



Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

DISCUSSION OF NFS-ERWIN
(Closed to Public Attendance)

Thursday, September 27, 1979

1738 217

Pages 1 - 19

Prepared by:
C. H. Brown
Office of the Secretary

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION
3

4 DISCUSSION OF NFS-ERWIN
5 (Closed to Public Attendance)
6

7 Commissioner's Conference Room
8 1717 H Street, N.W.
9 Washington, D. C.

10 Thursday, September 27, 1979

11 The Commission met, pursuant to notice, at
12 3:45 p.m., Victor Gilinsky, Acting Chairman of the
13 Commission, presiding.

14 COMMISSIONERS PRESENT:

- 15 Commissioner Gilinsky
- 16 Commissioner Kennedy
- 17 Commissioner Bradford
- 17 Commissioner Ahearne

1738 218

18 ALSO PRESENT:

- 19 V. Stello
- 20 W. Dircks
- 20 L. Gossick
- 21 M. Howard
- 21 R. Burnett
- 22 L. Bickwit
- 22 S. Chilk

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24
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P R O C E E D I N G S

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2 COMMISSIONER GILINSKY: Very well, Lee?

3 MR. GOSSICK: Well, I will ask Bill and Victor
4 to go ahead and tell you where we are now, in the matter of
5 the Erwin MUF. Go ahead, Bill.

6 MR. DIRCKS: Well, the assignment that you gave
7 us, after the last meeting on the subject, after we talked
8 to the FBI was to go back and see if any developments had
9 occurred or expected to occur that might bring some new
10 light on this matter before the start of the actual
11 taking of the inventory.

12 As you recall, the FBI said that if nothing
13 developed prior to the start of the inventory they most
14 likely would enter this case to pursue that other ---

15 COMMISSIONER AHEARNE: I thought it was also that
16 somewhere Tuesday or Wednesday that that was the decision
17 time, and you would -- if you called them, they would then
18 start.

19 MR. DIRCKS: Yes, it was mid-week, so to speak,
20 that they want to come back in.

21 We have been talking to them right up until the
22 point this morning, I guess. So the up-shot is nothing
23 has developed, we have resumed the various aerial flights,
24 we have looked into everything that can be looked in prior
25 to the starting of the inventory, and there is essentially

1738 219

1 nothing to report. The inventory must be taken, and that's
2 the thing ---

3 COMMISSIONER AHEARNE: So then you are going to
4 ask them?

5 MR. DIRCKS: That's the intent, yes.

6 COMMISSIONER KENNEDY: What is it that they are
7 going to do, now?

8 MR. DIRCKS: They are going to pursue the one
9 remaining area that we haven't, namely, to answer the
10 question: Has the material been taken off site? Has it
11 been stolen? We have not really gotten into that.

12 We have concentrated on the normal approach that
13 we take to these MUFs. We go back and we survey the entire
14 plant, we check the records ---

15 COMMISSIONER KENNEDY: But we haven't done that?

16 MR. DIRCKS: We haven't pursued the so-called
17 violation part of the Atomic Energy Act. We have no grounds
18 to believe that a violation has occurred, we have got no
19 indication that ---

20 COMMISSIONER AHEARNE: But it might be prudent
21 at this point, certainly to ---

22 MR. DIRCKS: At this time, rather than waiting
23 four weeks to go ahead and have ---

24 COMMISSIONER AHEARNE: Yes.

25 MR. DIRCKS: That's essentially where we are

1 today ---

2 COMMISSIONER KENNEDY: And the FBI is prepared to
3 do that?

4 MR. DIRCKS: Last week they were prepared. In
5 fact, it was ^{their} ~~there~~ judgment too, that ---

6 COMMISSIONER AHEARNE: No. They were prepared if
7 we had asked last week, weren't they?

8 MR. DIRCKS: They were prepared. If we were
9 willing to say last week that we had an indication of a
10 violation here, they would have come in right away.

11 Also, it was their view last week that it
12 wouldn't be prudent for them to wait four weeks until
13 after this actual inventory. It is going to be a dead
14 spot, so to speak, from now until the beginning of November,
15 and the general consensus is why waste more time.

