, we would be concerned  
11 with that.

12 We are not going to be concerned with plants per  
13 se.

14 MR. TROSTEN: Mr. Chairman, I am not certain whether  
15 Mr. Macbeth noted that the briefs of the Hudson River  
16 Fishermen's Association with respect to the jurisdiction of  
17 the Commission to consider nonradiological matters would be  
18 filed at the same time as the brief of the Environmental  
19 Defense Fund?

20 MR. MACBETH: I believe I said that, if not, I say  
21 it now.

22 MR. TROSTEN: All right.

23 CHAIRMAN JFNSCH: Well, does this take care of the  
24 conference hearing, is there any other suggestion that we might  
25 proceed with at this time?

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1           MR. TROSTEN: I have a general observation that  
2 I would like to make concerning our progress to date,  
3 Mr. Chairman. We are satisfied with the cooperation that we  
4 have received from the other parties to date.

5           We are certainly going to do our very best to  
6 answer the questions that have been posed to us as soon as  
7 we can within the schedule that we have set for ourselves and  
8 agreed upon with the intervenors; we have received a great  
9 many questions and it is going to require considerable effort  
10 but we certainly are going to do everything we can to meet  
11 this schedule.

12           I think it is obviously quite important for  
13 everyone associated with this hearing to bear in mind the  
14 critical need for power and the part in supplying this power  
15 that the Indian Point facility will play.

16           We will continue to do everything we can so that  
17 there may be an early resolution of the issues in this  
18 proceeding and we look forward to continuing cooperation from  
19 the other parties in this regard.

20           CHAIRMAN JENSCH: I am sure as an observation,  
21 the Board would want to note that the Board likewise believes  
22 that with adequate information exchanges prior to the actual  
23 hearing dates of examining the witnesses, that the proceeding  
24 will move along a lot faster because I do think it is necessary  
25 that all parties be fully informed as to exactly what is

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1 presented and to be considered in the controversy among the  
2 parties.

3 The Board will endeavor to make itself available  
4 for such hearings as seem to be justified prior to the actual  
5 examination of witnesses.

6 But responsible attorneys can do more to resolve  
7 their factual differences or rather to specify their factual  
8 differences than the actual hearing time can do.

9 I think this procedure is much more desirable  
10 in that regard than other proceedings which may be pending  
11 to resolve matters which haven't yet been fully delineated.

12 The Board, however, does have some matters to  
13 present here and if the parties have nothing further, the  
14 Board will go forward.

15 Mr. Roisman, do you desire to make a statement?

16 MR. ROISMAN: I just wanted to indicate from our  
17 standpoint that the applicant has been cooperative with  
18 regard to the questions we have sent. We might prefer a more  
19 detailed answer than we are now getting but I think that is a  
20 question more of misunderstanding than anything else.

21 So far this informal procedure we have been going  
22 through seems to be a useful one for helping all of us to  
23 narrow down the factual issues.

24 With regard to Mr. Trosten's comments on the need  
25 for electricity, let me say we consider there is a paramount

ln<sup>8</sup> 1 need for the health and safety of the public and refusal for  
2 an operating license for the Indian Point plant will best  
3 serve that interest and we hope that will be paramount in  
4 the Board's mind.

5 CHAIRMAN JFNSCH: If the parties have nothing further  
6 at this time, the Board has not completed its entire review  
7 that it wants to undertake in this regard but it can express  
8 some matters which may be of interest to the parties.

9 I wonder, Dr. Briggs, if you will go forward with  
10 your expressions.

11 MR. BRIGGS: I don't know how many of these  
12 questions that will be asked have already been asked by inter-  
13 venors and have already been considered but there are several  
14 questions that have occurred to me in reviewing the information  
15 that is available and I think the information might be  
16 supplemented.

17 I find in the staff summary statements to the effect  
18 that the results of the Environmental Monitoring Program which  
19 has been conducted at the Indian Point for several years has  
20 shown no effect or that the releases of radioactivity have  
21 had no effect on the environment.

