

ATTACHMENT A

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Settlement Agreement

This Agreement, made this 19th day of December, 1980

by and among:

- (a) The United States Environmental Protection Agency ("EPA");
- (b) The Department of Environmental Conservation of the State of New York ("DEC");
- (c) The Attorney General of the State of New York ("AG");
- (d) Hudson River Fishermen's Association, Inc. ("HRFA");
- (e) Scenic Hudson, Inc. ("Scenic Hudson");
- (f) Natural Resources Defense Council, Inc. ("NRDC");
- (g) Central Hudson Gas & Electric Corporation ("Central Hudson");
- (h) Consolidated Edison Company of New York, Inc. ("Con Edison");
- (i) Orange & Rockland Utilities, Inc. ("O&R");
- (j) Niagara Mohawk Power Corporation ("Niagara Mohawk");
- and
- (k) Power Authority of the State of New York ("PASNY");

WITNESSETH That:

WHEREAS, in 1975 the EPA issued NPDES permits to the Utilities which in effect required the retrofitting of cooling towers at the Hudson River Power Plants; the Utilities requested adjudicatory hearings to contest the cooling tower and other requirements of the permits; such hearings were granted and the contested conditions of the permits were stayed;

and such hearings have been in progress since 1977 and are expected to take several more years before a final determination can be reached; and

WHEREAS, the above-named parties to this Agreement have engaged in intensive negotiations since August 1979 in an effort to serve the public interest by settling the issues in the adjudicatory hearings and in related proceedings and litigation; and as the result of such negotiations the parties have arrived at a settlement which they believe represents a fair and equitable balancing of the relevant social, energy, economic and environmental considerations and is in accordance with law.

NOW THEREFORE, in consideration of the foregoing and the mutual agreements hereinafter set forth, the parties hereto do hereby agree as follows:

Section 1. Definitions

When used in this Agreement, the following terms shall mean as follows:

(a) "Bowline" shall mean the fossil-fueled electric generating station owned by O&R and Con Edison located on the Hudson River at river mile 38 consisting of two generating units having a capacity of 600 megawatts each.

(b) "Roseton" shall mean the fossil-fueled electric generating station owned by Central Hudson, Niagara Mohawk and Con

Edison located on the Hudson River at river mile 66 consisting of two generating units having a capacity of 600 megawatts each.

(c) "Indian Point 2" shall mean the nuclear electric generating unit owned by Con Edison located on the Hudson River at river mile 43 and having a capacity of 850 megawatts.

(d) "Indian Point 3" shall mean the nuclear electric generating unit owned by PASNY located on the Hudson River at river mile 43 and having a capacity of 965 megawatts.

(e) "Hudson River Plants" shall mean Bowline, Roseton, Indian Point 2 and Indian Point 3, collectively.

(f) "Utilities" shall mean Central Hudson, Con Edison, O&R, Niagara Mohawk and PASNY, collectively.

(g) "Outage" shall mean the period during which the circulating water pumps at an electric generating unit are not operating except as specified in Section 4.A.

(h) "Unit-days", as used herein to measure the duration of an outage, shall mean the number of hours in the period from the beginning to the end of an outage of a generating unit, divided by 24. Fractional days resulting from such computation, rounded up to the nearest one-tenth of a 24 hour day (e.g., 0.25 equals 0.3), shall be aggregated and applied to the outage requirements of this Agreement.

Section 2. Consideration for Settlement to be Provided by Utilities

As consideration for the settlement provided for herein, each of the Utilities, severally and not jointly, covenants only for itself to do as follows:

A. Outage at Bowline

O&R and Con Edison shall assure an outage of either one or both of the two Bowline generating units for an aggregate of 30 unit-days each year between May 15 and June 30.

In addition, O&R and Con Edison shall assure an outage of either one or both of the Bowline generating units for an aggregate of 31 unit-days in the month of July in each of the first five years of the term of this Agreement. At the end of the five years, O&R and Con Edison shall continue to assure such outage in the month of July in each of the second five years of the term of this Agreement unless Con Edison and PASNY, in their discretion, shall elect to assure an aggregate of 14 unit-days of outage at Indian Point 2 and/or 3 between May 10 and August 10 in addition to the outages at Indian Point required by Section 2.C of this Agreement, in which event the outage of the Bowline unit in July shall not be assured during the second five years of the term of this Agreement.

B. Outage at Roseton

Central Hudson, Niagara Mohawk and Con Edison shall assure an outage of either one or both of the two Roseton generating units for an aggregate of 30 unit-days each year between May 15 and June 30.

C. Outage at Indian Point

Con Edison and PASNY shall assure outages at Indian Point 2 and Indian Point 3, between May 10 and August 10, for

a combined total of 42 unit-days per year averaged over the ten-year term of this Agreement (i.e., a total of 420 unit-days between May 10 and August 10 over the ten-year term). If Con Edison and PASNY shall elect to assure 14 additional unit-days of outage at Indian Point 2 and/or 3 pursuant to Section 2.A of this Agreement, the total outages to be assured by Con Edison and PASNY, between May 10 and August 10, shall be 434 unit-days over the ten-year term of this Agreement.

The outage obligations set forth above in Sections 2.A, 2.B and 2.C are subject to the further requirements of Section 4.G and to the provisions of Sections 4.D and 4.E below.

D. Dual Speed Pumps

1. Subject to the provisions of Section 4.M below, Con Edison and PASNY shall, no later than three and one-half years after the effective date of this Agreement, replace the circulating cooling water pumps at Indian Point 2 and Indian Point 3, respectively, with dual speed pumps in accordance with the general description set forth in Attachment I hereto, and shall use their best reasonable efforts to operate such pumps in such manner as will keep the volumes of river water drawn into the plants at the minimum required for their efficient operation, which volumes are approximated in the flow rates set forth in the chart below. Because the flow rate for any given period is dependent upon ambient river water temperature, flow rates for precise periods in the future cannot be specified. Also, the precise flow rates are dependent upon the final design of the new dual speed pumps which has not yet been prepared and flow rates

may differ from the chart because of the need to meet water quality standards or other permit requirements.

<u>Approximate Period</u>	<u>Average Maximum River Temperature During Period (°F)</u>	<u>Approximated Flow, gpm/unit</u>
Jan. 1 - May 15	67	504,000
May 16 - May 22	70	560,000
May 23 - May 31	72	672,000
June 1 - June 8	75	731,000
June 9 - Sept. 30	81	840,000
Oct. 1 - Oct. 31	76	731,000
Nov. 1 - Dec. 31	67	504,000

Any deviations from these approximated flow rates at Indian Point Unit 2 or 3 will be reported within five days by Con Edison and PASNY, respectively, to the DEC. Such reports shall state the nature and extent of the deviation and the explanation therefor.

2. Until the dual speed pumps are operational, Con Edison and PASNY shall similarly use their best reasonable efforts to keep the volumes of river water drawn into their respective Indian Point plants at the minimum required for their efficient operation, which volumes are approximated in the flow rates set forth in the chart below. In this instance also, because the flow rate for any given period is dependent upon ambient river water temperature, flow rates for precise periods in the future cannot be specified. In addition, flow rates may differ from the chart because of the need to meet water quality standards or other permit requirements.

<u>Approximate Period</u>	<u>Average Maximum River Temperature During Period (°F)</u>	<u>Approximated Flow, gpm/unit</u>
Jan. 1 - May 1	62	505,000 gpm/unit (60% flow)
May 1 - June 1	67	<u>Change:</u> from - 505,000 gpm/unit to - 840,000 gpm/unit (100% flow)
June 1 - Oct. 1	81	840,000 gpm/unit
Oct. 1 - Nov. 1	73	<u>Change:</u> from - 840,000 gpm/unit to - 505,000 gpm/unit
Nov. 1 - Dec. 31	66	505,000 gpm/unit

During the flow change periods in May and October, the Utilities will be permitted to defer the change on any condenser having a circulating cooling water pump out of service.

Any deviations from these approximated flow rates at Indian Point Unit 2 or 3 will be reported within five days by Con Edison and PASNY, respectively, to the DEC. Such reports shall state the nature and extent of the deviation and the explanation therefor.

3. The flow rates set forth above are the approximate flow rates when the unit is operating. During outages of an Indian Point unit, approximate flow rates for such unit are zero, except for purposes specified in Section 4.A. Nothing in this Section 2.D shall be construed to modify the requirements of this Agreement respecting outages at Indian Point.

E. Flow Rates at Bowline and Roseton

1. Con Edison and O&R shall use their best reasonable efforts to keep the volumes of river water drawn into the Bowline plant at the minimum required for its efficient operation, which volumes are approximated in the flow rates set forth in the chart below. Because the flow rate for any given period is dependent upon ambient river water temperature, flow rates for precise periods in the future cannot be specified. Also, the flow rates may differ from those set forth in the chart because of the need to meet water quality standards or other permit requirements.

<u>Approximate Period</u>	<u>Average Maximum River Temperature During Period (°F)</u>	<u>Approximated Flow, gpm</u>
Jan. 1 - May 14	61	514,000
May 15 - June 15	72	514,000
June 16 - Oct. 15	84	632,000*
Oct. 16 - Dec. 31	64	514,000

*The Bowline plant will operate at 632,000 gpm from June 16 through October 15 of each year, until such time as it is necessary to increase flows at each unit to 768,000 gpm in order to maintain unit efficiency or to meet thermal standards and such decision shall be reviewed on a weekly basis. The increase in flow will be at the sole discretion of Orange and Rockland, but will be considered a deviation from normal operating flows for the purposes of reporting.

Any deviations from these approximated flow rates at the Bowline plant will be reported within five days by O&R, as the plant operator, to the DEC. Such reports shall state the nature and extent of the deviation and the explanation therefor.

2. Con Edison, Niagara Mohawk and Central Hudson shall use their best reasonable efforts to keep the volumes of river water

drawn into the Roseton plant at the minimum required for its efficient operation, which volumes are approximated in the flow rates set forth in the chart below. Because the flow rate for any given period is dependent upon ambient river water temperature, flow rates for precise periods in the future cannot be specified. Also, the flow rates may differ from those set forth in the chart because of the need to meet water quality standards or other permit requirements.