16 COMMISSIONER AHEARNE: Right. And there was some
17 sentiment here that they ought to be brought in anyway.

18 MR. DIRCKS: Yes. But there was also sentiment
19 on their side that they didn't see a need for it right
20 away.

21 COMMISSIONER AHEARNE: Right, but if we asked
22 they would.

23 COMMISSIONER KENNEDY: What was the sentiment
24 here that --

25 COMMISSIONER AHEARNE: The sentiment here was

1738 221

1 simply that when that large amount is unaccounted for in
2 whatever way, that it might be prudent to ask the FBI to
3 come in and start looking to see whether that area, under
4 their responsibility was reasonable, rather than assuming
5 that that case hadn't happened.

6 COMMISSIONER KENNEDY: I'm just getting caught
7 up.

8 MR. DIRCKS: That's about where we are today.

9 COMMISSIONER KENNEDY: So that's where we are?

10 MR. DIRCKS: That's where we are.

11 COMMISSIONER BRADFORD: So all of the overflights
12 and whatever they detected came to nothing?

13 MR. DIRCKS: Came to nothing. The overflights
14 detected some hot spots out there, I think whatever
15 information we have now, looked like it was material that
16 had been there since '69, '67 ---

17 COMMISSIONER GILINSKY: Have we taken samples?
18 Do you have any idea of how much is there?

19 MR. DIRCKS: We have taken samples in there.

20 COMMISSIONER GILINSKY: Do we have any idea
21 how much material is there?

22 MR. HOWARD: No.

23 COMMISSIONER GILINSKY: Any estimate at all?
24 Can we identify it, since it's ---

25 COMMISSIONER KENNEDY: Is it kilograms or ounces
or ---

1 MR. HOWARD: Kilograms.

2 COMMISSIONER KENNEDY: Kilograms. It is kilograms.

3 MR. BURNETT: It is not highly enriched, though.

4 COMMISSIONER GILINSKY: Of not highly enriched
5 material?

6 MR. BURNETT: Not highly enriched.

7 COMMISSIONER AHEARNE: What kind of material?

8 MR. BURNETT: Between 4 and 7 percent ---

9 COMMISSIONER GILINSKY: Did Erwin process
10 low enriched material?

11 MR. BURNETT: Yes, sir. They have a scrap
12 recovery operation and have had one for years.

13 MR. DIRCKS: And this material has been out there,
14 it seems, for a number of years.

15 MR. BURNETT: And the signature on it dates it
16 earlier than '69.

17 COMMISSIONER GILINSKY: What is the size of our
18 force there, now, roughly?

19 MR. HOWARD: My estimate is about 7 or 8 people
20 there right now.

21 COMMISSIONER GILINSKY: And that's how many will
22 stay throughout the physical inventory?

23 MR. HOWARD: Yes, sir.

24 COMMISSIONER GILINSKY: Roughly?

25 MR. HOWARD: Yes, sir.

1738 223

1 MR. BURNETT: Actually, it goes up from that point.
2 It goes up to about 15 by next week.

3 MR. HOWARD: Right.

4 COMMISSIONER GILINSKY: So the next step for you
5 to take would be to call the FBI, and who would you be
6 calling?

7 MR. DIRCKS: Well, I'd call Mr. Sitkowski, who
8 knows that we are supposed to be calling him.

9 MR. STELLO: I think it is maybe important to
10 make a point.

11 My view hasn't changed, personally. But when
12 we were here talking about it the last time, I felt that
13 there was a staff view, that also went to the direction,
14 and I think that since that time I have sensed a staff
15 view that has maybe a "wait and see" attitude. And I
16 think you need to know that.

17 My recommendation to bring in the FBI has not
18 changed. As a matter of fact ---

19 COMMISSIONER GILINSKY: That we should?

20 MR. STELLO: That we should. -- has not changed.
21 I might add, I feel, after thinking about it since the
22 last time we talked, even more so, that there is a need,
23 but I have asked Morris also to sit here, I told them
24 that I would point to and try to express what I sense
25 is a different view than when I was here the last time,

1 and I also sense from Bob what I think is a different
2 view. And I think you need to hear that.