22 I find similar statements in the applicant's  
23 summary and other reports, yet I find no evidence to this  
24 effect. It seems to me that since there now has been a  
25 considerable amount of experience in this area with measuring



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1 background, measuring the radiation levels and the other  
2 effects from the plant in operation, that it would be worthwhile  
3 and important to summarize this information in such a way  
4 that it is quite obvious to the person who reviews the summary  
5 that there have, in fact, been no detectable effects or  
6 what these detectable effects have been.

7 In the ACRS letter of August 16, 1966, it states  
8 in part that great attention should be placed on in-service  
9 inspection possibilities and then there is a further statement,  
10 but I would like to be concerned primarily with the in-service  
11 inspection of the plant.

12 In the applicant's summary he indicates that a  
13 schedule has been prepared for in-service inspection. In  
14 the safety evaluation there is a statement concerning the  
15 in-service inspection and that the program will be reviewed  
16 after several years to determine whether, I assume, whether  
17 the inspections have to be conducted more frequently or less  
18 frequently.

19 However, in looking at the technical specifications,  
20 I see many places where it says documents for inspection are  
21 not presently available and if such methods are developed  
22 that these inspections would take place, I would like to have  
23 information concerning what changes were made in the design  
24 of the plant or what provisions were incorporated in the  
25 detailed design of the plant for making the in-service

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1 inspection, what work was done by the applicant between 1966  
2 and the present time to make these inspections possible,  
3 what programs the applicant will continue beyond the present  
4 date to make these inspections possible and what the schedules  
5 are for the completion of these programs.

6 As I look at the technical specifications there are  
7 several places that indicate that inspections will take place  
8 10 years from now.

9 However, there are also some indications that some  
10 inspections will be conducted as soon as three years from the  
11 present time. It would seem, then, if these inspections  
12 are to take place, the development must be completed and  
13 the method worked out in the rather near future.

14 Also, I believe there is an indication that some,  
15 I will call it background information, must be available.  
16 Some information on the condition of the material or the  
17 condition of the welds at the present time for use in  
18 comparison with measurements that are to be made in the  
19 future.

20 I would like to have an indication of what this  
21 background information will be and how it is to be obtained  
22 prior to operation of the plant, if it is necessary that it  
23 be obtained prior to operation of the plant.

24 During the limited appearance, the question was  
25 asked concerning the plant and the applicability, I suppose,

Inll 1 of Report Wash 740.

2 As I recall the staff answered this question rather  
3 briefly that the statement was made that Wash 740 was  
4 irrelevant to the present consideration and there was some  
5 small discussion of this.

6 I would like to ask that the staff look again at  
7 Report Wash 740, at TID-14844, and to tell again whether  
8 these two reports are irrelevant, if they are, why; if  
9 they are not, what has changed since the time of these  
10 reports to make the situation different from what was reported.

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CHAIRMAN JENSCH: Dr. Geyer has some concerns.

2 DR. GEYER: My first question has to do with envir-  
3 onmental monitoring, and in the Consolidated Edison Company's  
4 report on the environmental impact of Indian Point Station  
5 Nuclear Unit No. 2 there is a figure 17 which shows the location  
6 of numerous thermal dosimeters. I want to ask about these,  
7 what they record, how often they are read, what their full  
8 purpose is. Also I would like to find out more about the  
9 continuous monitoring system, just where the sensors are  
10 located, how much redundancy there is, what kind of alarms they  
11 sound and in connection with the discovery of unusual radiation,  
12 what provisions are made for warning the public, who makes the  
13 decision as to whether the public should be warned.

14 In connection with the monitoring program it would  
15 be interesting to know if any consideration has been given to  
16 daily publication of radiation levels in the region just as  
17 they now report weather or air pollution levels or pollen  
18 counts. They might assure the public to see what goes on  
19 continuously.