<u>Approximate Period</u>	<u>Average Maximum River Temperature During Period (°F)</u>	<u>Approximated Flow, gpm</u>
Jan. 1 - May 14	60	418,000
May 15 - June 14	71	561,000
June 15 - Sept. 24	82	641,000
Sept. 25 - Oct. 16	72	561,000
Oct. 17 - Dec. 31	64	418,000

Any deviations from these approximated flow rates at the Roseton plant will be reported within five days by Central Hudson, as the plant operator, to the DEC. Such reports shall state the nature and extent of the deviation and the explanation therefor.

3. The approximated flow rates set forth above for the Bowline and Roseton plants refer to periods when both units at the respective plants are operating. When one unit at the Bowline plant is required to be out of service under this Agreement, the approximated flow rates shall be 50% of those set forth above for the relevant period, and when one unit at the

Roseton plant is required to be out of service under this Agreement, the approximated flow rates shall be 70% of those set forth above for the relevant period.

Nothing in this Section 2.E shall be construed to modify the requirements of this Agreement respecting outages at the Bowline and Roseton plants.

F. Angled Screens; Barrier Net

1. Con Edison and PASNY shall install angled screens at Indian Point 2 and Indian Point 3, respectively, in accordance with the general description and schedule set forth in Attachment II hereto. Said schedule shall be subject to the provisions of Section 4.M below. For the purpose of this Agreement, the estimated cost of such angled screens is \$20,000,000 in 1980 dollars, but the obligations of Con Edison and PASNY shall not be limited to such amount if additional funds are needed to install such screens.

2. Con Edison and PASNY shall consult with HRFA with respect to the design of the angled screens and the design proposed by Con Edison and PASNY shall be subject to the approval of EPA and DEC, which approval shall not be unreasonably withheld, shall not unnecessarily adversely affect the operations of Indian Point Units 2 or 3, and shall not cause an increase in the cost of the screens above \$20 million in 1980 dollars.

3. If Con Edison, PASNY, DEC and EPA shall hereafter agree that it is not desirable or possible to proceed further with the design and installation of the angled screens, Con Edison and PASNY shall

thereupon cease such activities. To the extent that, at that point, the amounts expended by Con Edison and PASNY for the design and installation of the screens, plus the amounts required to dismantle and terminate the project, are less than \$20 million in 1980 dollars, the difference in 1980 dollars shall be applied to such alternative mitigation measures as the parties to this Agreement may mutually agree upon or, absent such agreement, shall be contributed to the research fund established pursuant to Section 2.I below. For the purpose of this Section 2.F, 1980 dollars will be escalated in accordance with the Con Edison Construction Cost Index.

4. During each year of the term of this Agreement, O&R and Con Edison shall continue to maintain and deploy a barrier net at Bowline from approximately mid-October to the end of May of the following year.

G. Hatchery

1. The Utilities shall construct, lease or contract for the operation of a hatchery on or adjacent to the Hudson River for the stocking of the River with 600,000 three-inch striped bass fingerlings per year for a period commencing May 1, 1983 and ending at the expiration of the term of this Agreement, subject to the provisions of Section 4.M below. None of the Utilities shall be liable in any way for the results of the operation of the hatchery or the stocking of the fingerlings, but they shall be obligated in good faith and in accordance with the state of the art to provide a hatchery

and its operation, by contracting for the same or otherwise, capable of producing the fingerlings described above.

2. All reproductive products (brood stock, eggs, milt) must come from the Hudson River or its tributaries. No eggs, larvae or fingerlings may be distributed or stocked in locations other than the Hudson River estuary unless prior approval is granted by DEC.

3. Plans for the construction and operation of the hatchery shall be proposed by the Utilities (or their contractor) after consultation with ERFA. Such plans shall be subject to DEC's approval prior to construction in accordance with its regulatory responsibilities, which approval shall not be unreasonably withheld. If the Utilities decide to provide the hatchery and its operation by contracting for the same, the selection of the contractor shall be subject to DEC's approval, which approval shall not be unreasonably withheld. When the hatchery commences operations, the Utilities or their contractor shall maintain detailed production records as specified by DEC and shall issue annual production reports. Such records shall be subject to inspection and copying by the parties to this Agreement and the parties shall also be furnished with the annual production reports and their representatives shall be granted permission to visit the hatchery during normal operating hours.

H. Cornwall Project and Conveyance of Cornwall Land

1. Con Edison shall promptly seek authorization from the

Federal Energy Regulatory Commission to surrender its license for the Cornwall pumped-storage project and to terminate the project and, promptly after the effective date, shall convey its interest in the land described in Attachment III hereto and its interest in all the land held by it (approximately 340 acres) west of and behind the summit of Storm King Mountain to the Palisades Interstate Park Commission by quit claim deed as a donation, exclusively for use as a public park. Con Edison shall have the right to convey some of the riverfront parcels to the Village of Cornwall, also exclusively for use as a public park. The parcels which may be so conveyed are described in Attachment III-A. The parcels described in Attachment III-A include two lots, each 50' x 100', adjacent to the yacht club premises. Nothing contained herein or in said deeds shall prevent the Village of Cornwall from conveying said lots to the yacht club exclusively for its club purposes provided that no new structures of more than one story shall be constructed thereon. All deeds shall provide that that the exclusive use and restrictive covenants therein shall be enforceable by the grantee, Scenic Hudson and AG, or either of them. At the effective date of this Agreement Con Edison shall take appropriate action to terminate its easement rights at the Cornwall project site.

2. Each of the Utilities agrees that during the term of this Agreement it will not, directly or indirectly and whether alone or in participation with others, seek to construct a power plant at the site of the Cornwall project.

3. It shall be a condition to the foregoing covenants in this Section 2.H that all non-utility parties to this Agreement other than EPA, AG and DEC, if so requested by Con Edison shall support Con Edison's application to the New York State Public Service Commission for deferred accounting and allowance in Con Edison's electric rates of the amortization over a reasonable period of years of its investment in the Cornwall project. Such support shall be in the form of the filing of supporting affidavits, the giving of testimony at a hearing or in such other manner as Con Edison may reasonably request. EPA and DEC agree that they will not oppose Con Edison's application for the aforesaid rate treatment, and they, together with HRFA, Scenic Hudson and NRDC, further agree that if requested by the Utilities, or any of them, they each shall provide a witness to furnish testimony at a proceeding before the New York State Public Service Commission that in their respective opinions the settlement evidenced by this Agreement is in the public interest and is environmentally sound.

I. Funding of Independent Research

The Utilities shall provide a lump sum endowment of \$12 million to fund an independent research program to advance the scientific understanding and management of the Hudson River fishery. A more detailed scope of the research program and a description of the manner in which the endowment fund shall be administered are set forth in Attachment IV hereto.

J. Biological Monitoring Program

The Utilities will conduct a biological monitoring program on the Hudson River as described in Attachment V hereto. The Utilities will conduct the program at a cost of at least \$2 million per year, adjusted annually from the base year, which shall be the first year of the term of this Agreement, in accordance with the Implicit Price Deflator, GNP, published by the U.S. Department of Commerce in the Survey of Current Business. The Utilities shall not be required to spend more than \$2 million per year, as so escalated, for the conduct of the biological monitoring program. The monitoring requirements in the SPDES permits to be issued by DEC to the Utilities for their Hudson River Plants will be consistent with the biological monitoring program described in Attachment V.

K. Fees and Costs

The Utilities will reimburse ERFA, Scenic Hudson and NRDC for their actual legal costs and attorneys' fees in administrative and court proceedings related to protection of aquatic life on the Hudson River in an aggregate amount not to exceed \$500,000. The provision for fees to NRDC and other counsel for rendering legal services in such proceedings shall be limited to an amount computed solely on a time basis at reasonable professional rates prevailing from time to time in the New York City area during the period in which the services were rendered for legal services of a comparable nature.

L. Future Hudson River Plants

During the term of this Agreement, the Utilities will not seek authorization to use once-through cooling in any new steam-electric generating facility having a capacity of 50 Mw or more which they may seek to construct on the Hudson River, north of the George Washington Bridge. For the purposes of this Agreement, the replacement on the same site of 30% or less of the present full load generating capacity of the Lovett Electric Generating Station or the Danskammer Point Electric Generating Station shall not be deemed to be a new facility if the rate of discharge of heat or the volume rate of flow of cooling water to the Hudson River is not increased above the current maximum rates attainable at full load. Allowing the Utilities to seek such authorization shall in no way be construed as an implied agreement by any party that such authorization should be granted. This provision shall not restrict Niagara Mohawk from seeking authorization to use once-through cooling in any new facility proposed to be constructed north of the southernmost boundary of the site upon which the Albany Steam Electric Generation Station is presently located.

Section 3. Consideration for Settlement to be Provided by Other Parties

As consideration for the settlement provided for herein, the parties named below agree as follows:

A. Promptly after the execution of this Agreement, EPA, through its Enforcement Division, will initiate such actions as are

necessary to permit EPA to issue a consent or other order embodying the terms of this Agreement and terminating with prejudice all issues in the adjudicatory hearings and the cases now pending before the EPA in which such hearings are being held (Docket No. C/II-WP-77-01), including in such order all stipulated agreements for non-thermal issues. Such actions will include such motions as may be necessary to the Presiding Administrative Law Judge and, subsequently, to the Administrator or Regional Administrator, all in accordance with EPA's required procedures in order to permit the Regional Administrator to reach a decision on the proposed order. Any such order may be conditioned on the effectiveness of this Agreement, as provided for in Section 4.M below, but the Agreement itself shall not become effective unless and until such order has been issued or EPA's role with respect to the above cases has otherwise ended. Nothing contained in this paragraph A shall impair the obligations of the DEC as set forth in paragraph B below.

B. Promptly after the effective date of this Agreement:

(i) DEC, in accordance with applicable law, shall issue to each of the Utilities SPDES permits for their respective Hudson River Plants which will permit, during the entire ten-year term of this Agreement, continued operation with the existing once-through cooling systems unaltered by thermal or intake requirements, subject only to performance by the Utilities of their respective covenants as set forth in this Agreement. This Agreement shall be annexed to the SPDES permits and shall be

incorporated therein as a condition of said permits.

(ii) HRFA shall discontinue with prejudice its suit against O&R, et al (72 Civ. 5460) and its suit against Central Hudson et al (72 Civ. 5459), which suits are now pending in the United States District Court for the Southern District of New York.