3 My recommendation, I would like you to understand,
4 didn't change and doesn't change. In fact, I think it is ---

5 COMMISSIONER KENNEDY: What is it based on?

6 MR. STELLO: The thinking that I have done has
7 led me to conclude that if there were a blackboard and
8 I were trying to draw a curve, L

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17] I do not believe,
18 in light of our mission to assure that the health and
19 safety, to properly protect the security of the country,
20 warrants waiting.

21 I want to have much higher confidence that this
22 material has not been diverted, and the more I think about
23 it, the more I think, as they move out in that curve and
24 if we had the time, and we knew how to do it, maybe we
25 ought to even try to quantify that at what point do you make

1738 225

1 that decision in terms of levels of confidence versus
2 the amount of material. [

3] and I just don't see, based on the
4 judgments that are made, that there is sufficient
5 confidence that we know that material on site. It is a
6 safety issue, as I see it, that is causing me to move
7 more and more that there is a possible path for this
8 material to fall in, that I think needs to be looked at,
9 aside from the question of finding and prosecuting people,
10 just the safety issue by itself.

11 COMMISSIONER GILINSKY: Well, what you seem to be
12 saying is that we don't know that it is offsite, but
13 we don't know that it is onsite either.

14 COMMISSIONER AHEARNE: And the magnitude of it.

15 MR. STELLO: And the magnitude. And the judgments
16 that people could say, what confidence do they think it is
17 going to be found onsite.

18 COMMISSIONER GILINSKY: Yes.

19 MR. DIRCKS: Well, just one point.

20 I think that's very true. There's absolutely no
21 feeling one way or the other. I think if we had to go by
22 past experience, we would say it is part of the nature of
23 the beast that that stuff is in that plant, stuck or lost
24 in processing areas or something.

25 The other point that we have to realize is that

1 inventory period started back in June, at least this run,
2 and I think there were problems back when the previous
3 inventory was taken, because that 's when they were half
4 on a strike and half not on a strike.

5 In other words, the hourly wage people were
6 taking the inventory, and then mid-way in the inventory
7 they left on strike and turned the rest of the inventory
8 taking over to the so-called salaried personnel.

9 The third point that I think you have to realize
10 is that these numbers are so imprecise, it is basing --
11 I can understand Vick's desire to graph this thing out
12 in precise engineering terms, but the problem is the numbers
13 going into such calculations are so foggy. I'm saying all
14 of that, and I'm probably going to agree that it is
15 prudent to call them in, just because you want that extra
16 feeling of security. But on the other hand, as I think
17 one of the FBI people said, this looks like a large MUF,
18 but what makes it so different from your past MUFs.
19 Nothing but the largeness of it ---

20 COMMISSIONER GILINSKY: But some of those are
21 unexplained.

22 MR. DIRCKS: Some of those are unexplained.

23 COMMISSIONER AHEARNE: Are Moe or Bob going to --

24 COMMISSIONER GILINSKY: Yes.

25 MR. HOWARD: I have been talking to the staff and

1 my own conclusion too is we looked at the records that
2 we could, we looked at the physical security for the
3 entire period and found only once, a very, very small
4 anomaly. And that was certainly backed up and protected.

5 We looked at every record that they had down
6 there and we found no mistakes -- identifiable mistakes
7 in the records. We looked at every discrete item on the
8 staff, and we are right now in the process of gamma
9 scanning every container on the site, and that will be
10 completed this Sunday afternoon. We have found nothing
11 wrong.

12 We have taken the survey instrument and we have
13 looked at every square inch on that site, either by truck
14 or by hand, and then again, on the flyovers.

15 The way the staff looks at it, and the people
16 who are working there, I guess they come up with the --
17 the agreement reads that we should have some indication
18 to provide the FBI with a cause for an investigation, and
19 we just don't have it yet.

20 COMMISSIONER GILINSKY: Well, you are saying
21 something beyond the discrepancy in the records themselves?

22 MR. HOWARD: I share Vick's sentiments, that
23 yes, this is great backup and when I looked at the agreement
24 and what we have found so far.

