



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

A20

March 12, 1982

Patricia Freuling, Esq.  
Law Department  
Consolidated Edison Company  
of New York  
4 Irving Place  
New York, NY 10003

SUBJECT: NRC DISCOVERY REQUESTS IN U.S. V. CON ED

Dear Ms. Freuling:

I enjoyed very much working with you and your colleagues on ways to provide responses to the NRC discovery request. After discussing the matter with Susan Campbell, we thought it would be useful for me, while the matter is still fresh in my mind, to set forth the agreements we reached on interrogatories and document production. The enclosure to this letter indicates our resolution for each interrogatory. I note that there were no outstanding objections remaining on any of the interrogatories when we closed Wednesday and that you would work with your staff to respond to this discovery as provided in the Rules. In addition, I agreed to withdraw Interrogatory 32 for the time being. I think that we made good progress in working out this resolution.

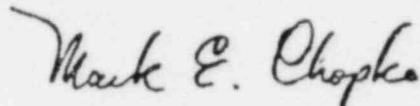
Let me note three other matters. First, on the document production, we expect that documents to be produced in 30 days for request No. 1 will consist of all documents already identified by you and those readily identified in completing the interrogatories. We will consider later whether an extension is necessary to produce other documents that you have not yet searched for. No schedule for document production was agreed to. In addition, Brent promised to send to me and to Susan a set of Category 2 documents. I will look for those some time in the middle of next week. Second, we hope to have Consolidated Edison's response to the NRC settlement counter-offer within the next week or so (if that is possible) so that we all can know where we stand on this pre-trial discovery. I am sure that you will talk to Brent about this. Finally, I am writing directly to you and not through Susan Campbell with her consent. This communication does not change in any way the fact that the

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line of communication must be through the U.S. Attorney's office.

Again, it was a very useful meeting, and it is my sincere hope that we can resolve this matter quickly.

Sincerely,



Mark E. Chopko  
Attorney  
Office of the General Counsel

Enclosure:  
Resolution of Interrogatories

cc: Susan M. Campbell  
Brent Brandenburg

Resolution on First Set of Interrogatories

Interrogatory

Resolution

- 1(a) Con Ed will provide names and staff title of personnel chosen to enter containment and why those persons were selected, because of their duties, to enter the containment.
- 1(b) (c) O.K.
- 1(d) Answer in detail what these personnel reported.
- 1(e), (f), (g) To be answered.
- 2(a) Con Ed may rely on NRC staff sequence of events to answer this interrogatory as well as 3(a) and 4(a), except where that sequence of events does not include all repairs and other corrective actions related to water discovered in the containment and except for any additional information reported on conditions existing in the containment.
- 2(b) and (c) To be answered.
- 3(a) Similar response conditions as 2(a).
- 3(b) and (c) To be answered.
- 4(a) Similar response conditions as 2(a).
- 4(b) and (c) To be answered.
- 5 The focus for document identification should be on material used or documents located to answer Interrogatories 1 through 4, not peripheral documents such as the entire PSC record (although at some point I might look at that).

- 6 To be completely answered; may rely on answers 1 through 4 to the extent relevant. If so, NRC will assume no other information exists.
- 7 To be answered with conditions similar to No. 5.
- 8 The answer is "No." The other words in the response are editorial.
- 9 Interrogatory 9 focuses on information actually used by Con Ed on October 17, 1980 and not on information available at any subsequent or prior time. To be answered on that basis.
- 10(a), (b), and (c) Like No. 9, the answer will be based on information actually used by operating staff from 10/17-10/20/80 and not on subsequently discovered or identified information.
- 10(d) and (e) Focus on Bill Monti's decision to shut the plant down.
- 11 To be answered "Yes" or "No" and with a basis. Existing answer is not responsive.
- 12 Seems fine to NRC, except that Con Ed will check times of calls.
- 13(a) through (c) O.K.
- 13(d) Will provide the substance of each call.
- 13(e) Will identify documents.
- 14(a) O.K., except Con Ed will provide information about the duration of immersion. Will