(iii) The AG shall discontinue with prejudice the action pending in the Supreme Court of the State of New York, County of New York, entitled "People of the State of New York, Plaintiff, -- against -- Consolidated Edison Company of New York, Inc., Defendant," Index No. 41228/1970.

(iv) DEC, in accordance with applicable law, shall issue to O&R for its Lovett Electric Generating Station SPDES permits which will permit continued operation with existing once-through cooling systems unaltered by thermal or intake requirements, during the entire ten-year term of this Agreement, subject to review by DEC if major plant modifications, including but not limited to coal conversion or the replacement of any unit, are proposed by O&R which increase the rate of discharge of heat or the volume rate of flow of cooling water to the Hudson River above the current maximum rates attainable at full load.

(v) DEC, in accordance with applicable law, shall issue to Central Hudson for its Danskammer Point Electric Generating

Station SPDES Permits which will permit continued operation with the existing once-through cooling systems unaltered by thermal or intake requirements, during the entire ten-year term of this Agreement, subject to review by DEC if major plant modifications, including but not limited to coal conversion or the replacement of any unit, is proposed by Central Hudson which increase the rate of discharge of heat or the volume rate of flow cooling water to the Hudson River above the current maximum rates attainable at full load. Such SPDES Permit for the Danskammer Point Electric Generating Station will provide for the conduct of a research program to test potential measures, applied at the intake, for mitigating the impact of impingement and/or entrainment of aquatic biota. Such research program will commence in the base year, which shall be the year following the year in which the angled screen test project, currently being conducted at the plant by the Empire State Electric Energy Research Corporation, terminates. Central Hudson will consult with the DEC concerning the nature and content of such research program, provided, however, that the aggregate annual cost of such research program will not exceed \$150,000 per year in the base year (adjusted annually after the base year by the GNP Implicit Price Deflator). A copy of all original data, analyses and reports produced in the conduct of such research program will be furnished to the DEC.

C. Subject to compliance by the Utilities with their

obligations hereunder, EPA, DEC, AG, HRFA, Scenic Hudson and NRDC agree that they will not seek or in any way support a requirement for closed cycle cooling at any of the Hudson River Plants during the entire ten-year term of this Agreement.

D. Additionally, if requested by any one or more of the Utilities, each of the other parties to this Agreement will support the Utilities, or any of them, in seeking the approvals or other authorizations required or desired by the Utilities, or any of them, from the U.S. Nuclear Regulatory Commission, the Federal Energy Regulatory Commission, and all other state and federal regulatory agencies, and from all intervenors and other participants in EPA Docket No. C/IIWP-77-01, for the implementation of the settlement provided for in this Agreement and for the recovery in rates of the costs of such implementation. Such support shall be in the form of the filing of supporting affidavits, the giving of testimony at a hearing or in such other manner as the Utilities, or any of them, may reasonably request. With respect to such cost recovery in rates, EPA and DEC shall not be required to provide support, but they hereby agree not to oppose such recovery.

Section 4. Other Terms and Conditions

A. Use of Circulating Water Pumps During Outages

During the outages specified in Sections 2.A, 2.B and 2.C hereof, the Utilities shall not operate the circulating cooling water pumps of the electric generating units at which the outages

are being taken except for such periods as may be required for testing, maintenance or discharge of dilution.

B. Access to Data

The parties to this Agreement shall cooperate in the establishment of the independent research program provided for in Section 2.I hereof. Each party shall be entitled to obtain copies of, or have access to inspect, the research material collected in the operation of the program and to obtain copies of all original data, studies, reports, analyses and other documents produced in the course of the research program and in the course of the monitoring program provided for in Section 2.J hereof.

C. Record-Keeping of Outages

Accurate records shall be maintained during the term of this Agreement of the outages at Bowline, Roseton and Indian Point provided for in Section 2.A, 2.B and 2.C hereof by the respective operators of the generating units at those stations. Such records shall show the date, time of commencement and time of termination of each outage. The parties to this Agreement shall have the right to inspect such records at the office of the respective utility during regular business hours during the term of this Agreement.

D. Suspension and Make-up of Outages

1. With respect to the outages at Bowline, Roseton and Indian Point provided for in Sections 2.A, 2.B and 2.C hereof,

any utility referred to in such Sections shall be excused from complying with any such outage requirement to the extent necessary, as certified by the chairman of the New York State Public Service Commission ("PSC"), or his designee, to avoid an imminent and undue risk of an inadequate supply of electricity or inadequate reserves in the New York Power Pool taking into account the availability of purchased power from outside sources.

Such certification need not be the act or order of the PSC and may be made ex parte. Nevertheless, if the circumstances permit, reasonable attempts to give prior notice, orally or in writing, to the parties to this Agreement shall be made by the utility seeking the certification, and such parties shall be entitled to be present at the meeting with the chairman of the PSC or his designee. Notwithstanding the foregoing, in emergency circumstances, such as major equipment or transmission failures or losses, as determined by the Utilities, required outages under this Agreement may be suspended by the Utilities themselves (or the particular Utility or Utilities involved in such emergency circumstances), without prior approval of the chairman of the PSC or his designee. Any such suspended outages, as well as any suspended outages under the preceding paragraph shall be made up as provided in Section 4.D.2 below.

2. Any part or all of an outage suspended under Section 4.D.1 above shall be made up by the respective utility or utilities by application of the system of cross-plant outage credits,

referred to in Section 4.E, during the remainder of the year plus the two immediately following years, subject to the following:

(a) The obligation to achieve a minimum of 175 unit-days of outages at Indian Point by the end of the fifth year of the term of this Agreement and the obligation to achieve a minimum of 371 unit-days of outages by the end of the ninth year of the term of this Agreement must be complied with in any event by those dates, whether or not Indian Point outages in any particular year or years have been suspended pursuant to this Section 4.D.

(b) Suspended outages at Bowline and Roseton in any year must be made up no later than the end of that year plus the two immediately following years. They cannot be accumulated with further suspended outages and carried over to a fourth year. The effect of this provision is that, by reason of reliability problems, the Bowline and Roseton outages, together with applied cross credits cannot be more than two years behind schedule.

(c) If all required outages have not been achieved, either directly or through cross credits, by the end of the tenth year of the term of this Agreement, the Utilities will not be in default unless they are not made up in the immediately succeeding year (i.e., the year after the expiration of the term of this Agreement).

E. Cross-Plant Outage Credits

The outages required by Sections 2.A and 2.B hereof, or any make-up of such outages pursuant to Section 4.D hereof, may

be modified by the Utilities, in their sole discretion, by application of the system of cross-plant outage credits described in Attachment VI hereto. Except as otherwise provided in Section 4.D.2, cross credits may be used only in the same year as the year of the outage to which they are to be applied.

F. Force Majeure

Required outages under this Agreement are subject to being excused solely in accordance with Section 4.D above. In addition, none of the Utilities shall be deemed to be in breach of, or liable for any delay or failure to perform, any of its construction or equipment installation obligations under this Agreement if such breach, delay or failure arises from any cause beyond its reasonable control, including but not limited to: any delay or failure to grant a permit or other regulatory authorization required by law to be granted by any Federal, State or local governmental authority; or any regulation, law or prohibitory or mandatory action of any Federal or State governmental authority; or accidents; labor disputes; shortages of materials, equipment or labor; floods; epidemics; war; riots; explosions; storms; failure of transportation facilities or other major interferences.

Any delay occasioned by force majeure shall extend the Utilities' time for completion of the facility or facilities affected thereby by the period of time equal to such delay. The Utilities shall, where necessary, act to remove the cause of delay including, but not limited to, the prompt commencement and prosecution of litigation. Subject to Section 2.F.3 the occurrence

of a force majeure which results in impossibility of performance of an obligation shall excuse performance and any monetary penalty otherwise applicable hereunder with respect to such obligation.

G. Outage Compliance Schedule and Remedy for Breach

1. Subject to the provisions of Section 4.D above and Attachment VI, the outage obligations at Bowline and Roseton specified in the first paragraph of Section 2.A and in Section 2.B above must be met in each year; provided, however, that such obligations are subject to alternate compliance, in whole or in part, by the application of the cross-plant outage credit system.

2. The outages at Indian Point required by Section 2.C shall comply with the following schedule:

(a) At the end of the fourth year of the term of this Agreement, a minimum of 140 unit-days of outages shall have been taken. If this minimum is not met, a minimum of 175 unit-days of outages shall have been taken by the end of the fifth year of the term of this Agreement.

(b) At the end of the eighth year of the term of this Agreement, a minimum of 315 unit-days of outages shall have been taken. If this minimum is not met, a minimum of 371 unit-days of outages shall have been taken by the end of the ninth year of the term of this Agreement.

(c) At the end of the tenth year of the term of this Agreement, 420 unit-days of outages shall have been taken, or 434 unit-days if Con Edison and PASNY shall have elected to assure 14 unit-days of outages at Indian Point pursuant to Section 2.A of this Agreement.

(d) In six of the ten years of the term of this Agreement, there shall be a minimum of 14 unit-days of outages between May 15 and July 15.

3. If any of the foregoing schedules and requirements in this Section 4.G is not complied with, and such non-compliance is not excused or cured pursuant to the provisions of Sections 4.D or 4.E, the Utilities shall expeditiously install a closed cycle cooling system at one of the two Indian Point generating units.

B. Monetary Penalty for Unexcused Installation Delays

It is agreed that the hatchery, angled screens and dual speed pumps shall be completed and ready for use by the following dates, subject in each case to the provisions of Sections 4.F and 4.M:

- (a) Hatchery by May 1, 1983;
- (b) Angled screens at one Indian Point Unit by the end of four years and two months after the effective date of this Agreement;
- (c) Angled screens at the other Indian Point Unit by the end of six years after the effective date of this Agreement; and

- (d) Dual speed pumps at both Indian Point Units by the end of three years and six months after the effective date of this Agreement.

The failure to meet any such completion date, unless extended or excused by Sections 4.F or 4.M above, shall be a separate breach and for each such breach the Utilities shall pay into the fund established for the independent research program under Section 2.I for each full week subsequent to the applicable completion date until the particular facility is completed and ready for use, monetary penalties at the rate of \$5,000 per week for the first six months or fraction thereof, \$10,000 per week for the second six months or fraction thereof and \$25,000 per week for any period thereafter; provided, however, that the maximum amounts of the monetary penalty shall be \$1 million for the hatchery, \$10 million per unit for angled screens at each of the two Indian Point Units and \$7.5 million per unit for dual speed pumps at each of the two Indian Point Units, in each case less the total amounts expended by the Utilities for the installation of such facilities. If any such breach is willful, the amount of the monetary penalties shall be adjusted annually from the base year, which shall be the first year of the term of this Agreement, in accordance with the Implicit Price Deflator, GNP, published by the U.S. Department of Commerce in the Survey of Current Business. The amounts set forth above are in addition to any other remedies that may be available to the non-utility parties in equity or at law, including but not limited to

any penalties which may be sought by any agency pursuant to statute.