25 COMMISSIONER GILINSKY: Well, it is not as if

1 we would be suggesting to the FBI that we have some other
2 information. We are telling them exactly what we know and
3 don't know.

4 MR. DIRCKS: And they have been kept informed
5 all along.

6 COMMISSIONER AHEARNE: And asking them to come in.

7 COMMISSIONER GILINSKY: Yes.

8 COMMISSIONER KENNEDY: Bob?

9 MR. BURNETT: Well, I have spent a lot of time
10 there.

11 In '74, there was a 31 kilogram discrepancy. In
12 '75 there was a 14, and you know, I have looked at many
13 others. There are some 10s and some 11s. [

14] We know that there were
15 salaried people running the plant.

16 I was down at the site with Moe, and I haven't
17 found an indication that would lead me to believe that
18 it has gone anywhere but inside that plant. I thought,
19 as Vick says, that we haven't exercised that one last little
20 option. But having come from law enforcement, I guess I
21 would recommend telling them what we have and let them
22 make a decision.

23 Now, I know that's a slight difference. It is
24 just not clear to me what we are going to tell them.

25 MR. HOWARD: If I might add something.

1 In going over the records, we do find that
2 management has done the same job that the workers do in
3 just a slightly different manner. There were some
4 cross-overs and there is obvious ---

5 COMMISSIONER GILINSKY: Well, that would seem to
6 explain or at least make more plausible why there would
7 be errors. At the same time, it cuts the other way in
8 that just that that time of confusion might be the time
9 to make away with some material. So I don't know that it
10 cuts one way or the other.

11 MR. HOWARD: I just thought I would point that out.

12 COMMISSIONER AHEARNE: As far as I can see, if
13 the material hasn't been taken off the site, when we call
14 the FBI in, in addition to any imposition on their
15 resources, we look embarrassed. It is embarrassing to us
16 because we will have ginned up this big exercise.

17 If it has been taken off the site and we don't
18 call the FBI in, we may preclude the opportunity to avoid
19 it being taken out or further lost from our control. So
20 the balance that I see is that on the one hand our
21 embarrassment versus the other hand, the significant danger.

22 The reason it might be embarrassing is we would
23 have to, at some point recognize that the thing has been
24 a very sloppily run operation for a long time, and
25 the numbers have been very bad.

1738 230

1 COMMISSIONER GILINSKY: Let me ask you, Moe, what
2 would you say if we were gathered here now, six weeks later,
3 and had gone through the entire inventory and nothing has
4 changed?

5 MR. HOWARD: Vick has already asked me that question
6 If we have to look a little bit harder it might
7 be embarrassing, but ---

8 COMMISSIONER GILINSKY: No, no. I'm not asking
9 you whether you would be embarrassed or not, but what
10 could you counsel then about further NRC action?

11 MR. HOWARD: Then I certainly think the FBI should
12 be notified and brought in.

13 COMMISSIONER AHEARNE: But then it would be six
14 weeks later.

15 MR. BURNETT: If I could comment on that, I would
16 think that you would then have a reason. I understand,
17 John, what you are saying there. You understand that we
18 are at least 100 days into this possible diversion.

19 COMMISSIONER AHEARNE: I know.

20 MR. BURNETT: The reinventory gives us the most
21 total picture that we can get. If it doesn't narrow it,
22 then I think you have strong grounds that there was no
23 way to technically identify this problem.

24 COMMISSIONER AHEARNE: It's probably -- the
25 reinventory in that sense, may or may not lead to -- as you

1 know the problems with that.

WD 2 MR. BURNETT: I guess in the ^{future} further we are
3 going to have to think about when we call in the FBI and
4 with what kind of a number. As we know the license
5 condition was 9. Would we do it if it was at 12, 16?

6 COMMISSIONER AHEARNE: I don't know. As I did
7 last week, I reached the conclusion that at [] we ought
8 to ---

9 COMMISSIONER GILINSKY: Well, you know, we are
10 not asking for specific action on their part. We are asking
11 them to do whatever they think is reasonable under the
12 circumstances. And I don't know what they will do.

