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BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED DETERMINATION OF NO)
SIGNIFICANT ECOLOGICAL DAMAGE)
FOR THE QUAD CITIES GENERATING)
STATION)

PCB 78-61

NOTICE

TO: A. Daniel Feldman
Isham, Lincoln & Beale
One First National Plaza
Suite 4200
Chicago, Illinois 60603

PLEASE TAKE NOTICE that on May 25, 1978 I filed the
attached Recommendation with the Clerk of the Pollution Control
Board.

ILLINOIS ENVIRONMENTAL PROTECTION
AGENCY

WILLIAM J. SCOTT
Attorney General
State of Illinois

BY

Russell R. Eggers

RUSSELL R. EGGERS
Assistant Attorney General
Environmental Control Division
188 West Randolph, Suite 2315
Chicago, Illinois 60601
(312) 793-2491

DATED: May 25, 1978

BEFORE THE
ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:

PROPOSED DETERMINATION OF NO)
SIGNIFICANT ECOLOGICAL DAMAGE)
FOR THE QUAD CITIES GENERATING)
STATION)

PCB 78-61

RECOMMENDATION

The Environmental Protection Agency recommends that the Board accept the demonstration submitted by Commonwealth Edison Company in this cause, subject to the following:

1. On March 27, 1972, Commonwealth Edison Company agreed to the entry of a consent decree to terminate litigation with the State of Illinois in the United States District Court for the District of Columbia. This consent decree, a true and correct copy of which is attached as Exhibit A, in essence requires closed cycle cooling for the Quad Cities generating station. This consent decree remains in full force and effect.

2. For various reasons, Commonwealth Edison has never operated the Quad Cities generating station consistent with the 1972 consent decree. As a result, the biological information prepared by Commonwealth Edison Company does not reflect the operation of the plant consistent with the 1972 consent decree. However, since total closed-cycle cooling will result in a significant

reduction in heat rejected to the Mississippi River, damage to the aquatic ecology under this mode of operation can be expected to be minimal.

3. The Agency waives its right to a hearing herein.

WHEREFORE the Environmental Protection Agency recommends approval of the demonstration submitted by Commonwealth Edison Company, provided that operation of the Quad Cities generating station is operated in compliance with the 1972 consent decree.

Respectfully submitted,

ENVIRONMENTAL PROTECTION AGENCY

WILLIAM J. SCOTT
Attorney General
State of Illinois

BY



RUSSELL R. EGGERT
Assistant Attorney General
Environmental Control Division
188 West Randolph, Suite 2315
Chicago, Illinois 60601
(312) 793-2491

AGREEMENT

The People of the State of Illinois, represented by the Attorney General, William J. Scott (hereinafter, the "State of Illinois"), The Isak Walton League of America, the Illinois Division of the Isak Walton League of America, the Iowa Division of the Isak Walton League of America, the Davenport, Iowa Chapter of the Isak Walton League of America, the Clinton, Iowa Chapter of the Isak Walton League of America, the Blackhawk Chapter of the Isak Walton League of America (hereinafter, collectively, the "Isak Walton League"), the Illinois State Community Action Program of the United Automobile, Aerospace and Agricultural Implement Workers of America (hereinafter, the "UAW"), (all of whom, hereinafter, collectively, the "Plaintiffs"), Commonwealth Edison Company, the Iowa Illinois Gas & Electric Company (hereinafter, the "Utilities") are parties to litigation pending in the United States District Court for the District of Columbia and each is of the view that it is in its best interest and in the best interest of the public to settle and terminate that litigation on the following terms:

1. Redification of Condenser Cooling Water System.

The Utilities will construct and place in operation within the 40-month period more fully described in Paragraph 7 hereof and in accordance with the procedure described herein, a closed-cycle cooling system for the condenser cooling water discharge from both units of the nuclear electric generating station commonly known as Quad Cities Units 1 and 2 (hereinafter, "Quad Cities Station"). The closed-cycle system shall be comprised of a spray canal, having a blowdown discharge to the Mississippi River of not more than 50 cubic feet per second annual average and 125 cubic feet per second instantaneous maximum.