20 They certainly have indicated by coming here an  
21 interest in these matters.

22 In connection with Dr. Briggs' question about WASH  
23 740, the whole problem, a very complex problem of risk versus  
24 benefit versus cost in connection with these environmental  
25 matters has been brought up in discussions earlier in this

mp2 1 hearing. It might be interesting to hear the staff in par-  
2 ticular addressing itself to how it considers this problem.

3 Other areas of interest are the question of the  
4 burnable poison that has now been designed into this reactor,  
5 how it is fastened in, how it functioned, what experience there  
6 has been with such burnable poison, what assurance is there that  
7 it is going to be there when needed.

8 Another question having to do with the internal  
9 safety features is the matter of crucibles beneath the reactor  
10 which is now a longer time than is desirable. It would be  
11 interesting to hear why this was considered desirable and what  
12 made it then considered to be unnecessary.

13 Finally, in the earlier discussions there were  
14 references to an accident at Indian Point that produced high  
15 fallout at Yorktown. Now, we have no evidence on this so far  
16 as to just what did happen, but it would be nice to clear this  
17 matter up, and if there was such an occurrence, what did it  
18 amount to and why was this statement made?

19 I think that is all.

20 MR. BRIGGS: In reviewing the reports a question on  
21 the detail came to mind. The question came to mind as a result  
22 of an experience back in the middle 1940s that occurred many  
23 times before June of 1946, and I assume it has happened since.  
24 It has to do with the use of transit as a fire barrier.

25 Before the mid-40s it was used as a fire barrier and

mp3 1 the temperature when it got up as much as 500 degrees Fahrenheit  
2 the transit could be expected to explode.

3 I see in the report it is used in aeration of control  
4 wiring and power wiring. I would like to have some information  
5 concerning changes that have been made in the transit since  
6 the middle '40s that make this procedure useful. Also whether  
7 this characteristic of transit was concerned in specifying the  
8 material for the fire barriers.

9 Dr. Geyer mentioned the elimination of the crucible.  
10 There is a statement made in the report that although the  
11 crucible has been eliminated, that provision has been made in  
12 the insulation so that water has access to the bottom of the  
13 reactor vessel and I assume that means the water would provide  
14 some cooling for the bottom of the reactor vessel.

15 I would like to have information concerning how  
16 effective this can be expected to be, what sort of conditions  
17 it would take care of, and what certainty there is that water  
18 will have access and will in fact cover the bottom of the  
19 reactor vessel under accident conditions.

20 I must confess that I have not completed studying  
21 the emergency procedures that have been established for the  
22 plant, but the reading I have done so far gives me the impres-  
23 sion that if there were an accident and an accompanying consider-  
24 able release of radioactivity, that the applicant is responsible  
25 only for notifying the State of New York and other agencies

mp4 1 that this has occurred and the provisions that must be made for  
2 taking care of the public after that are the responsibility of  
3 those agencies.

4 I would like to have some information concerning the  
5 negotiations that have been taking place or have taken place  
6 between the applicant and the various public agencies concerning  
7 the emergency procedures, the procedures that can be expected  
8 to be used and where the responsibility lies in the event of  
9 serious incident.

10 The technical specifications indicate that the  
11 releases from the plant will be limited to those which will  
12 make certain that the public is not exposed to radiation levels  
13 above those provided in the 10 CFR Part 20 guidelines. We  
14 understand that the plant will normally operate with releases  
15 that are far below those guidelines.

16 Is there reason why the technical specification con-  
17 tains no time limits on the releases to the 10 CFR Part 20 limit  
18 and should not such time limits be included in the technical  
19 specifications? I assume that the tech specs were written by  
20 the applicant and that he has a certain amount of freedom in  
21 what he puts in the tech specs, at least until the time they are  
22 accepted by the AEC.

23 CHAIRMAN JENSCH: I would like to communicate some  
24 matters that may be of interest to the parties. Dr. Geyer  
25 referred in one part to the burnable poison and suggested that

mp5<sup>1</sup> experimental test data might be of interest to confirm those  
2 conclusions with reference to burnable poison. I wonder also  
3 as a general matter if more of the experimental test data can  
4 be shown for several of the safety engineered components that  
5 are accepted in this proposal for this reactor.

