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**UNITED STATES
NUCLEAR REGULATORY COMMISSION**

In the matter of:

Affirmation Session 80-4

Place: Washington, D. C.

Date: January 31, 1980

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Affirmation Session 80-4 :
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Room 1130, Eleventh Floor
1717 H Street, N.W.
Washington, D.C.

Thursday, January 31, 1980

The Commission met, in full quorum assembled, for
the purpose of an Affirmation Session, at 3:30 p.m.,
BEFORE:

- JOHN F. AHEARNE, CHAIRMAN
- VICTOR GILINSKY, COMMISSIONER
- RICHARD T. KENNEDY, COMMISSIONER
- JOSEPH M. HENDRIE, COMMISSIONER
- PETER A. BRADFORD, COMMISSIONER
- LEONARD BICKWIT, GENERAL COUNSEL
- SAMUEL J. CHILK, SECRETARY

P R O C E E D I N G S

CHAIRMAN AHEARNE: The Commission comes back in session for an Affirmation Session.

Sam?

MR. CHILK: Okay, there are four affirmations plus an add on. The first one is Secy 79-667, which deals with licensing requirements for Uranium Mills in which the Commission has unanimously approved the recommendations with the staff.

I ask you to affirm your votes.

(A chorus of "ayes".)

MR. CHILK: The second deals with Secy 79-644 which is the immediate reporting of significant events at operating power reactors. A majority of the Commission has approved publication of the notice of changes to parts 20 and 50 to be immediately effective.

Commissioner Kennedy preferred that rule be published giving 30 days for public comment and 20 days for staff revision. Commissioner Hendrie approved subject to rule changes being made effective 45 days after publication. There were some minor changes to parts 53(a) and 3(b) which all of you have approved. Item 13 of paragraph part of 53(a) was deleted. However, Commissioner Gilinsky would have preferred to retain it.

I would ask you to affirm your votes.

(A chorus of "ayes".)

1 MR. CHILK: 79-676 which is publication of a final
2 rule of 10 CFR Parts 25 and 95 governing respectively
3 access to and safeguarding of national security information.

4 The Commission by a vote of four to nothing has
5 approved the publication in effective form. Commissioner
6 Gilinsky did not participate in this action.

7 COMMISSIONER KENNEDY: Which one is this, yes.

8

9 MR. CHILK: Six seventy-six.

10 Would you confirm your votes.

11 (A chorus of "ayes".)

12 MR. CHILK: The fourth one is Secy 79-283, the
13 export of certain minor quantities of nuclear material.

14 The Commission by a vote of 4 to 1 with Commissioner
15 Bradford dissenting has approved publication in effective.
16 form of the Federal Register notice the amendments to part
17 110 set forth in the enclosure to the paper. Commissioner
18 Bradford nonconcurred and requested that his nonconcurrence
19 be inserted in the statement of considerations which will be
20 done.

21 Commissioner Gilinsky concurred with the changes
22 to the general license with two exceptions, depleting uranium
23 for exporting any matter should be handled in the same way
24 we now regulate. Section 110.23 A (1) should be modified to
25 read --

1 COMMISSIONER GILINSKY: The way we now regulate
2 source of material.

3 MR. CHILK: Right. Okay, the way we now regulate
4 source material, i.e., issuance of a specific license is the
5 exact phrase. Two, section 110.23 A (1) should be modified
6 to read as follows: "One kilogram or less per shipment of
7 unirradiated thorium or uranium other than special nuclear
8 material.

9 We have not had the opportunity of circulating
10 Commissioner's Gilinsky's recommended changes. But, I would
11 ask you to affirm your votes subject to --

12 COMMISSIONER GILINSKY: Wait, wait, wait, if you're
13 not circulating these and no one's had an opportunity to look
14 at them and considered them.

15 COMMISSIONER KENNEDY: I have had the opportunity and
16 do not concur on those changes, I affirm my original view.

17 CHAIRMAN AHEARNE: I think we're shifting away from
18 an affirmation.

19 MR. CHILK: We got this, about you know, 30 minutes ago.

20 COMMISSIONER GILINSKY: Well, then I'm not ready to
21 deal with it then.

22 COMMISSIONER BRADFORD: Yeah, I would like to
23 consider the changes.

24 COMMISSIONER KENNEDY: What are our rules in this
25 matter or do we have any rules?

1 MR. CHILK: Our rules are that a Commissioner can
2 request that the matter be deferred and --

3 COMMISSIONER KENNEDY: Was that requested?

4 MR. CHILK: There would've been no request. Mr.
5 Gilinsky was placed on notice I believe --

6 COMMISSIONER GILINSKY: Well, I'm requesting that.

7 COMMISSIONER KENNEDY: Are the rules that at the
8 affirmation session which the item comes forward, we can then
9 request its deferral -- I'm just asking what the rules are.