I. Annual Reports

On or before November 1 of each calendar year during the term of this Agreement, the Utilities shall submit a report to all the parties hereto showing, for the preceding year, the dates and duration of all outages taken to meet the outage requirements of this Agreement, the uses made of the cross-plant outage credit system, the work performed on the installation of the hatchery, angled screens and dual speed pumps and the status of those projects, and a summary of material deviations in the approximated flow rates at the Hudson River Plants. Such reports shall be certified by senior officers of the Utilities having responsibility for the reported matters and shall be mailed to the parties. These reports are in addition to any other reports required by law or regulation.

J. Mailing Addresses

All reports and other documents to be sent to parties to this Agreement shall be sent by United States mail to their respective addresses listed in Attachment VII or such other addresses specified by them in writing.

K. Modification

This Agreement may not be modified except by the written consent of all the signatory parties hereto.

L. Term

The term of this Agreement shall extend for ten years from the date on which it becomes effective. At the expiration of said term no party hereto shall have any further obligations hereunder.

Notwithstanding the foregoing, the following obligations shall continue beyond the term of this Agreement:

1. Unless otherwise excused under this Agreement or by other agreement of the parties, the Utilities shall be obligated to (A) complete any facilities which they are required to install or build under this Agreement but which have not been completed prior to the end of the 10-year term hereof (including a cooling tower, if required, under Section 4.G); (B) continue to pay any monetary penalties to which they are subject under Section 4.H; (C) carry out other unexecuted agreements, if any, with respect to alternate mitigation and (D) pay over any amounts due to the research fund pursuant to Section 2.F.3 if the parties have not reached agreement on alternate mitigation.

2. With respect to any new steam-electric generating facility having a capacity of 50MW or more which the Utilities, or any of them, may seek to construct on the Hudson River north of the George Washington Bridge and which will be scheduled for completion within fifteen years after the end of the ten-year

term of this Agreement, the Utilities shall propose that the cooling system to be built into such facility shall be closed cycle cooling. This provision shall not restrict Niagara Mohawk from seeking authorization to use once-through cooling in any new facility proposed to be constructed north of the southernmost boundary of the site upon which the Albany Steam Electric Generating Station is presently located.

3. If the date when the hatchery begins to operate is delayed beyond May 1, 1983 by reason of delays that are not excused by Force Majeure, as defined in Section 4.F, then the Utilities shall be obligated to operate the hatchery for as long a period beyond the term of the Agreement as operations were deferred by reason of such unexcused delays.

M. Effective Date

1. This Agreement shall become effective upon the date when the last of the following occurs:

(a) The date when the EPA order referred to in Section 3.A above is issued and has been consented to by the National Marine Fisheries Service and the Attorney General of the Commonwealth of Massachusetts.

(b) The date when each of the parties to the stipulation set forth in the Final Environmental Statement

for Indian Point Unit 3 (NUREG 75/002), pp. xvi-xxxi, other than the New York Atomic Energy Council and the NRC Regulatory Staff, shall agree that on the effective date of this Agreement, such stipulation shall have no further effect. Each party to this Agreement, by execution hereof, so agrees.

(c) The date when the New York State Public Service Commission approves this Agreement. For the purpose of this Section, approval of the N.Y. State Public Service Commission shall mean that said Commission, after following such procedures as it deems appropriate, shall issue an order (i) finding that Central Hudson, Con Edison, O&R and Niagara Mohawk acted prudently in entering into this Agreement and the Utilities' Cost Sharing Agreement; (ii) authorizing each of said utility companies to establish an appropriate deferred account for their respective costs incurred as a result of this Agreement and the Utilities' Cost Sharing Agreement, including specifically those costs incurred under Section 2.G, 2.I, 2.J and 2.K of this Agreement, pending a determination by the Commission in appropriate rate proceedings; (iii) authorizing Con Edison to establish an appropriate deferred account for its investment in the Cornwall project pending a

determination by the Commission in appropriate rate proceedings; and (iv) consenting, pursuant to Section 70 of the Public Service Law, to the transfer by Con Edison of certain land at the site of the Cornwall project as provided in this Agreement.

(d) In the event O&R determines that such approval is necessary or desirable, the date when the N.J. Board of Utility Commissioners approves O&R's participation in this Agreement. The approval of the N.J. Board of Utility Commissioners shall mean, for the purpose of this Section, that said Board, after following such procedures as it deems appropriate, shall issue an order with the finding and authorization applicable to O&R as set forth in clauses (i) and (ii) in paragraph 1 (c) of this Section.

2. (a) If this Agreement has not become effective by May 15, 1981 due to the failure to obtain the approvals of the N.Y. Public Service Commission and the N.J. Board of Utility Commissioners required under paragraphs 1(a) and 1(c) above, then, unless the Utilities have waived such approval requirements on or before that date, any of the non-Utility parties to this Agreement may, at any time after that date and prior to the receipt of such approvals, opt out of this Agreement by giving the other parties ten days prior written notice of its election to do so.

(b) If this Agreement has not become effective by May 15, 1981 due to the failure of EPA to issue the order referred to in Section 3.A above or to obtain the consents of the National Marine Fisheries Services and the Attorney General of the Commonwealth of Massachusetts, or the failure to obtain the signatures required under paragraph 1(b) above, any of the Utilities may, at any time after that date and prior to the issuance of such order and the receipt of such consents and signatures, opt out of this Agreement by giving the other parties ten days prior written notice of its election to do so.

If any party shall opt out of this Agreement, as provided above, the Agreement shall terminate.

If this Agreement has not become effective by May 1, 1981, the Utilities may nevertheless elect to initiate their outage obligations beginning May 10, 1981 even though this Agreement has not become effective. If the Utilities so elect, they shall give the other parties hereto written notice of their election on or before May 1, 1981, and in such event, the Utilities shall be obligated to meet their specified outage requirements for 1981 and all subsequent periods until this Agreement either becomes effective or is terminated. If this Agreement becomes effective, the Utilities shall be credited with the outages taken in 1981 prior to the effective date and the term during which the outages must be taken hereunder shall be deemed to run from May 10, 1981.

If the Utilities do not elect to initiate their outage obligations in May 1981, such obligations shall commence on the first May 10 after the effective date of this Agreement and shall continue for the term during which the outages must be taken hereunder.

3. The parties agree that EPA shall have jurisdiction over the permits and hearings in EPA Docket No. C/II-WP-77-01 until 60 days after this Agreement becomes effective or terminates pursuant to paragraph 2 above, or for such other shorter or longer period as EPA and DEC may agree upon.

4. The parties recognize that the NRC's current licenses for Indian Point 2 and 3 require closed-cycle cooling at those plants. This Agreement represents and constitutes the agreement of all the parties hereto that the provisions of the Agreement applicable to Indian Point 2 and 3 should be substituted in lieu of the closed-cycle cooling requirements at Indian Point 2 and 3, and each party agrees to support applications by Con Edison and PASNY to the NRC to modify its requirements accordingly.

5. Any other provision of this Agreement to the contrary notwithstanding, Con Edison and PASNY shall be under no obligation to order or commence installation or construction of the dual speed pumps referred to in Section 2.D.1 above and/or

the angled screens referred to in Section 2.F above, unless and until the NRC has given its approval as defined below, but Con Edison and PASNY shall undertake the design of such facilities promptly after the effective date and to file applications for required regulatory approvals. To the extent that the NRC's approval requires more than 18 months, the period for installation of the dual speed pumps shall be extended by one month for each month of NRC delay beyond 18 months, and to the extent that the NRC's approval requires more than 24 months, the period for completion of the angled screens shall be extended by one month for each month of NRC delay beyond 24 months. For the purpose of this Section, "NRC approval" shall mean that the U.S. Nuclear Regulatory Commission, following its usual procedures, shall authorize such amendments to the operating licenses and technical specifications for Indian Point Units 2 and 3 as are necessary to permit Con Edison and PASNY to carry out their respective obligations under this Agreement relating to said Indian Point Units.

6. If, for any reason, the NRC refuses to modify the closed-cycle cooling requirements at Indian Point and closed-cycle cooling must ultimately be constructed, the obligations of Con Edison and PASNY hereunder with respect to Indian Point 2 and 3, including the outage obligations and the obligations to install dual speed pumps and angled screens, may, at their option, be terminated, but the Utilities' other obligations under this Agreement, insofar as

effective, shall continue, as shall the obligations of the other parties.

N. Disclaimer of Admissions

This Agreement and the settlement evidenced hereby have been entered into by the parties for the purpose of resolving a protracted controversy through negotiation in a manner designed to serve the public interest. In so doing, the parties agree that nothing herein shall be construed as an admission or opinion by any of them with respect to the merits of any claims or issues related to any proceeding and other litigation settled hereby.

O. Venue for Enforcement Actions

In any action or actions brought to enforce this Agreement, or any part thereof, the parties hereto consent to venue in the United States District Court for the Southern District of New York or the Supreme Court, New York County.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the date first above written.

U.S. Environmental Protection
Agency

Central Hudson Gas & Electric
Corp.

By

Charles A. Wain

By

Charles E. Baker

K. G. Wain
(Title)

Charles E. Baker
(Title)

The Department of Environmental
Conservation of the State
of New York

By

Robert L. H.

(Title)

Consolidated Edison Company
of New York, Inc.

By

Charles F. Lee

(Title)

Hudson River Fishermen's
Association

By

By Robert H. Boyle
President
(Title)

(Title)

Orange & Rockland Utilities, Inc.

By

James L. Lundy
Chairman
(Title)

(Title)

Scenic Hudson Preservation Conference

By

Frances Stevens Reese

Chairman Seenie Hudson
(Title)

(Title)

Niagara Mohawk Power Corporation

By

(Title)

Natural Resources Defense
Council, Inc.

