

NUCLEAR REGULATORY COMMISSION

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COMMISSION MEETING

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In the Matter of:      AFFIRMATION SESSION

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DATE:      May 21, 1981      PAGES:      1 - 7  
AT:      Washington, D. C.

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

AFFIRMATION SESSION

Nuclear Regulatory Commission  
Room 1130  
1717 H Street, N. W.  
Washington, D. C.

Thursday, May 21, 1981

The Commission met, pursuant to notice, at  
4:00 p.m.

BEFORE:

- JOSEPH M. HENDRIE, Chairman of the Commission
- VICTOR GILINSKY, Commissioner
- JOHN F. AHEARNE, Commissioner
- PETER A. BRADFORD, Commissioner

STAFF PRESENT:

- S. CHILK
- L. BICKWICK
- A. BATES

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DISCLAIMER

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P R O C E E D I N G S

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2 CHAIRMAN HENDRIE: The Commission will now devote  
3 itself to an affirmation session. Those of you who are not  
4 being affirmed please either remove yourselves or become  
5 silent so that we can get on with the afternoon's work.

6 Onward, Sam.

7 MR. CHILK: Why don't we take the uranium mill  
8 licensing requirement then which is SECY 81-276.

9 CHAIRMAN HENDRIE: All right.

10 MR. CHILK: This is a revised draft which would  
11 deny request for a stay requested by New Mexico and  
12 operators of three uranium mills.

13 The Chairman, Commissioner Ahearne and  
14 Commissioner Bradford have approved it and Commissioner  
15 Gilinsky will approve it also.

16 Would you please affirm your vote.

17 (Chorus of Ayes.)

18 COMMISSIONER BRADFORD: I thought Victor had  
19 pulled it. Am I wrong?

20 MR. CHILK: I beg your pardon?

21 COMMISSIONER BRADFORD: I thought Victor had  
22 pulled it. No?

23 MR. CHILK: He hadn't responded to it.

24 CHAIRMAN HENDRIE: He just agreed to go with it.

25 MR. CHILK: Have I misrepresented something?

1           COMMISSIONER BRADFORD: I really don't know the  
2 background at all except I was just told a moment ago that  
3 that one wasn't on.

4           MR. CHILK: I had been told earlier that your  
5 office had okayed it.

6           COMMISSIONER GILINSKY: I had okayed it earlier  
7 but I was told there was a change in the order and I have  
8 not seen the change.

9           COMMISSIONER AHEARNE: Peter approved the later  
10 change.

11          MR. BATES: I understand from the revised order  
12 that came up from General Counsel that all the offices other  
13 than Commissioner Gilinsky's had approved it.

14          CHAIRMAN HENDRIE: So all of us have approved the  
15 revised one. Vic just said he was willing to go along if  
16 everybody else was.

17          COMMISSIONER AHEARNE: Well, can we provisionally  
18 affirm, and if Peter's check finds that he had approved the  
19 revised order it holds?

20          COMMISSIONER BRADFORD: I know I had approved it.

21          COMMISSIONER AHEARNE: Oh, you had approved the  
22 revised order?

23          COMMISSIONER BRADFORD: Yes.

24          CHAIRMAN HENDRIE: Three of us have approved the  
25 revised order. So we have affirmed this thing.

1 COMMISSIONER BRADFORD: My only puzzlement was  
2 that I had been told that it wouldn't come up, but I had  
3 approved it.

4 CHAIRMAN HENDRIE: You have to be careful of your  
5 sources, Peter. It is an old problem in this town.

6 (Laughter.)

7 COMMISSIONER BRADFORD: Both protect and be  
8 careful.

9 MR. CHILK: The second one is SECY 81-270 which is  
10 conforming change to the emergency planning rule. It picks  
11 up the adequate protection measures.