10 CHAIRMAN AHEARNE: Now, I think Commissioner Kennedy
11 is --

12 COMMISSIONER KENNEDY: I just want to know what
13 they are.

14 CHAIRMAN AHEARNE: -- correct. It would be useful
15 to get the rules clarified.

16 COMMISSIONER KENNEDY: I don't care what they are,
17 I'd just like to know what they are. Now see we never
18 follow any --

19 MR. CHILK: The rule would be that the Commission
20 would approve this on the basis without his vote in essence,
21 that his vote is not subject to being circulated at this
22 point in time, coming in as it did without any request for
23 any other consideration.

24 COMMISSIONER BRADFORD: Well, Vick's view, of course,
25 wouldn't change in any case. But, my difficulty is that I've
had no chance to consider --

1 CHAIRMAN AHEARNE: No, my question, though,
2 Peter, is: Do we have a set of rules governing items
3 coming for affirmation when points should be raised?

4 COMMISSIONER GILINSKY: Well, let me just make
5 this small observation here.

6 Quite apart from what the rules are, whether
7 you are entitled to vote the thing out, and if you want
8 to vote the thing out go ahead and vote it out. I think
9 there are some important points here, substantive points
10 and I think you may want to look at them. I think you
11 ought to look at them. I'm surprised that Commissioners
12 would not want to look at them.

13 CHAIRMAN AHEARNE: Victor, nobody -- at least
14 I haven't said I wouldn't want to look at them. That's
15 not the issue. The issue is ---

16 COMMISSIONER KENNEDY: I said I already did.

17 CHAIRMAN AHEARNE: -- that any organization,
18 in order to run, and to run effectively has to have a
19 set of procedural rules it follows. I was asking the
20 question: Do we have a set of procedural rules? If it
21 turns out we have a set of rules which say that your
22 views should be expressed within 30 minutes of the time
23 we are going to affirmation, then I think you have the
24 responsibility to have your views expressed no matter how
25 important they are within that 30 minutes time, and if
we can't make it, if we have a set of rules that say that
then a Commissioner

1 tells the Secretary that I can't get my views in in time and
2 I request a delay of the affirmation. I agree, your views --
3 and it sounds like they are worthy of consideration but, that's
4 not my question.

5 My question was do we have a set of procedures for
6 affirmation?

7 COMMISSIONER GILINSKY: Well, the reason I raise this
8 is that I was not aware, until Sam had mentioned it, that these
9 had not been circulated or that they were not knows to other
10 Commissioners.

11 Apparently, Commissioner Kennedy knew about it ---

12 COMMISSIONER KENNEDY: It's pretty hard for them to
13 have been because it was dated 31 January and that's today. I
14 must say that if something is scheduled for affirmation, it is
15 only scheduled for affirmation after a series of procedures
16 have been gone through, isn't that correct?

17 COMMISSIONER GILINSKY: I don't want to fence with
18 you about procedures --

19 COMMISSIONER KENNEDY: I don't care. Look, I don't
20 care what the procedures are as long as we have some. The
21 goddamn institution has not functioned for the last two and
22 a half years because we haven't had any, none of it enforced,
23 and that's the management problem this institution faces and it
24 ought to be corrected.

25 COMMISSIONER GILINSKY: I guess what troubles me is

1 you don't seem to care what the rules on exports are, either.

2 CHAIRMAN AHEARNE: Sam, do we have a set of proce-
3 dures on affirmation?

4 MR. CHILK: Yes.

5 CHAIRMAN AHEARNE: Could you read them?

6 MR. CHILK: I don't have them with me.

7 CHAIRMAN AHEARNE: We'll pull this one off the
8 Secretary --

9 COMMISSIONER GILINSKY: I'm not inclined to stand
10 on this point.

11 CHAIRMAN AHEARNE: Victor, you've made your point and
12 that is that you have important points to make and that we're
13 derelict in our duty if we don't follow them.