AGREEMENT

The People of the State of Illinois, represented by the Attorney General, William J. Scott (hereinafter, the "State of Illinois"), The Izaak Walton League of America, the Illinois Division of the Izaak Walton League of America, the Iowa Division of the Izaak Walton League of America, the Davenport, Iowa Chapter of the Izaak Walton League of America, the Clinton, Iowa Chapter of the Izaak Walton League of America, the Blackhawk Chapter of the Izaak Walton League of America (hereinafter, collectively, the "Izaak Walton League"), the Illinois State Community Action Program of the United Automobile, Aerospace and Agricultural Implement Workers of America (hereinafter, the "UAW"), (all of whom, hereinafter, collectively, the "Plaintiffs"), Commonwealth Edison Company, the Iowa Illinois Gas & Electric Company (hereinafter, the "Utilities") are parties to litigation pending in the United States District Court for the District of Columbia and each is of the view that it is in its best interest and in the best interest of the public to settle and terminate that litigation on the following terms:

1. Modification of Condenser Cooling Water System.

The Utilities will construct and place in operation within the 40-month period more fully described in Paragraph 7 hereof and in accordance with the procedures described herein, a closed-cycle cooling system for the condenser cooling water discharge from both units of the nuclear electric generating station commonly known as Quad Cities Units 1 and 2 (hereinafter, "Quad Cities Station"). The closed-cycle system shall be comprised of a spray canal, having a blowdown discharge to the Mississippi River of not more than 50 cubic feet per second annual average and 125 cubic feet per second instantaneous maximum.

2. The Utilities will reapply to the Iowa Conservation Commission for a permit to construct a diffuser discharge pipe (of the design previously submitted to that Commission) in the Mississippi River to be used for the discharge of condenser cooling water, and, if the Utilities obtain all necessary approvals from regulatory agencies, will construct and place the diffuser discharge pipe in operation as soon as feasible after the issuance of the last required permit. The parties anticipate that the construction time for the diffuser will not exceed five months.

3. Dismissal of Pending Judicial Proceedings.

The State of Illinois, the Izaak Walton League and the UAW (who are, collectively, the plaintiffs in the suits described below) will cause the preliminary injunctions entered in the suits known as Izaak Walton League of America, et al., v. Schlesinger, et al., No. 2207-71; the People of the State of Illinois ex rel Scott, et al., v. United States Atomic Energy Commission, et al., No. 2208-71, pending in the United States District Court for the District of Columbia (the "District Court Cases") to be vacated and will cause those actions to be dismissed with prejudice. Thereafter, Utilities will dismiss their appeals currently pending in the United States Court of Appeals for the District of Columbia Circuit in the following actions: Izaak Walton League of America, et al., v. James Schlesinger, et al., Nos. 71-2028 and 72-1057; People of the State of Illinois ex rel Scott v. United States Atomic Energy Commission, et al., Nos. 71-2029 and 72-1058.

4. Further Regulatory Proceedings.

A. In view of the demonstrated and immediate need for additional electrical generating capacity within the Utilities service areas and of the particular need to fully test each of the Quad Cities units prior to the date of the summer 1972 peak load, the Plaintiffs, when and as requested by the Utilities, will support in any reasonable way the application of the Utilities for all permits and licenses which are required under the following circumstances:

1. Prior to completion of the diffuser discharge pipe;
 - (a) To operate at 50 percent of station capacity; and
 - (b) To operate at capacity levels in excess of 50 percent of station capacity when, after the Utilities have used their best efforts to reduce total demand for electricity by interrupting their interruptible customers, such operation is necessary to avoid a reduction in the voltage being supplied either to the Utilities' customers, or to the customers of interconnected systems, when alternative power sources are not available.
2. To operate after completion of the diffuser discharge system, at full station capacity;

Such applications include:

- (a) Application to the Illinois Pollution Control Board.
- (b) Application to the Iowa Conservation Commission for permission to construct the diffuser discharge pipe in the bed of the Mississippi River.

(c) Applications for interim and permanent operating licenses from the United States Atomic Energy Commission.

(d) Applications for any permits that may be needed from the United States Army Corps of Engineers.