By

Chairman
(Title)

(Title)

Power Authority of the
State of New York

By

George Perry
President and Chief Executive Officer
(Title)
Subject to approval by Trustees

(Title

Subject to approval by ^(Title) Trustee.

The Department of Environmental
Conservation of the State
of New York

By _____

(Title)

Hudson River Fisherman's
Association

By _____

(Title)

Scenic Hudson Preservation
Conference

By _____

(Title)

Natural Resources Defense
Council, Inc.

By _____

(Title)

Consolidated Edison Company
of New York, Inc.

By _____

(Title)

Orange & Rockland Utilities, Inc.

By _____

(Title)

Niagara Mohawk Power Corporation

By Richard C. Carey

Senior Vice President
(Title)

Power Authority of the State of
New York

By _____

(Title)

The Attorney General of the
State of New York

By

Robert H. Kohn

(Title)

ATTACHMENT I

DUAL SPEED PUMPS

General Description

The dual speed pumps will be designed to operate at 140,000 gpm at full flow which is the capacity of the existing one speed cooling water pumps. The reduced flow would be 84,000 gpm (60% of full flow). The dual speed cooling water pumps will be designed to fit the existing cooling water pump installation.

Schedule

The dual speed pumps will be operational at both Indian Point 2 and 3 3-1/2 years after the effective date of the settlement agreement.

ATTACHMENT II

ANGLED SCREENS

General Description

The intake structures of Indian Point Units Nos. 2 and 3 will be modified to provide for angled screens. The objective of the angled screens is to create a component of the water velocity parallel to the angled screen which will direct fish to a bypass. The bypass will direct the fish to a collection area and ultimately back to the river away from the immediate influence of the intakes.

Schedules

Concept studies, verified by scale hydraulic model studies, and final design are expected to be accomplished in approximately two years from the effective date of the settlement agreement. Complete installation at one unit would be completed in approximately 4.2 years from such effective date and installation at the second unit would be completed in approximately 6 years from such effective date.

ATTACHMENT III

CORNWALL LAND TO BE CONVEYED TO

PALISADES INTERSTATE PARK COMMISSION

1. All the land owned by Con Edison at the base of Storm King Mountain south and east of the Cornwall Yacht Club, being the land generally marked Area A on the "Map of Lands of Consolidated Edison Co. of New York, Inc. for Cornwall Pumped Storage Project dated 11/17/73" (the "Map") which is annexed to the original of this Settlement Agreement and more fully described on the sheets which follow in the Attachment III Supplement thereto.
2. All underwater lands in the Hudson River at Cornwall owned by Con Edison, being the lands generally marked Area B on the Map.
3. All the lands owned by Con Edison in the vicinity of the so-called Upper Reservoir, being the lands generally marked Area C on the aforesaid Map.

ATTACHMENT III - SUPPLEMENT

CORNWALL LAND

PARCEL I

All that parcel of land situate in the Village and Town of Cornwall, County of Orange and State of New York bounded and described as follows:

Beginning at an iron pin found in the most easterly corner of the herein described parcel, said iron pin being in the northerly line of lands now or formerly of Pickering and the southerly line of lands formerly of New York Central Railroad Company (West Shore Division) now Conrail, thence along said railroad lands the following seven courses,

- (1) North 59°-49'-40" East 69.16 feet to a point,
- (2) South 52°-53'-50" East 104.40 feet to a point,
- (3) South 53°-44'-30" East 101.49 feet to a point,
- (4) South 56°-24'-30" East 102.62 feet to a point,
- (5) South 59°-29'-00" East 62.25 feet to an iron pin found,
- (6) 245.82± feet on a curve to the left having a radius of 1,482.69 feet and a long chord of South 65°-51'-24" East 245.54± feet to a point,
- (7) North 31°-36'-12" East 12.36 feet to a point in the center of Shore Road, thence along the center of Shore Road the following four courses,
- (8) South 61°-32'-40" East 163.20 feet to a point,
- (9) South 57°-10'-00" East 138.30 feet to a point,
- (10) South 62°-16'-00" East 179.65 feet to a point,
- (11) South 83°-15'-20" East 143.63 feet to a point, thence leaving Shore Road,
- (12) North 17°-52'-00" East 36.00 feet ± to a point,
- (13) North 78°-30'-20" East ± 129.82 feet ± to a four foot diameter three foot high conical boulder found; thence along the shore line of the Hudson River,
- (14) North 73°-53'-40" East 76.24 feet to a point, thence crossing said railroad lands,
- (15) North 78°-47'-10" East 427.51 feet to a point,

- (16) Easterly along the river bank of the Hudson River to a point (said point being South 62°-52' East 775.30 feet distant in a straight line from the preceding point, thence
- (17) South 25°-41'-30" West 9.20 feet, thence crossing lands formerly of New York Central Railroad Company, (West Shore Division) now Conrail,
- (18) South 25°-41'-30" West 104.34 feet; thence along the northerly line of lands formerly of New York Central Railroad Company,
- (19) South 45°-54'-00" East 416.00 feet to a point, thence leaving said railroad lands and running along lands of the City of New York Department of Water Supply, Gas and Electricity the following courses,
- (20) South 56°-08'-30" West 295.80 feet,
- (21) North 47°-18'-30" West 256.00 feet,
- (22) South 25°-41'-30" West 369.60 feet to a point,
- (23) South 81°-01'-00" West 742.03 feet to a point, said point being in the northerly line of Storm King Highway (Route 218), thence the following four courses along the northerly line of Storm King Highway (Route 218),
- (24) North 82°-23'-44" West 336.16 feet to a point,
- (25) South 87°-18'-10" West 588.42 feet to a point,
- (26) North 61°-10'-10" West 156.17 feet to a chisled "X" on a boulder,
- (27) North 61°-33'-30" West 58.18 feet to a masonry nail set in the centerline of Route 218, thence along the easterly line of lands now or formerly of Taylor,
- (28) North 34°-19'-20" East 425.92 feet and,
- (29) North 23°-50'-50" West 443.64 feet to a point in the easterly line of lands now or formerly of Stowe, thence along the easterly and northerly line of lands now or formerly of Stowe,
- (30) North 33°-11'-15" East 182.34 feet to a point,
- (31) North 31°-36'-12" East 64.08 feet to a point and
- (32) North 47°-33'-20" West 657.79 feet to the point of beginning.

Containing 49.6 ± acres of land more or less.

Bearings conform to New York State (East) Coordinate System.

Excepting from the above lands all lands as conveyed to North River Railroad Company,

PARCEL II

BEGINNING at a point being the common corner of lands of Thomas K. Taft to the southeast, lands of City of New York, Department of Water Supply, Gas & Electricity, Northern Catskill Aqueduct to the north and lands of Palisades Interstate Park Commission (formerly lands of Djerak) to the southwest, said point being distant South $25^{\circ} - 41' - 30''$ West 296.98 feet, generally along a row of concrete fence posts, from an iron pipe found at the easternmost corner of lands of Dorothy Deane Brooks, thence the following three courses along said lands of City of New York, all 240.0 feet, South $8^{\circ} - 59'$ East 75.0 feet and North $81^{\circ} - 01'$ East 697.0 feet to a point in the lands of New York Central Railroad Company, West Shore Division, thence South $45^{\circ} - 54'$ East 94.08 feet, more or less, along the southwesterly line of lands of New York Central Railroad to lands of Palisades Interstate Park Commission, thence South $81^{\circ} - 01'$ West 1028.81 feet along the northwesterly line of lands of Palisades Interstate Park Commission (lands formerly conveyed by Thomas and Mary G. Taft to Helene Pagenstecher on 24 May 1911) to the northerly boundary line of Storm King Highway (Route No. 218); thence North $82^{\circ} - 23' - 44''$ West 59.36 feet along the northerly boundary of said Storm King Highway (Route No. 218) to lands of Palisades Interstate Park Commission (formerly lands of Djerak); thence North $25^{\circ} - 41' - 30''$ East 162.05 feet along the easterly line of lands of Palisades Interstate Park Commission to the point or place of beginning.

PARCEL III

Beginning at the southeast corner of the herein described parcel and in the northerly line of lands of Conrail, thence running along the northerly line of lands of Conrail,

- (1) North $45^{\circ} - 54' - 00''$ West 470.10 feet to a point, thence
- (2) North $25^{\circ} - 41' - 30''$ East 9.20 feet to a point, thence westerly along the river bank of the Hudson River to a point (said point being North $62^{\circ} - 52'$ West 775.30 feet distant in a straight line from the preceding point), thence crossing said lands of Conrail,
- (3) South $78^{\circ} - 47' - 10''$ West 427.51 feet to a point,
- (4) South $73^{\circ} - 53' - 40''$ West 76.24 feet to a four foot diameter three foot high conical boulder found,
- (5) South $78^{\circ} - 30' - 20''$ West 129.82 feet to a point,
- (6) South $17^{\circ} - 52' - 00''$ West 36.00 feet to a point in the center of Shore Road, thence the following four courses along the center of Shore Road,
- (7) North $88^{\circ} - 15' - 20''$ West 143.63 feet to a point,
- (8) North $62^{\circ} - 16' - 00''$ West 179.65 feet to a point,

- (9) North 57°-10'-00" West 138.30 feet to a point, and
- (10) North 61°-32'-40" West 163.20 feet to a point, thence leaving said Shore Road and crossing lands of Conrail,
- (11) North 31°-36'-12" East 90.13 feet to a point on the northerly line of lands of Conrail, thence running along the northerly line of lands of Conrail,
- (12) 238.01 ± feet on a curve to the right having a radius of 1,382.69 feet and a long chord of North 66°-34'-25" West 237.71 ± feet to a point, thence the following eight courses through the waters of the Hudson River;
- (13) North 36°-15'-00" East 407.05 feet to a point,
- (14) South 63°-08'-00" East 203.00 feet to a point,
- (15) North 31°-36'-12" East 459.33 feet to a point,
- (16) South 50°-02'-50" East 1,843.48 feet to a point,
- (17) South 25°-41'-30" West 50.00 feet to a point,
- (18) North 44°-41'-00" East 190.04 feet to a point,
- (19) South 45°-19'-00" East 512.40 feet to a point, and
- (20) South 56°-08'-30" West 197.90 feet to the point of beginning.

Containing 23.62 acres of land more or less.

Bearings conform to New York State (East) Coordinate System.