14 My point is if we have procedures then we are all
15 derelict in our duty if we don't follow our procedures. Sam
16 doesn't happen to have them ready. I think we've put Sam
17 in a typically uncomfortable situation.

18 MR. CHILK: No, no.

19 CHAIRMAN AHEARNE: I'll agree if the two colleagues
20 on the left pull it off for the moment. But, I think that--Sam,
21 could you send them back around for us.

22 MR. CHILK: Yeah, yeah.

23 CHAIRMAN AHEARNE: If we have views that we want to
24 raise affirmation items we have responsibility to get them
25 raised.

1 COMMISSIONER KENNEDY: While we're about it so
2 maybe, Mr. Chairman, we could now suggest that Sam schedule
3 several meetings so that we can discuss all those rules on
4 which we're already agreed. That ought to occupy us right on
5 through the spring.

6 MR. CHILK: Could we -- I have one other paper that
7 the Commission may wish an affirmation which I hope the
8 Commission would consider. It is not on the schedule. I'd like
9 to go through it first before we -- and I'll need a short notice
10 vote. I would like to go through it to make sure that --

11 CHAIRMAN AHEARNE: Before we go through that pro-
12 cesses, you're sure we've all agreed to the part that you want
13 us to affirm.

14 MR. CHILK: It's my understanding that everybody
15 has agreed to the part that we are to affirm and that's the
16 Federal Register notice.

17 CHAIRMAN AHEARNE: May I have a vote on a short
18 notice meeting to add to the affirmation the Federal Register
19 notice on the delegations authority and exports and related
20 areas.

21 (A chorus of "ayes".)

22 CHAIRMAN AHEARNE: Aye for a short notice meeting.

23 (A chorus of "ayes".)

24 MR. CHILK: This is a --

25 COMMISSIONER GILINSKY: What is the subject now?

1 MR. CHILK: The delegation of authority in exports
2 and related areas. This is the paper that IP has circulated
3 for the past several months. It deals with a Federal
4 Register notice that deals with memos to the staff. We
5 talked about it yesterday when you talked about the delegation
6 of authorities, indicating that this had been done. I checked
7 with your office about 30 minutes ago.

8 COMMISSIONER GILINSKY: Now, why is there a rush
9 for getting this out? Why do you need another short notice
10 meeting?

11 MR. CHILK: The Federal Register notice is one that
12 requires affirmation. The matter has been pending for the
13 past six months. I think it's a matter that you would like
14 to get out. You talked about it yesterday and I feel that it's
15 a matter that ought to be brought before you at this time.

16 COMMISSIONER HENDRIE: We won't have another affirma-
17 tion session until next week.

18 MR. CHILK: You won't have another affirmation
19 session until next week.

20 CHAIRMAN AHEARNE: But, I gather -- I'm afraid, Sam,
21 I don't think your assistance informed the Commissioners,
22 unfortunately.

23 MR. CHILK: Well, I apologize for not --

24 COMMISSIONER KENNEDY: Well, let me, maybe they
25 haven't informed all Commissioners.

1 CHAIRMAN AHEARNE: I was informed.

2 COMMISSIONER HENDRIE: I was informed.

3 COMMISSIONER KENNEDY: I was informed. Some
4 Commissioners operate offices in which they would normally be
5 informed.

6 MR. CHILK: I stand corrected. I take responsibility,
7 I brought the thing up and I dealt with your offices and I ---

8 COMMISSIONER BRADFORD: With no fault attached to
9 you, I was out of the office, and I came back and came
10 straight into this meeting without even stopping in my office.
11 No one could have spoken to me. Having been at the proceeding,
12 that was, of course, a hinderance to being informed.

13 CHAIRMAN AHEARNE: But, I was at the proceeding.

14 COMMISSIONER KENNEDY: It certainly was not on my
15 part, because I wasn't informed during that time.

16 COMMISSIONER BRADFORD: You were also not at the
17 proceeding.

18 COMMISSIONER KENNEDY: That's correct.

19 CHAIRMAN AHEARNE: I'm sorry, Sam.

20 MR. CHILK: I withdraw that. That's all I have.

21 CHAIRMAN AHEARNE: Thank you.

22 (Whereupon, the meeting was adjourned at 3:40 p.m.)
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