6 For instance, the emergency core cooling system,  
7 what are the data that confirm the conclusions in that regard?  
8 I know in previous cases this subject has come up, but it is  
9 referred to continuously as research matter and there may be  
10 data which is more updated than we have last considered and  
11 might give us a summary of the R&D in this regard.

12 Speaking of research and development, the Board is  
13 concerned concerning the reports issued by the Advisory  
14 Committee on Reactor Safeguards over a period of time in  
15 reference to pressurized water reactors, and I wonder if a  
16 summary can be presented of what those concerns are as having  
17 been expressed by the Advisory Committee on Reactor Safeguards  
18 over, say, the last ten years because the ACRS, and I refer  
19 to them as the Advisory Committee on Reactor Safeguards,  
20 concluded many of its reports by saying if these matters are  
21 carried out then there is reasonable assurance that the  
22 reactor can be operated without undue risk to health and safety  
23 of the public.

24 Aside from a summary statement, or in addition, let  
25 me say, to a summary statement in that regard and updating of



mp6 1 the experimental test data under those research and development  
2 projects, I wonder if we could have a witness from the staff  
3 of the Atomic Energy Commission about the research and develop-  
4 ment work. I think some boards in the past have had difficulty  
5 with summary statements maybe not being as complete as they  
6 would like to have it. If a witness is present then I think  
7 any further inquiry the Board may have can be readily considered  
8 and answered at that time.

9           For instance, as I recall it, there is a loss-of-  
10 fuel test. That has been going on for sometime, and maybe we  
11 can have some data about that and the other R&D programs that  
12 ACRS has outlined.

13           We would like to have a witness in a responsible  
14 position in reactor work so that he can speak with certainty  
15 with reference to these matters. It will give us an updating  
16 of the R&D work and at the same time permit us to consider it  
17 in connection with these qualified endorsements by ACRS of  
18 reactor projects, particularly with pressurized water reactors.

19           I think there has been a concern as to the progress  
20 of these necessary R&D works. We would like to know how these  
21 projects are doing. Are they carried on with the same vigor  
22 and financial support, for instance, that heretofore has been  
23 allocated to other projects and what has been discovered to  
24 date and what more is left to be done and when will that work  
25 be done and what is the data that is expected to be derived

mp7 1 from further work in that regard?

2           The Advisory Committee on Reactor Safeguards has  
3 given careful consideration over a period of years to these  
4 matters, but has presented to boards the responsibility on  
5 the Board to say that these projects are likely to achieve the  
6 results desired, and I think it is important that we have a  
7 witness from that work, a witness that has a responsible  
8 position.

9           Maybe it would be the director of the reactor  
10 development technology himself to participate in this hearing;  
#4 11 I think it would be very helpful if he would.

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1                   There are some other matters that I think might be  
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2 mentioned. Perhaps the staff could give consideration to these  
3 matters. I won't try to identify the source of some of these  
4 concerns but I think they will be readily discoverable by  
5 review of the documents submitted by the staff, of of which  
6 was a detailed statement on environmental considerations.

7                   One of the comments among the agencies in which the  
8 Applicant's statement on environmental considerations was  
9 submitted responded in this way: Does the AEC review the  
10 applicant's environmental statement to determine the accuracy  
11 or veracity of any assertions made therein? So that, for  
12 instance, as I recall it, HEW, Health, Education and Welfare  
13 Department, said they didn't want to review something that  
14 ACRS hadn't had a chance to perhaps review and endorse in a  
15 sense or consideration by HEW.