13 COMMISSIONER KENNEDY: Well, that's not unlike what
14 Bob is suggesting.

15 MR. BURNETT: I'm not saying that's wrong,
16 because their view might be to sit back and wait for
17 reinventory.

18 COMMISSIONER AHEARNE: I'm further than that,
19 because I think that if you go to them and you say, here's
20 what we know now, and they will turn around, I would expect,
21 and say, well, what does that mean? And if we say we
22 won't really know until we go through the inventory
23 in six weeks, and then in addition, if we say, and even
24 after we finish the inventory we still may not know, because
25 of all these other problems about the data base, I think that

1 at that stage they will ask, then what are you asking us
2 to do? As I was last week, I'm still at one point, I would
3 like them to come in and begin doing a review of the
4 operation on the basis that this stuff might have been
5 taken out.

6 MR. BURNETT: One point that I might make, if we
7 are going to question the data base, we have to question
8 from what level. Once you open the door, then you have
9 to question it down to zero.

10 COMMISSIONER AHEARNE: I understand that.

11 COMMISSIONER GILINSKY: Yes, but we are not
12 going to be telling them precisely what to do. We are
13 not in a position to tell them how to conduct the
14 investigation.

15 COMMISSIONER AHEARNE: No, we aren't, but I think
16 or at least my belief is that we ought to be asking them
17 to go down there and do at least some type of a review.

18 I think that if you just take what we have to them
19 and say, well, here's our file, and if you guys think
20 there is anything worth coming down to look at, do so.
21 If you don't, don't. I would go farther than that.

22 MR. DIRCKS: I think we should stress, though,
23 when we left them last week, it was their view that if
24 we came up with no other leads than we have right now,
25 they would initiate their ---

1 COMMISSIONER AHEARNE: And I feel that we ought
2 to be asking them to do that, that's right.

3 COMMISSIONER KENNEDY: You know, if they are
4 prepared to go ahead and do it, I would say, by all means
5 do it.

6 MR. DIRCKS: I wouldn't say they are enthusiastic
7 about jumping into this thing, I think they are well
8 aware of -- making it an exception of laying back a couple
9 of weeks.

10 MR. CUMMINGS: I don't understand why we are so
11 reluctant to ask the FBI for a commitment in manpower to
12 help us with this job.

13 COMMISSIONER KENNEDY: Depends on which job it is.

14 MR. CUMMINGS: You know, to come in and investigate
15 this for us, from the theft and diversion view point.
16 That is basically what we are asking them for. I just
17 don't see why that is such an onerous thing to ask the
18 Bureau to do in light of the significance of the
19 unaccounted for material.

20 COMMISSIONER AHEARNE: Nor do I.

21 MR. GOSSICK: I just think there is one other
22 point. It could well be that we are going to finish our
23 inventory and still come out with some number that leaves
24 us to the questions. It is very possible that the Bureau
25 is going to go in there and turn that place upside down

1 and come out with, they can't find anything. We certainly
2 haven't lost anything. If we haven't done that, though,
3 it seems to me that there is a step that hasn't been taken,
4 that at least answers the question: Well have you done
5 everything you can? I certainly would agree with ---

6 COMMISSIONER AHEARNE: We have the responsibility
7 to do it.

8 COMMISSIONER GILINSKY: So you think we should go
9 forward.

10 MR. GOSSICK: I think so.

11 COMMISSIONER AHEARNE: It is a responsibility we
12 have. We really should be asking them to help us.

13 COMMISSIONER GILINSKY: Very well.

14 MR. GOSSICK: And they have agreed to do it.

15 COMMISSIONER GILINSKY: I think the Commission
16 is clearly on the side of asking the Bureau to involve
17 itself in this case.

18 MR. STELLO: We just need to make the phone call
19 after this meeting and then I think that will happen.

20 COMMISSIONER GILINSKY: Very good. Thank you.

21 (Whereupon, the meeting was concluded and the
22 Commission moved on to other business. 4:05 p.m.)

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24 1738 235
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