Such support shall include, as the Utilities may request, written statements to, and oral testimony before, the appropriate regulatory body indicating approval of the authority sought by the Utilities, together with furnishing to the Utilities or the regulatory body of such data or evidence as the Utilities may request, to the extent such data or evidence is reasonably available to the Plaintiffs or any of them.

B. In the event that permits allowing construction and operation of the diffuser discharge pipes from the appropriate regulatory agencies acting for the States of Iowa and Illinois and the United States of America are not obtained and Utilities determine to install an alternative condenser cooling water discharge system, Plaintiffs will support the Utilities' applications to install such an alternative condenser cooling water discharge system which, having due regard for the energy needs of the Utilities and the conservation of the aquatic environment of the Mississippi River, will enable the Utilities to operate the Quad Cities Station at full station capacity, pending completion of the closed-cycle cooling system described in Paragraph 1 hereof. Utilities will inform the Plaintiffs of the progress of pending applications to various regulatory bodies and will consult with the Plaintiffs prior to the filing of any substantial amendment of those applications.

5. Condition to Performance of the Agreement.

Performance of this agreement by the Utilities is conditional upon vacation of the preliminary injunction and dismissal of the proceedings now pending in the United States District Court for the District of Columbia in the District Court Cases by March 29, 1972.

6. Time of Performance and Force Majeure.

A closed-cycle cooling system having a capacity equal to one-half of the condenser cooling water discharge of the Quad Cities Station shall be installed and placed in operation no later than May 4, 1974 and the closed-cycle cooling system for the entire station shall be placed in operation no later than May 4, 1975; provided, however, that in the event the completion of such system is delayed either by reason of the failure of any governmental agency exerting jurisdiction over the Quad Cities Station to grant all necessary authority for construction and operation of the closed-cycle cooling system within three months after submission of a request therefor, or by reason of any other event beyond the reasonable control of the Utilities, the time for performance shall be extended for a time equal to such period of delay. The Utilities will notify the Plaintiffs no later than ten business days after it becomes aware of any factor which the Utilities claim may be a basis for an extension of time of more than 30 days for performance of the Utilities' obligations described in this paragraph.

7. Operation After Construction of the Closed-Cycle System.

The Utilities shall operate closed-cycle at the Quad Cities Station at all times, except that:

A. The Utilities may utilize the diffuser or other alternate cooling system and shall not be required to operate closed-cycle when, in the judgment of the Utilities, closed-cycle operation will result in a threat to public health and safety. In no event, except as provided below, shall the Utilities operate without the closed-cycle cooling system after its installation, except to avoid a threat to public health and safety arising from closed-cycle operation. One calendar year after installation of the closed-cycle cooling system, Utilities and Plaintiffs agree to confer regarding the establishment of reasonable criteria, pursuant to which Utilities shall operate the Quad Cities Station thereafter without the closed-cycle cooling system to avoid a threat to public health and safety arising from closed-cycle operation. Such reasonable criteria shall be established within 60 days after the end of the first calendar year of closed-cycle operation.

B. Utilities may utilize the diffuser or other alternate cooling system whenever (i) a malfunction or other physical impairment, such as freezing, of the closed-cycle cooling system occurs which prevents operation of the Quad Cities Station at its operating capacity, as scheduled from time to time, and (ii) if the Utilities cannot reasonably supply their customers' energy needs by using other sources of energy within their generating system. Utilities agree to correct the malfunction or other physical impairment and restore the closed-cycle cooling system to operation at the earliest practicable date.

C. In each case in which the Utilities shall operate other than closed cycle pursuant to subparagraph

A or B, or pursuant to Paragraph 4A.1.(b), shall operate in excess of 50% capacity, they shall within ten business days thereafter, furnish notice to the Plaintiffs of all of the circumstances surrounding the use of the diffuser or other cooling system or operation in excess of 50% capacity, including, as applicable, the nature of the threat to the public health or safety, or the malfunction, or the extent to which operation exceeded 50% of capacity, all action taken in connection therewith, and the length of time the closed-cycle cooling system remained inoperative.