16                   Now, this is just an illustration and this is not  
17 pertinent but maybe illustrative. Supposing the Applicant in  
18 cases that come along say the moon is made out of green cheese  
19 and the HEW comments on the radioactive effect of that, well,  
20 they cannot accept the premise perhaps in view of the recent  
21 moon shots and they may say we cannot comment or if we give you  
22 a comment it won't mean a lot. Go from that end of the spectrum  
23 over to what HEW is talking about here, and do they have adequate  
24 information? Does the staff, when they get a letter from HEW  
25 saying we cannot give you an adequate comment that the moon is

1 made out of green cheese or the radio activity is going to be  
2 at a certain level, does the staff go back to HEW and say this  
3 is what we think the calculations will prove to be based upon  
4 the design of the plant or the experimental data, and now, can  
5 you give us further review or do you let HEW hang with their  
6 concern that maybe the data they have is not sufficient for the  
7 review?

8 Now, this statement on page 113 of the detailed  
9 statement on environmental considerations by the staff, which  
10 I think reviews -- no, on page 113 we find HEW's statement,  
11 something to this effect: The estimate of liquid radioactivity  
12 discharges and so forth, in our judgment, is not adequately  
13 documented.

14 What do they want in order to make the reviews? Did  
15 the staff get this to them? Is there anything further from  
16 HEW other than that which is reflected in the staff detailed  
17 environmental statement reflected on page 113?

18 In fact, is there any supplementary cost to any of  
19 the agencies to which the Applicant's statement is submitted?

20 Then there is this further statement shown on page  
21 113 of the staff detailed environmental statement which says  
22 something like this: Current PWR, I take that as "pressurized  
23 water reactors," operating experience indicates that both the  
24 liquid radioactive discharge and gaseous discharges will be  
25 considerably higher and the Applicant has not desired new design

srs 3

1 implications to support the lower effluent discharges. Can the  
2 staff give us what figures reflect the current PWR operating  
3 experience and indicate that both the liquid and gaseous  
4 discharges will be higher, higher than what, the Applicant  
5 considered, or what has been designed in other reactors and what  
6 kind of design information does HEW believe will be necessary  
7 for it to support or give a conclusion respecting the estimated  
8 lower discharges?

9 On page 114 of that statement staff supplemental there  
10 is the statement by a public health physician of HEW, the  
11 proposed technical specification for the site gaseous waste  
12 discharge limits would be excessive if calculated by the method  
13 indicated by the Applicant.

14 HEW also said discharge limits for Indian Point  
15 facility should also be applied for Con Ed Units 4 and 5 if  
16 these additional units are built at the proposed location about  
17 1500 meters south of the Indian Point site.

18 The statement is also made the environmental surveil-  
19 lance program for the facility would be adequate if modified  
20 to include the LDS, and I take it that is total limitation  
21 doses with the minimum sensitivity of a dash 10 millirems per  
22 month. The suggestion is made by HEW on page 115 of the staff's  
23 submittal, estimates for gaseous releases for Indian Point  
24 No. 2 were based upon a 45 day holdout. We believe the  
25 capacity should be expanded to 60 days and it comments further:

1           When I say these are in the staff's reports, we also  
2 ask for the Applicant's consideration of the several matters  
3 to which the Board is making reference, not to foreclose the  
4 opportunity of the Applicant to respond in this regard.

5           The statement is also shown on page 115 of this  
6 detailed statement by the staff, it is difficult to take some of  
7 these things out of context and I just refer to the entire thing  
8 and read the sentence that does bring it into focus.

9           Apparently the position taken by HEW is said to be  
10 taken because gaseous releases during normal operations at  
11 Indian Point No. 1 have been much higher than at other similar  
12 operating PWRs which could be interpreted to indicate that the  
13 gaseous waste holdup was not used to the fullest extent, and  
14 so forth.

15           Could the staff get those figures or could the  
16 Applicant? What were the releases from Indian Point No. 1 which  
17 were higher than other similar operating PWRs? What are other  
18 similar PWRs and what were the figures for releases from them?

19           Incidentally, in considering what the releases are  
20 from Indian Point No. 1 or other PWRs, especially in New York  
21 State, can those readings be compared with the readings of the  
22 environmental surveillance undertaken by New York State monitor-  
23 ing groups? What are their figures?