Excepting from the above lands all lands conveyed to North River Railroad Company, (now Conrail) 3 acres, more or less.

PARCEL IV

Beginning at the westernmost corner of the herein described parcel, which point is distant the following three courses from the intersection of the northerly line of Parcel II Liber 1640 Page 897 North 45°-54' West 136.5 feet, North 56°-22' East 101.3 feet and South 45°-54' East 25.6 feet to the point of beginning; thence from said point of beginning

- (1) North 56°-22' East 194.5 feet along the southeasterly line of a 0.224 Acre parcel of lands under water of City of New York, Department of Water Supply, Gas & Electricity, Northern Catskill Aqueduct to a point in the Hudson River, said point being distant South 45°-19'-00" East 330.70 feet from the most easterly corner of parcel 1 (23.62 acres) (end of Course #19), thence

- (2) South 45°-19' East 433.1 feet to a point in the Hudson River, thence
- (3) South 44°-06' West 185.7 feet to a point in the northeasterly line of lands of the aforementioned railroad, and
- (4) North 45°-54' West 474.4 feet along said railroad lands or lands under water to the point of beginning.

Bearings conform to New York State (East) Coordinate System.

Containing 1.96 acres of land more or less.

ATTACHMENT III-A

CORNWALL LAND TO BE CONVEYED

TO VILLAGE OF CORNWALL

The waterfront lands to the north and west of Storm King Mountain, being the land generally marked Area D on the map referred to in Attachment III and more fully described on the sheets which follow in the Attachment III-A Supplement, but excluding any underwater lands included therein plus any lands properly belonging in the categories described in Attachment III.

ATTACHMENT III-A - SUPPLEMENT

CORNWALL LAND

PARCEL I

All that parcel of land and land underwater situate in the Village of Cornwall, County of Orange and State of New York bounded and described as follows:

Beginning at an auto axle found on the northeasterly side of Shore Road and in the northeasterly line of lands formerly of New York Central Railroad Company, West Shore Division, now Conrail, at the common corner of lands of the Cornwall Yacht Club, Inc. to the east and lands of Consolidated Edison Company of New York, Inc. to the northwest,

- (1) Thence along the northeasterly side of Shore Road and along said railroad lands North 53°-01' West 50.00 feet to a point,
- (2) Thence along the northeasterly line of Shore Road and along the northeasterly line of lands of the aforementioned railroad North 53°-01' West 50.00 feet to A 4" x 6" concrete monument, thence along the northeasterly line of said railroad,
- (3) North 53°-01'-00" West 50.00 feet to a 5/8 inch diameter iron rod set in the pavement of Shore Road,
- (4) South 08°-12'-00" East 23.60 feet to a boat spike set in the pavement of Shore Road and,
- (5) North 53°-01'-00" West 142.50 feet to a 5/8 inch diameter iron rod set in (lands of Consolidated Edison Company of New York, Inc.) said point also being in the southerly line of Clark Street also known as Back Road, thence the following four courses along the lands of Consolidated Edison Company of New York, Inc.
- (6) North 69°-30'-00" East 53.75 feet to a boat spike set near the intersection of Shore Road and Clark Street,
- (7) North 19°-23'-00" West 94.89 feet to a 5/8 inch diameter iron rod set in the northerly line of Shore Road,
- (8) South 46°-24'-35" West 10.00 feet to a point near the center of said Shore Road, thence along the center of Shore Road,
- (9) North 40°23'-40" West 79.99 feet to a point near the center of Shore Road, thence along Shore Road the following four courses;
- (10) North 41°-54'-15" West 23.00 feet to a point,
- (11) North 36°-12'-00" East 15.00 feet to a point,
- (12) North 46°-13'-20" West 72.00 feet to a point and,
- (13) North 46°-31'-20" West 190.00 feet to a cut stone monument with a cross cut found, said stone monument being distant in a straight

line South 63°-53'-25" East 2234.02 feet from United States Coast and Geodetic Survey station "STONE" (New York State Coordinates N 527,337.83 E 588,000.36) a standard disk set in stone over a culvert,

- (14) Thence South 43°-43'-15" West 30.34 feet to a point in the north-easterly line of lands formerly of New York Central Railroad Company, West Shore Division, now Conrail, thence the following three courses along said railroad lands:
- (15) North 49°-08'-45" West 74.74 feet to a point,
- (16) North 64°-32'-25" West 294.41 feet to a vertical rail monument found and
- (17) 46.81 feet on a curve to the left having a radius of 1482.69 feet and a long chord of North 58°-17'-10" West 46.80 feet to a point, thence the following eight courses along lands formerly of New York Central Railroad Company (West Shore Division), now Conrail,
- (18) 172.04 feet on a curve to the left having a radius of 1482.69 feet and a long chord of North 62°-30'-55" West 171.95 feet to a point and
- (19) North 65°-50'-20" West 2,203.71 feet to a point,
- (20) Thence continuing along last mentioned lands 848.57 feet on a curve to the right having a radius of 1669.12 feet and a long chord of North 51°-16'-28" West 839.47 feet to an angle in a stonewall,
- (21) Thence still along last mentioned lands and along a stonewall North 49°-57'-10" West, passing through a stonewall corner at 214.43 feet, a total distance of 224.40 feet to a point in the Hudson River,
- (22) Thence South 42°-26'-35" West 120.24 feet along lands formerly of the aforesaid New York Central Railroad Company, now Conrail, to a corner of said New York Central Railroad Company lands, thence the following three courses along lands and lands under water of said Conrail,
- (23) 239.04 feet on a curve to the right having a radius of 1674.12 feet and a long chord of North 43°-55'-00" West 238.84 feet,
- (24) North 42°-26'-35" East 4.54 feet and
- (25) 204.39 feet on a curve to the right having a radius of 1669.62 feet and a long chord of North 36°-17'-50" West 204.26 feet,

- (26) Thence North 42°-26'-35" East 252.78 feet through the Hudson River to a point,
- (27) Thence South 74°-38'-25" East 492.71 feet through the Hudson River to a point in the Hudson River in the line of the aforementioned lands under water of Consolidated Edison Company of New York, Inc.
- (28) North 42°-26'-35" East 216.29 feet to a point, thence the following courses continuing through the Hudson River,
- (29) Thence South 31°-03'-25" East 274.00 feet to a point,
- (30) North 42°-26'-35" East 60.00 feet to a point,
- (31) South 45°-33'-25" East 545.00 feet to a point,
- (32) South 59°-41'-15" East 2,790.98 feet to a point,
- (33) South 52°-46'-45" East 196.00 feet to a point,
- (34) South 50°-59'-25" East 386.79 feet to a point,
- (35) South 43°-13'-00" East 239.00 feet to a point,
- (36) South 53°-01'-00" East 100.00 feet and,
- (37) South 46°-47'-00" West 437.90 feet to the points of beginning.

Bearings conform to New York State (East) Coordinate system.

Containing 58.656 Acres of land more or less.

PARCEL II

All that parcel of land situate in the Village of Cornwall, County of Orange and State of New York bounded and described as follows:

Beginning at a 1/2" diameter reinforcing bar set in the southwesterly line of lands formerly of New York Central Railroad Co. (West Shore Division), now Conrail, and the most northern corner of the herein described parcel, thence running along the southwesterly line of lands formerly of New York Central Railroad Co. (West Shore Division), now Conrail,

- (1) South 43°-05'-00" East 28.67 feet to a boat spike set in the southwesterly line of lands formerly of New York Central Railroad Co. (West Shore Division), now Conrail, and the northerly line of Hudson Street, thence along the northerly line of Hudson Street,
- (2) South 39°-23'-40" West 12.10 feet to a boat spike set, thence crossing Hudson Street,
- (3) South 49°-34'-30" East 33.00 feet to a 1/2" diameter reinforcing bar set in the southwesterly line of lands formerly of New York Central Railroad Co. (West Shore Division), now Conrail,

- (4) Thence South 48°-52'-30" East 81.73 feet along last mentioned lands to a cross cut on a rock at the base of the North Bank of Dock Hill Brook, thence crossing said Dock Hill Brook,
- (5) South 58°-22'-30" East 11.50 feet to an iron pipe at the top of the southeasterly bank of Dock Hill Brook and in the southwesterly line of lands formerly of New York Central Railroad Co. (West Shore Division), now Conrail,
- (6) Thence South 49°-20'-30" East 140.00 feet along said lands formerly of New York Central Railroad (West Shore Division), now Conrail, to a 1/2" diameter reinforcing bar set,
- (7) Thence South 44°-54'-30" West 28.00 feet, in part along lands formerly of New York Central Railroad Co. (West Shore Division), now Conrail, to a 1/2" diameter reinforcing bar set,
- (8) Thence South 25°-16'-50" East 24.49 feet to a point, said point being in the centerline of Clark Street,
- (9) North 64°-43'-00" East 43.27 feet along the centerline of pavement of Clark Street to a point, thence the following two courses along said railroad lands:
- (10) South 52°-52'-20" East 124.81 feet to a point and
- (11) South 20°-19'-00" West 35.85 feet to a point, thence leaving said railroad lands and running along the southerly line of the herein described parcel the following 17 courses;
- (12) North 56°-24'-20" West 38.82 feet to a point,
- (13) South 39°-07'-40" West 54.00 feet to a point,
- (14) South 39°-38'-15" West 62.71 feet to an iron pipe,
- (15) South 67°-42'-30" West 205.11 feet,
- (16) South 51°-49'-50" West 21.67 feet,
- (17) South 51°-49'-40" West 68.72 feet,
- (18) North 20°-34'-20" East 33.70 feet,
- (19) South 60°-16'-30" West 26.47 feet,
- (20) South 78°-30'-50" West 80.25 feet,
- (21) South 78°-47'-20" West 45.81 feet,
- (22) South 69°-08'-30" West 72.68 feet,
- (23) South 81°-04'-40" West 25.48 feet,
- (24) North 07°-48'-30" East 31.33 feet,
- (25) South 81°-04'-40" West 29.76 feet,
- (26) South 88°-34'-40" West 124.79 feet,
- (27) South 88°-34'-40" West 8.44 feet and,