8. Disputes.

If any dispute arises between the Utilities and the Plaintiffs, or any of them, concerning the interpretation or performance of this agreement, the parties hereto will first attempt to resolve the same by good faith discussions directed to settlement of the dispute. In the event the parties are unable to resolve the disputes through good faith negotiations, this agreement will be enforceable by appropriate judicial or administrative bodies.

9. Illinois Commerce Commission.

Commonwealth Edison Company shall file this agreement with the Illinois Commerce Commission as part of the record in its Docket Numbers 55405 and 55149, and the requirement for the construction of a closed-cycle cooling system as described in this agreement shall, subject to the approval of the Commission, be incorporated in the Commission's environmental orders in those proceedings.

10. Entire Agreement.

This agreement and any other writing signed by the parties or their agents or any of them contemporaneously herewith supersede all prior representations, negotiations and

understandings of the parties hereto, whether oral or written, and constitute the entire agreement of the parties. This agreement shall not be changed or superseded, except in a writing, signed by the duly authorized representatives of the parties hereto.

11. Notices.

Any notice of information required by this agreement shall be sent registered mail, return receipt requested, postage prepaid, to a representative of each party as follows:

(a) For the Utilities:

President
Commonwealth Edison Company
Post Office Box 767
Chicago, Illinois 60690

(b) For the Plaintiffs in the District Court Cases:

Hon. William J. Scott
Attorney General of Illinois
160 North LaSalle Street
Chicago, Illinois 60601

Joseph V. Karaganis, Esq.
189 West Madison Street
Chicago, Illinois 60602

12. Miscellaneous.

No public announcement or statement regarding this agreement shall be made by any of the parties or their agents prior to the time the orders referred to in Paragraph 5 have been entered by the District Court.

The undersigned represent that they have the requisite authority of their respective organizations to execute this agreement on their behalf. This agreement shall be binding upon the representatives, successors and assigns of each signatory.

This agreement is entered into by the Utilities and the State of Illinois, the Izaak Walton League and the UAW to resolve all controversies, differences and disputes between the parties hereto with respect to the licensing and operation of Quad Cities Station Units 1 and 2, including, but not limited to, those which have heretofore arisen, or might or could have arisen to the date of this agreement. The execution of this document by the Utilities is not intended to and does not constitute any admission by the Utilities that the discharge of condenser cooling water other than from a closed-cycle cooling system is inadequate, unsafe or results in any way in an adverse effect on the aquatic environment in the Mississippi River.

Dated: March 27, 1972

COMMONWEALTH EDISON COMPANY and
IOWA-ILLINOIS GAS & ELECTRIC COMPANY

By: Sherry Beale & Beale
SHB

STATE OF ILLINOIS

By: Eric J. Seaw
Attorney General

IZAAK WALTON LEAGUE OF AMERICA
ILLINOIS DIVISION OF THE IZAAK
WALTON LEAGUE OF AMERICA
IOWA DIVISION OF THE IZAAK WALTON
LEAGUE OF AMERICA
DAVENPORT, IOWA CHAPTER OF THE
IZAAK WALTON LEAGUE OF AMERICA
CLINTON, IOWA CHAPTER OF THE IZAAK
WALTON LEAGUE OF AMERICA
BLACKHAWK CHAPTER OF THE IZAAK
WALTON LEAGUE OF AMERICA

By: Joseph Karagano

ILLINOIS STATE COMMUNITY ACTION PRG
OF THE UNITED AUTOMOBILE, AIRCRAFT
AND AGRICULTURAL IMPLEMENT WORKS
OF AMERICA

By: Kathy Friedman
Walter O. Katz

PROOF OF SERVICE

I, JAN M. SHEARS, having been sworn and under oath do state that I have this 25th day of May, 1978 served the foregoing NOTICE and RECOMMENDATION upon the person to whom said Notice is directed by placing same in envelope addressed to said person and depositing same with the United States Postal Service located at 160 North LaSalle Street, Chicago, Illinois 60601.

Jan M. Shears

SUBSCRIBED AND SWORN TO
before me this 25th day
of May, 1978.

Sally Shears
NOTARY PUBLIC