

NUCLEAR REGULATORY COMMISSION

ORIGINAL

COMMISSION MEETING

In the Matter of: AFFIRMATION SESSION

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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1 PROCEEDINGS

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

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)