24           I realize there have been some comments that while  
25 they are about the same, I am always reminded of a story that

1 Mr. Warren Nier? who participated in the development of the work  
,  
2 under the Chicago Stadium talked about -- and Enrico Fermi,  
3 the Italian physicist who directed that work, when he heard the  
4 statement that things were coming along just fine, he would just  
5 say, "Let me see the figures." Well, we would like to see the  
6 figures.

7 We aren't so worried about the conclusions if the  
8 figures are shown and we would like to see the figures.

9 There was mention made, I believe, by Dr. Riggs  
10 about TID-14844. I wonder if we could have a computation  
11 precisely in accordance with TID-14844 together with the  
12 components, other components of that calculation.

13 I understand that they have used some TID-14844 and  
14 some other components which I think are justified; but I think  
15 we should start with 14844 and give us that from both the staff  
16 and the Applicant because as I understand, TID-14844 is a  
17 guideline that can be applied until other engineering data are  
18 shown to justify variance therefrom and there may well be  
19 engineering data in that regard but if we can start from the  
20 beginning point, that would help us to evaluate the safety  
21 considerations of the engineering matters that seem to justify  
22 a variance.

23 As you have discerned from several statements of  
24 each of us on this Board, the Board will be concerned with  
25 operation of Indian Point No. 1. I expressed this consideration

1 that the Board has had. Let me state it this way: We would  
2 like to have a summary of some of the several monthly reports  
3 that have heretofore been submitted with reference to Indian  
4 Point No. 1, particularly as to releases of radioactive  
5 liquid and gases and compare those with the readings by the  
6 New York environmental surveillance groups and if there are any  
7 other surveillance groups, I think, if I have understood some  
8 of the expressions by the persons making limited experience  
9 in this proceeding, they would like to see confirmed the readings  
10 made by the Applicant of the radioactive releases.

11 I don't know if they said these words, but it is like  
12 the Interstate Commerce Commission, I don't think they rely  
13 upon a truck driver's statement of what speed he followed,  
14 going along the thruway. I think they sometimes get readings  
15 of speed from other agencies.

16 If there are any other readings that can confirm  
17 those of the Applicants here, we would like to have those  
18 readings. I know the Applicant has kept careful records and a  
19 continuous surveillance program, but if there are other figures  
20 I am sure they would be helpful.

End #5

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1 Now, the applicant environmental impact statement  
2 in Appendix D stated on page 2 thereof, if the average release  
3 rate from the plant vent is greater than 10 percent of the  
4 annual allowable release rate as specified in paragraph 3.9-B1  
5 during the month just ended, an environmental survey shall be  
6 conducted in accordance with 3 for the subsequent months.

7 I couldn't find paragraph 3.9-C1 and if that could  
8 be submitted, I would be happy to have it with the figures  
9 that are available.

10 I think for the sake of relief I will stop for a  
11 moment and see if any of the other members of the Board has  
12 anything further. Relief to the listeners, I might say.

13 MR. BRIGGS: In the design of the plant you mentioned  
14 that the ECCS system was, according to the reports, made more  
15 reliable and this permitted the removal of the crucible below  
16 the reactor and other considerations did too, apparently.

17 I would like to reemphasize the need for discussion  
18 of the research and development results that have led to the  
19 conclusion of the very high reliability that is attributed  
20 to the ECCS system.

21 In the report there is indicated that certain changes  
22 or conditions will be required such as purging the containment  
23 or removal of the hydrogen, adding filters to the ventilation  
24 system.

25 I would like to have an indication as to why these

1 changes or additions are not required before the plant goes  
2 into operation, why it is possible to let some changes or  
3 additions come along a year or two or three years after the  
4 plant begins to operate.

5           What considerations led to the conclusion that these  
6 could be delayed?

7           As I read the reports the plant was not originally  
8 designed on the basis of taking into consideration the design  
9 basis formally. Calculations have been made to show what some  
10 of the resistance of some of the structures would be. I would  
11 like to have some discussion of what effects could be expected  
12 and, if you wish, what the probability would be of the design  
13 basis tornado interacting with the control room, the building  
14 in which the control room is located and also the building in  
15 which the decelerators are located and the effect that one  
16 could expect on the source of emergency power.