- check available information on that (e.g., PSC proceeding).
- 14(b) and (c) NRC will assume that the 12/22/80 letter to Boyce Grier (Attachment A, Item 1) contains all of the relevant information.
- 14(d) Only the letter to Grier is relied on and NRC will assume that it contains all relevant information.
- 15(a) and (b) O.K.
- 15(c) and (d) To be answered.
- 16(a) and (b) The answer to both subparts is "Yes"; documents were consulted, evaluated or generated both before and after the incident.
- 16(c) and (d) To be answered.
- 17 Existing answer is "Yes," and the entire basis is set forth in the 12/22/80 letter to Grier. Con Ed will check this.
- 18(a) and (b) Like 16(a) and (b), the answers are "Yes" to both times of evaluation.
- 18(c) and (d) To be answered.
- 19 and 20 To be answered on all subparts.
- 21(a) and (c) O.K.
- 21(b) and (d) To be answered.
- 22 To be answered for all subparts.
- 23 (a) is answered; (b) will be answered.

- 24 (a) The answer is "No" and the revised response will so state.
- 24 (b) The answer is "Yes" and the revised response will so state.
- 24 (c) and (d) To be answered.
- 25 (a) Answer is "Yes" and the revised response will so state.
- 25 (b) The basis will be provided.
- 26 (a) The answer is "No" and the revised response will so state.
- 26 (b) The answer is "Yes" and the revised response will so state.
- 26 (c) and (d) To be answered.
- 27 To be answered on all subparts. I explained that this interrogatory seeks a more general technical response not necessarily tied to the specific Indian Point event. Mr. Monti acknowledged he understood that.
- 28 through 31 Was not answered but will be answered for all subparts.
- 32 Withdrawn by NRC.
- 33 (a) I promised to check with the NRC staff concerning the adequacy of the leak charts, especially on subparts (f) and (g).
- 33 (b) Con Ed will answer 33 (b).
- 33 (c) Identify documents with respect to 33 (b).

- 34 Con Ed will check to see whether some earlier NRC audit was also relied on in Con Ed's answer.
- 35(a) Con Ed will check for manufactured set points and manufacturer's recommended maintenance lists and procedures on sump pumps and respond accordingly.
- 35(b), (c) and (d) To be answered.
- 36 The answer is fine except that it does not provide any information sought in (c) and (d). Con Ed will so provide.
- 37(a) The answer is fine except it does not provide action levels specified or operator response and does not describe the responsive action to be taken. Con Ed will so provide.
- 37(b) and (c) To be answered.
- 38 through 42 Not answered. All questions and subparts to be answered in revised responses.
- 43 The revised answer will include a summary statement to the effect that the Station Nuclear Safety Committee had never reviewed use of epoxy materials on the fan coolers prior to such use at Indian Point 2.
- 44(a) O.K.
- 44(b) O.K.
- 44(c) Con Ed will identify documents.

- 45 O.K. except that it does not explain why such tests were performed. See 45(b).
- 46 Con Ed will answer whether the Station Nuclear Safety Committee ever looked at the use of epoxy materials on fan coolers either before or after 10/17/80.
- 47 and 48 Not answered. Will be answered with all subparts.
- 49 O.K. except that Con Ed will check for personnel position descriptions, training guides and other similar information.
- 50(a) Will be based on the answer to No. 49. Con Ed will also check for oral instructions to STAs.
- 50(b) O.K.
- 51(a), (b), (c) To be answered specifically for each STA.
- 51(d) and (e) To be answered based on the actual answers to 51(a) through (c).
- 52 Con Ed will check its existing answer and provide the description called for, if necessary.
- 53 To be answered in detail.
- 54 Moot.
- 55 To be answered for the person or persons actually responding.



#21

Con  
Edison

10 Mark Chapko

Dear Mark -

Here's the next  
installment on this  
wonderful case!

Thanks to Susan and  
to you for your forbear-  
ance!

Pat Truckling