- (28) North 78°-29'-40" West 66.68 feet to a point, said point being the southwesterly corner of the herein described parcel and in the easterly line of lands of the Village of Cornwall, thence along the easterly line of the Village of Cornwall,
- (29) North 18°-45'-40" East passing through a concrete monument found at 144.52 feet, a total distance of 164.52 feet to a point in the center of Clark Street, thence along the center of Clark Street,
- (30) North 76°-38'-00" West 121.44 feet to a point near the intersection of Clark Street and Hudson Street, thence the following 11 courses along the southerly line of Hudson Street,
- (31) North 33°-53'-00" East 9.45 feet,
- (32) North 60°-33'-50" East 32.42 feet,
- (33) North 69°-43'-00" East 31.41 feet,
- (34) North 83°-16'-40" East 91.30 feet,
- (35) North 80°-58'-30" East 164.07 feet,
- (36) North 80°-27'-30" East 50.00 feet,
- (37) North 69°-54'-00" East 50.00 feet,
- (38) North 60°-02'-00" East 53.58 feet,
- (39) North 37°-33'-00" East 86.50 feet,
- (40) North 28°-39'-30" East 56.75 feet and,
- (41) North 40°-25'-30" East 79.00 feet, thence crossing Hudson Street,
- (42) North 49°-34'-00" West 33.00 feet to a point on the northerly side of Hudson Street, thence the following two courses along the northerly line of Hudson Street,
- (43) South 40°-25'-30" West 82.31 feet and,
- (44) South 28°-39'-30" West 37.14 feet to a 1/2" diameter iron rod set in the northeasterly line of lands now or formerly of Fred Rose,
- (45) North 45°-47'-30" West 119.00 feet to a 1/2" diameter reinforcing bar set in the southeasterly line of lands formerly of New York Central Railroad Co. (West Shore Division), now Conrail, thence along the said lands formerly of New York Central Railroad Co. (West Shore Division), now Conrail, the following two courses, the first course passing through the northernmost corner of the existing 2 1/2 story frame house on the herein described parcel; 10.4 feet southwesterly from the northernmost corner and 7.4 feet southeasterly from the northernmost corner,
- (46) North 73°-35'-40" East 150.71 feet to the point of beginning.

Containing 5.195 acres of land more or less.

Bearings conform to the New York State (East) Grid Coordinate system.

Excepting from this Parcel II, tax lots 4 and 8, as presently designated.

PARCEL III

All that parcel of land situate in the Village of Cornwall, County of Orange and State of New York bounded and described as follows:

Beginning at a $\frac{1}{4}$ " diameter reinforcing bar set at the southernmost corner of a 3.652 acre parcel of land and lands underwater of the Hudson River heretofore conveyed by Mead & Taft Company to Consolidated Edison Company of New York, Inc. by Deed dated December 24, 1965 and recorded in the Office of the Clerk of Orange County on January 5, 1966 in Liber 1734 of Deeds at Page 259, which point is distant South $34^{\circ}-43'-50''$ West 30.34 feet from a stone monument with a cross cut on top found,

- (1) Thence South $49^{\circ}-08'-45''$ East 75.00 feet to a $\frac{1}{4}$ " diameter reinforcing bar set in the pavement at the intersection of Shore Road and Hudson Street,
- (2) Thence South $39^{\circ}-24'-50''$ West 98.74 feet to a $\frac{1}{4}$ " diameter reinforcing bar set 18.00 feet northeasterly (measured at right angles) from the centerline of track (single track) of the lands formerly of New York Central Railroad Co. (West Shore Division), now Conrail, thence crossing Hudson Street,
- (3) South $61^{\circ}-34'-35''$ East 38.55 feet to an iron rod found at the southerly line of Hudson Street, thence along the southerly line of Hudson Street,
- (4) North $47^{\circ}-56'-00''$ East 63.50 feet passing through an iron rod found at 63.17 feet to a point in the southerly line of Shore Road; thence along the southerly line of Shore Road,
- (5) South $46^{\circ}-52'-10''$ East 68.00 feet to a point in the centerline of Dock Hill Brook, thence along the centerline of Dock Hill Brook,
- (6) North $41^{\circ}-35'-00''$ East 16.48 feet to a point in the southerly line of Shore Road, thence the following five courses along the southerly line of Shore Road;
- (7) South $48^{\circ}-37'-10''$ East 125.42 feet to a point,
- (8) North $46^{\circ}-24'-35''$ East 10.25 feet to a point,
- (9) South $40^{\circ}-23'-40''$ East 49.37 feet to a point,
- (10) North $46^{\circ}-24'-35''$ East 10.00 feet to a point and
- (11) South $19^{\circ}-23'-00''$ East 94.89 feet to a point near the intersection of the centerline of Shore Road with the southerly line of Clark Street; thence along the southerly line of Clark Street,

- (12) South 69°-30'-00" West 53.75 feet to a point, thence the following six courses along the northerly line of lands formerly of Penn Central Railroad, now Conrail,
- (13) North 52°-44'-05" West 66.30 feet to a point,
- (14) North 55°-30'-00" West 47.00 feet to a point,
- (15) North 52°-30'-00" West 41.00 feet to a point,
- (16) North 51°-45'-00" West 67.30 feet to a point in the center of Dock Hill Brook, thence along the center of Dock Hill Brook,
- (17) North 07°-44'-10" East 23.29 feet to a 5/8" diameter iron rod set thence,
- (18) North 48°-10'-10" West 75.00 feet passing through an iron rod found at 11.43 feet to an iron rod found on the southerly line of Hudson Street, thence crossing Hudson Street,
- (19) North 61°-34'-35" West 38.55 feet to a point,
- (20) Thence parallel to and distant 18.00 feet northeasterly (measured at right angles) from said centerline of track North 43°-05'-00" West 77.48 feet to a point,
- (21) Thence on an irregular curve to the left about 645 feet, remaining at all times 18.00 feet distant radially in a northeasterly direction from said centerline of track; the chords of said curve are as follows:
- North 44°-44'-50" West 100.00 feet,
North 49°-02'-40" West 100.00 feet,
North 53°-34'-00" West 100.00 feet,
North 58°-01'-50" West 100.00 feet,
North 62°-48'-40" West 100.00 feet,
North 65°-31'-40" West 100.00 feet and
North 65°-36'-00" West 100.00 feet
- (22) Thence parallel to and distant 18.00 feet northeasterly (measured at right angles) from said centerline of track North 65°-50'-20" West 388.54 feet to a point,
- (23) Thence North 34°-18'-45" East 25.65 feet to the Westernmost corner of a 3.891 acre parcel of lands and lands underwater heretofore conveyed by Mead & Taft Company to Consolidated Edison Company of New York, Inc. by Deed dated May 14, 1964 and recorded in the Office of the Clerk of Orange County on July 27, 1964 in Liber 1672 of Deeds at Page 100, thence the following six courses along lands and lands underwater of Consolidated Edison Company of New York, Inc.:
- (24) South 65°-50'-20" East 375.26 feet to a point,
- (25) South 65°-50'-20" East 80.62 feet to a vertical rail monument found,

- (26) 172.04 feet on a curve to the right having a radius of 1482.69 feet and a long chord of South $62^{\circ}-30'-55''$ East 171.95 feet to a point,
- (27) 46.81 feet on a curve to the right having a radius of 1482.69 feet and a long chord of South $58^{\circ}-17'-10''$ East 46.80 feet to a vertical rail monument found,
- (28) South $64^{\circ}-32'-25''$ East 294.41 feet to a point and
- (29) South $49^{\circ}-08'-45''$ East 74.74 feet to the point of beginning.

Containing 1.606 Acres, more or less.

Bearings conform to New York State (East) Coordinate System.

Together with all right, title and interest, if any, of the party of the first part in and to lands underwater of the Hudson River adjacent to the lands described herein.

ATTACHMENT IV

Foundation Name -

Hudson River Foundation for Science
and Environmental Research, Inc.

Form -

Incorporated pursuant to the laws of
the State of New York and qualified
under applicable federal and state law
to accept contributions on a tax de-
ductible basis as, if possible, a
public and not a private foundation.

Board of Trustees -

Initially ten distinguished persons
independent of government as agreed
by the signatory parties to the Agree-
ment. Board members will serve three
years with initial terms staggered.
Board would appoint new members to fill
vacated or expired terms. Persons may
be reappointed without limitation.
Board members shall serve without com-
pensation but reasonable expenses may
be paid.

General Purpose of Foundation -
As stated in Certificate of
Incorporation

To sponsor scientific, economic and
public policy research on matters of
environmental, ecological and public
health concern and to publish the re-
sults of such research.

Hudson River Fund Established
Under the Hudson River
Settlement Agreement

Initial Amount:

\$12,000,000 to be contributed by the
Utilities.

Restrictions:

a) the funds and income can be used
solely for scientific, ecological and
related public policy research on
issues and matters of concern to the
Hudson River, its tributaries, and its
drainage basin with emphasis given, but
not limited to, mitigating fishery im-
pacts caused by power plants, providing
information needed to manage the fisher-
resources of the Hudson River, under-

standing the factors related to abundance and structure of fish population, and gaining knowledge of the condition of the Hudson River ecosystem.

b) that such grants from the restricted fund can be made solely upon recommendation of a panel established as set out below (referred to hereinafter respectively as the "Hudson River Fund" and the "Hudson River Panel").

c) the monies in the Hudson River Fund shall be entrusted for investment management to one or more banks or trust companies of high repute doing business in the State of New York or insurance companies.

Hudson River Panel -

Composition:

Seventeen persons, nine of whom must have scientific backgrounds, nominated as follows:

- o Nominated by Regional Director of EPA - two persons, one of whom must have scientific background;
- o Nominated by New York State Commission of Environmental Conservation - two persons, one of whom must have a scientific background;
- o Nominated collectively by the utility signatory to the settlement - two persons, one of whom must have a scientific background;
- o Nominated by the Hudson River Fishermen's Association, Inc. - two persons neither of whom need have a scientific background;

- o Nominated collectively by Scenic Hudson, Inc., and Natural Resources Defense Council, Inc. - two persons, one of whom must have a scientific background;
- o Nominated by the Attorney General of the State of New York - two persons, one of whom must have a scientific background;
- o Nominated by the Foundation Board of Trustees - five persons, four of whom must have scientific backgrounds and one of whom must have an involvement in commercial fishing.

Term:

Two years and three years staggered on initial appointment as designated by the nominating party. Three years thereafter. Persons may be reappointed without limitation.

Compensation:

The Board may pay reasonable compensation and expenses to panel members who are not otherwise compensated for their time, efforts or expenses as Hudson River Panel members.