12 In this situation the Chairman and Commissioner  
13 Gilinsky had approved the paper. Commissioner Bradford just  
14 today indicated, as I understand it, that he would approve  
15 if a phrase were deleted on the first page of the rule.  
16 Commissioner Ahearne has not yet acted.

17 COMMISSIONER AHEARNE: Well, I figured since this  
18 whole thing was Peter's request and he hadn't acted on it ---

19 (Laughter.)

20 COMMISSIONER BRADFORD: It is safe to wait.

21 CHAIRMAN HENDRIE: How come you are objecting to  
22 your proposal here? The game here is I take it you are  
23 saying it isn't necessarily the statutory language.

24 COMMISSIONER BRADFORD: Well, it is the statutory  
25 language, but we had that long tortured discussion in which

1 we began with the difference between the words "effective",  
2 "appropriate" and "adequate" in this context and there was  
3 some question on whether there was any difference between  
4 the three words.

5           It seemed to me that we wound up saying that there  
6 was some measure of difference, but you after all you could  
7 hardly quarrel with the statutory language. So we did take  
8 "adequate."

9           I didn't think we did it just because it followed  
10 the statutory language. I mean I had real substantive  
11 reservations about the word "appropriate." My only concern  
12 here was that I didn't want us to say that we took the word  
13 "adequate solely to follow the statutory language and there  
14 was not a dime's worth of difference between them.

15           John I remember made the point at the time that he  
16 didn't see how anything could be appropriate if it wasn't  
17 also adequate. But it seemed to me that the staff said that  
18 in fact there were circumstances in which something could be  
19 appropriate and not be adequate.

20           COMMISSIONER AHEARNE: My proposal would be to  
21 accept Peter's deletion not because I can now remember why  
22 we chose that but in the fear that we might have to go back  
23 and read the transcript and resurrect the argument.

24           (Laughter.)

25           COMMISSIONER GILINSKY: Well, the important thing

1 is that was what the Commissioner settled on.

2 COMMISSIONER AHEARNE: Right.

3 COMMISSIONER GILINSKY: That is why we are making  
4 this change. So it seems to me that it is fine to take out  
5 that phrase.

6 COMMISSIONER AHEARNE: Unless, Len, you felt there  
7 was some problem.

8 MR. BICKWIT: No, I don't have any problem taking  
9 that out.

10 MR. CHILK: I take it you are all in agreement  
11 with the order?

12 CHAIRMAN HENDRIE: How did it get in?

13 MR. BICKWIT: We drafted it in. As Peter says,  
14 this language does more closely track ---

15 COMMISSIONER GILINSKY: Well, if you start a new  
16 sentence you said the word "adequate" follows more closely  
17 the statutory language.

18 COMMISSIONER BRADFORD: That would lessen the  
19 problem. I still have it because at least for my own part  
20 that wasn't the only reason we made the change. I mean,  
21 there were four different people voting and there were a  
22 mixture of feelings about why it was done.

23 This does say it was after extensive debate and  
24 anybody who really cares can go back to the transcript and  
25 discovery what each of the four of us had to say at the time.



1 CHAIRMAN HENDRIE: All right, I guess it is all  
2 right.

3 COMMISSIONER AHEARNE: Since I at the time didn't  
4 feel it was really worth the effort in making the change, I  
5 am certainly not going to reopen that whole issue.

6 MR. CHILK: May I formally have your vote?

7 (Chorus of Ayes.)

8 MR. CHILK: Thank you.

9 CHAIRMAN HENDRIE: That's it.

10 (Whereupon, at 4:05 p.m., the affirmation session  
11 concluded.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the  
COMMISSION MEETING

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in the matter of: AFFIRMATION SESSION

Date of Proceeding: May 21, 1981

Docket Number: \_\_\_\_\_

Place of Proceeding: Washington, D. C.

were held as herein appears, and that this is the original transcript thereof for the file of the Commission.

Mary C. Simons

Official Reporter (Typed)

Mary C Simons

Official Reporter (Signature)