17           There is a statement in the staff Safety Evaluation  
18 that on the basis of the very low probability for wind speeds  
19 greater than 100 miles an hour at the Indian Point site and  
20 the resistance of these structures, that the unit is adequately  
21 protected against by winds.

22           I may have missed in the records any history of wind  
23 speeds greater than 100 miles an hour in this general area. If  
24 I have I would like for someone to call to my attention the  
25 place where this reference is located. If not, is there

1 information available on the frequency, the number of times  
2 when winds in this general area have exceeded 100 miles an hour.

3 On page 36 of the staff Safety Evaluation it is  
4 indicated that the Indian Point 2 reactor vessel cavity is  
5 designed to protect the containment against missiles that might  
6 be produced by postulated failure of the reactor vessel and  
7 it goes on to discuss some of this protection. The question  
8 here is concerned with whether the emergency core cooling  
9 system and the other provisions that have been made take into  
10 account such failure and, if not, why not?

11 In several places it is indicated that the applicant  
12 has provided results of analyses which indicate that the  
13 consequences of failure to scram during transients are tolerable  
14 for the existing Indian Point unit to desire at a power level  
15 of 2858 megawatt thermal. It says additional studies are  
16 required for this general question.

17 I would like to know what additional study is being  
18 made, whether there are results of such study and what the  
19 schedule is for completing those studies? I don't believe I  
20 have any more questions for this morning.

21 CHAIRMAN JENSCH: Let me just -- I have an Appendix  
22 C to the Safety Evaluation by the staff. It bears the number  
23 900 but it looks to be a portion of a letter from the Air  
24 Resources Environmental Laboratory. It seems like it should be  
25 followed by another letter but I do not have it. If that

1 could be supplied or I assume it is an error in the assembly,  
2 that part of that page is missing. But the page that I do have,  
3 however, raises some matters and your attention is directed  
4 to the entire item.

5 But the last sentence of the first paragraph says  
6 in reference to the original documentation of the Indian Point  
7 site about winds within certain sectors and so forth and says  
8 "Although this point is at a distance 580 meters from Unit 2,  
9 it is not in the most prevalent wind direction by a considerable  
10 amount."

11 What is "the most prevalent wind direction" if it is  
12 not that which was assumed for the calculations presented to  
13 the Air Resources Environmental Laboratory?

14 They state in their third paragraph, "It is our view  
15 that the use of the building wake effect in the long-term  
16 average diffusion equation, as was done by the applicant is  
17 inappropriate."

18 Was there a further computation made by eliminating  
19 the building wake effect and, if so, what results were derived  
20 from that computation?

21 The last preceding sentence of the second paragraph  
22 says "The only explanation we have for the ESSA value" -- and  
23 I take it that is the Environmental Science Services Administra-  
24 tion -- "being twice as high is the use of the building wake  
25 effect in the applicant's assumptions."

1           So I wonder if that matter could be either recalculated  
2 or reconsidered and comments of both the staff and the applicant  
3 given in that regard?

4           When I say the applicant and the staff, we are asking  
5 for the burden to be undertaken by the applicant and staff in  
6 that regard but it does not eliminate the comments we will  
7 welcome from the intervenors in all respects to which we  
8 have directed our concern. There undoubtedly will be other  
9 matters that the Board will indicate some concern on during  
10 the course of the hearing but as Dr. Briggs has indicated, this  
11 is as far as we can go at the moment and maybe this will start  
12 the opportunity for some consideration.

13           We would like to have also a comparison between the  
14 R&D indicated to be necessary at the construction permit stage  
15 at Indian Point No. 2 and that which is indicated or advisable  
16 at the operating stage of Indian Point No. 2.