Chairman of Panel:

Named by the Board of Trustees from those nominated as above.

Panel Decision on Grants:

Grants and allocation of funds from the Hudson River Fund shall be made solely upon recommendation by the Hudson River Panel, by majority vote of the Panel, i.e., nine votes.

Other Qualifications:

No person may serve on both the Board and the Hudson River Panel.

Changes in Panel Composition:

In the event that one of the agencies or organizations appointing persons to the Hudson River Panel ceases to exist, allows its appointments to lapse for a significant period or advises the Board it no longer will participate, the Board of Trustees will substitute a new agency or organization of similar activities and program to nominate Hudson River Panel members, or if that cannot be satisfactorily accomplished, the Board shall appoint the missing Hudson River Panel members.

Board Action on Grants:

a) Each year the Board shall authorize a budget stating the amount of money available to support research and grant to be approved by the Hudson River Panel.

b) In any event, if the Hudson River Panel recommends grants, the Board shall authorize such grants up to 90% of the net income of the Hudson River Fund for that year;

c) Board may review awards recommended by the Hudson River Panel solely to assure fiscal responsibility.

Other Functions of Panel:

a) Develop annually a comprehensive scope of interests and scientific work;

b) Request review and advice concerning proposals or comprehensive scope of interests and scientific work, as desired, by scientists and other authorities not members of the Panel. Panel may authorize payment of reasonable fees and costs for such work out of its annual budget.

Staff and Other Expenses -

The Board shall, with consultation of Hudson River Panel, be authorized to expend funds for an administrator and for such other personnel and expenses as the Board deems necessary for the Hudson River Panel, Hudson River Fund, and Hudson River Foundation. In the event that the Hudson River Foundation receives grants or funds for purposes other than the Hudson River Fund, then general administrative expenses of the Hudson River Foundation shall be allocated on a pro rata basis as between the grants.

Initial Establishment of Program - During the first year after receipt of restricted grant, the Hudson River Panel with Board assistance shall sponsor a conference meetings and/or panels as in their judgment shall be desirable, to obtain from scientists, science administrations, and other persons otherwise qualified by reason of experience and involvement in Hudson River issues, recommendations on a scope of interests scientific priorities and initial goals for the Hudson River Panel and Fund.

ATTACHMENT V

UTILITIES' BIOLOGICAL MONITORING PROGRAM

The major components of the Hudson River Biological Monitoring Program to be conducted by the Utilities pursuant to Section 2.J. are outlined in the following table. Studies to be implemented, as well as sampling frequencies and duration, will be determined each year to be consistent with the dollar obligation specified in Section 2.J.

The Utilities will discuss with DEC the studies and associated costs planned for each year of the Biological Monitoring Program. Studies will be planned in light of previously completed and reported results and the expected availability of data from other sources, including the Independent Research Program described in Section 2.I. Planned studies will be implemented only after agreement by DEC that the studies are consistent with program objectives and approach the funding level to which the Utilities are committed.

Whereas the studies will focus on monitoring the Bowline Point, Roseton, and Indian Point intakes and discharges, the Utilities will conduct supplementary river sampling as deemed appropriate by DEC and consistent with the Utilities' dollar obligation. Emphasis is expected to shift to the evaluation of mitigative measures in the later years of the program.

Major Components of Utilities' Biological Studies

I. Plant Intake Studies

- A. Impingement Abundance Sampling (to estimate number of fish impinged)
- B. Entrainment Abundance Sampling (to estimate number of organisms entrained)
- C. Impingement Survival Sampling (to evaluate survival of impinged/bypassed fish)
- D. Entrainment Survival Sampling (to evaluate survival of entrained organisms)
- E. Bowline Barrier Net Evaluation (to determine reduction in impingement attributable to barrier net deployment)

II. River Studies

- A. Ichthyoplankton Survey (to estimate distribution and abundance of ichthyoplankton)
- B. Juvenile Fish Survey (to estimate distribution and abundance of juvenile fish)
- C. Adult Fish Stock Assessment Program (to characterize adult fish populations and their relation to the Atlantic fisheries)

ATTACHMENT VI

CROSS-PLANT OUTAGE CREDITS

The parties have agreed upon a system of credit equivalents for the outages at Bowline and Roseton which are required under Sections 2.A and 2.B of the settlement agreement. The purpose of establishing the equivalents is to allow greater flexibility to the Utilities in the management of their operations without decreasing the impingement and entrainment mitigation which the outages are intended to achieve. This system, referred to in the settlement agreement as the system of cross-plant outage credits, will permit the Utilities in their discretion to substitute scheduled outages and voluntary outages for the outages specified in Sections 2.A and 2.B and also for make-up of outages suspended at Bowline and Roseton pursuant to Section 4.D. In addition, the system will enable the Utilities to credit forced outages against the required Bowline and Roseton outages.

The chart attached hereto as Exhibit A sets forth the value of single unit and double unit outages for each plant by week and provides the method by which additional or alternative outages shall be credited against specified outage obligations that may be missed. Whenever a specified outage is missed, it can be made up by outages at other plants

ATTACHMENT VI.

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which achieve an equal number of Credit Points to those which the missed outage represents.

For purposes of assessing cross-credits, the following outages represent the following number of Credit Points.

	<u>Outage</u>	<u>Credit Points</u>
Bowline --	30 unit days/May 15-June 30	4.4
Bowline --	31 unit days in July	5.5
Roseton --	30 unit days/May 15-June 30	4.0

In demonstration of the system of cross credits, the following examples are provided. Assume the May/June outage at Bowline is missed entirely, it could be made up by additional outages at other plants (beyond those required under the settlement agreement) totaling 4.4 Credit Points. As can be seen from the chart, only a few days' outage at Indian Point -- if it were in addition to the outage requirements there -- would make up the deficiency (e.g., 3.2 unit days in the week of June 7-13, 3.9 unit days in the week May 24-30, 4.9 unit days in the week of June 21-27, etc.).

Or, if one Roseton unit is out for the weeks May 17 through July 18, the total Credit Points would be 7.0. This would meet the Roseton obligation itself, plus provide 3.0 of the 4.4 missed Bowline Credit Points.

ATTACHMENT VI

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Or, if two Roseton units were out between May 24 and June 6 (14 days), this would achieve 8.1 Credit Points, nearly sufficient to meet the Roseton and Bowline obligations for the May/June period.

The following further rules apply in using the Credit Point chart:

A. If an Indian Point outage is used for credits to a Bowline or Roseton outage obligation, that portion of the Indian Point outage used for such credit cannot also be used to count against the Indian Point outage obligations. The same rule applies to the crediting of Bowline outages toward the Roseton obligation, and vice versa.

B. Outages calculated to the nearest one-tenth of a unit day as specified in Section 1 will be translated into outage credit points by first determining the fraction of a unit week represented by the outage to the nearest one-tenth of a unit week and then applying that fraction to the credit point values identified for the appropriate week in Exhibit A. Such credit points will be rounded to the nearest one-tenth of a point.

ATTACHMENT VI

CREDIT POINTS

WEEK	ROSETON		INDIAN POINT		BOWLINE	
	2 UNITS	1 UNIT	2 UNITS	1 UNIT	2 UNITS	1 UNIT
	<u>OFFLINE</u>	<u>OFFLINE</u>	<u>OFFLINE</u>	<u>OFFLINE</u>	<u>OFFLINE</u>	<u>OFFLINE</u>
4/19-4/25	0	0	0	0	0	0
4/26-5/2	0	0	0.1	0.1	0	0
5/3-5/9	0.3	0	1.1	0.6	0	0
5/10-5/16	1.3	0.3	3.4	1.7	0.2	0.1
5/17-5/23	3.3	0.8	10.0	5.0	0.7	0.4
5/24-5/30	4.1	0.9	15.7	7.8	1.2	0.6
5/31-6/6	4.0	1.2	17.1	8.5	2.1	1.1
6/7-6/13	3.6	1.2	19.5	9.7	2.4	1.2
6/14-6/20	3.1	1.0	17.2	8.6	2.5	1.3
6/21-6/27	2.0	0.7	12.6	6.3	2.9	1.5
6/28-7/4	1.3	0.5	8.5	4.3	3.3	1.7
7/5-7/11	0.9	0.4	6.6	3.3	3.4	1.7
7/12-7/18	0.7	0.3	5.2	2.6	2.9	1.5
7/19-7/25	0.4	0.2	3.0	1.5	1.7	0.9
7/26-8/1	0.1	0.1	1.1	0.6	0.7	0.4
8/2-8/8	0	0	0.4	0.2	0.2	0.1
8/9-8/15	0	0	0.1	0.1	0.1	0.1
8/16-8/22	0	0	0	0	0	0
8/23-8/29	0	0	0	0	0	0
8/30-9/5	0	0	0	0	0	0
9/6-9/12	0	0	0	0	0	0
9/13-9/19	0	0	0	0	0	0

12/17/80

ATTACHMENT VII - MAILING ADDRESSES

EPA

Director, Enforcement Division
Region II
26 Federal Plaza
New York, New York 10007

DEC

General Counsel
Room 608
Department of Environmental Conservation
50 Wolf Road
Albany, New York 12233

AG

Assistant Attorney General in Charge
Environmental Protection Bureau
New York State Department of Law
Two World Trade Center
New York, New York 10047

HRFA

Robert Boyle, President
P. O. Box 312
Cold Spring, New York 10516

Scenic Hudson

9 Vassar Street
Poughkeepsie, New York 12601

with a copy to:

Albert K. Butzel, Esq.
45 Rockefeller Plaza
Room 2350
New York, New York 10020

NRDC

Ross Sandler, Esq.
122 East 42nd Street
45th Floor
New York, New York 10168

ATTACHMENT VII

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Central Hudson

President
Central Hudson Gas & Electric Corporation
284 South Avenue
Poughkeepsie, New York 12602

Con Edison

President
Consolidated Edison Company of New York, Inc.
4 Irving Place
New York, New York 10003

O&R

President
Orange & Rockland Utilities, Inc.
One Blue Hill Plaza
Pearl River, New York 10965

Niagara Mohawk

President
Niagara Mohawk Power Corporation
300 Erie Boulevard West
Syracuse, New York 13202

PASNY

President
The Power Authority of the State of New York
10 Columbus Circle
New York, New York 10019

ATTACHMENT B