17           Why have there been changes and what data has been  
18 developed to indicate that others are indeed advisable? We  
19 call your particular attention to the findings submitted by  
20 both the staff and the applicant in that regard as well as  
21 the Board's decision which was issued at the time of the con-  
22 struction permit for Indian Point No. 2.

23           We would like to have all of your concerns as  
24 reflected in the construction permit stage considered and  
25 presented by way of data in this proceeding regarding the

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1 operating license.

2 Have our concerns been indicated with sufficient  
3 clarity? Is there any comment or question or inquiry that  
4 any of the parties desire to present? Is there any other  
5 matters to be considered at this time?

6 MR. TROSTEN: Mr. Chairman, may I suggest this?  
7 We will undertake to prepare responses to the Board's questions.  
8 I believe it would be desirable if the Board were to decide  
9 at this time, Mr. Chairman, that a hearing would be scheduled  
10 for February 23 in which we would respond to some or all of  
11 the Board's concern since there have been a number of matters  
12 that were identified for which additional evidence should be  
13 introduced in the hearing and I suggest it is appropriate that  
14 we schedule a hearing at this time for consideration of these  
15 matters.

16 CHAIRMAN JENSCH: The concerns we expressed we feel  
17 can be answered at any type of hearing and whenever that does  
18 seem to be convenient to all the parties, I think it would be  
19 equally satisfactory to the Board and any further results by  
20 way of inquiry from the Board regarding responses I think can  
21 be developed at any hearing.

22 We would, however, be desirous of receiving your  
23 written responses when it is convenient for you to do so and  
24 if we have any further inquiry respecting those responses we  
25 will try to communicate to the applicant or the staff or any

1 parties, with copies of course to all parties and copies made  
2 available in the public document room, so it may be by way of  
3 written communications we can give further consideration to  
4 the responses so that the hearing may be lessened to some extent  
5 in that regard.

6 Is there any other matter that any one of the parties  
7 would desire to present at this time?

8 We will leave the February 23 date as a date for  
9 a hearing if the Board believes that it will expedite the  
10 hearing to have a hearing at that time and the Board will be  
11 guided in the determination to a great extent by the comments  
12 from the parties in that respect.

13 It doesn't appear to us at this time, however, that  
14 it will be of great advantage to continue the endeavors among  
15 the parties to secure information and to post inquiry for  
16 information and meeting again as we are here today so on,  
17 unless we have finally resolved each and every and  
18 all of the matters that can be developed by way of written  
19 interrogatories and written responses. The Board is more  
20 inclined to let this process continue until the parties say  
21 they have completed all of their discovery or have reached as  
22 far as they can go and believe the evidentiary hearing should  
23 be undertaken.

24 I take it from statements for counsel for the Citizens  
25 Fund and the Environmental Defense Fund, they do have further  
inquiries in that regard.

End

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MR. TROSTEN: We will prepare written responses to the Board's questions to the extent that this is practicable, Mr. Chairman. It may be some of the questions may be more appropriately answered by way of oral testimony. I might also make this point, Mr. Chairman, it may be that applicants will wish to adduce additional testimony in this proceeding beyond that which is already submitted, including rebuttal testimony.

We will make the recommendation to the Board prior to February 23 as to whether we think it would be appropriate that February 23 would be the time for receipt of such additional testimony or whether it could be received at a later point in the hearing.

CHAIRMAN JENSCH: Offhand, if I may say, if you serve whatever you propose to adduce additionally and if you serve it upon all the parties, they might have some comments in that regard. I think the mechanical process of receiving it is secondary in importance as to what the evidence is, and if you have rebuttal evidence, the intervenors or staff may have additional evidence too, so if we meet here on February 23 to just receive the rebuttal evidence it may not be worthwhile, but we would like to have responses from the staff and intervenors if they desire to submit anything further in this regard.

I think the entire thing should be flexible, however. The Board is not inclined at this moment to reconvene on February 23.



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If there is nothing further at this time, this conference hearing in the evidentiary proceeding is now concluded.

(Whereupon, at 11:45 a.m., the hearing was adjourned.)

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