



Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

AFFIRMATION SESSION 79-24

(Open to Public Attendance)

Tuesday, August 14, 1979

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

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Affirmation Session 79-24
Open to Public Attendance

Commissioners' Conference Room
1717 H Street, N.W.
Washington, D. C.

Tuesday, August 14, 1979

The Commission met, pursuant to notice, at 9:50 a.m.,
Joseph Hendrie, Chairman of the Commission, presiding.

PRESENT:

Chairman Hendrie
Commissioner Kennedy
Commissioner Bradford

ALSO PRESENT:

J. Hoyle
L. Bickwit

P R O C E E D I N G S

1
2 CHAIRMAN HENDRIE: Let us go ahead.

3 The Commission meets this morning on one of those
4 stirring meetings, an Affirmation Session.

5 John, will you lead us in two items that we have.

6 MR. HOYLE: Yes, sir.

7 The first item is SECY 79-442, and the subject is:
8 "One Time Subpoena Authority for Surry Reactor Sabotage
9 Investigation." In this paper, the staff has asked you to
10 authorize the Secretary to issue subpoenas at the request of
11 the Director of the Office of Inspection and Enforcement, to
12 the individuals who allegedly damaged the fuel rod assemblies
13 at the Surry reactor site.

14 Now, the paper makes clear that this authorization
15 to the Secretary would only be as may be necessary, and it may
16 not be necessary to issue such subpoenas.

17 You have received a memorandum from the General
18 Counsel on this and I have the votes of four of you, two present
19 who agree with the recommendation of the General Counsel and
20 the recommendation of the paper.

21 Commissioner Bradford would prefer to offer immediate
22 testimony on the matter rather than go through the subpoena route.

23 May I have the ---

24 CHAIRMAN HENDRIE: I'll ask the Commissioners present,
25 who do constitute a working quorum, to affirm their intentions

1 on the issue.

2 COMMISSIONER KENNEDY: Aye.

3 COMMISSIONER BRADFORD: Your record, John, I take
4 it indicates that I don't object to the subpoena route, that
5 I just think there is another way that is quicker.

6 MR. HOYLE: It does read like that, Commissioner
7 Bradford.

8 COMMISSIONER BRADFORD: Aye.

9 CHAIRMAN HENDRIE: So ordered.

10 The second item?

11 MR. HOYLE: The second item is SECY 79-454, the subject
12 of which is: "Authority to Administer Oaths." In this paper
13 the staff has asked the Commission to approve a delegation of
14 authority to the Director, Office of Inspection and Enforcement
15 to administer oaths, and that that authority be redelegable.

16 In this case, you have also received papers from
17 your staff recommending a slight clarification to just the
18 straight approval of the delegation. I have votes from all
19 five Commissioners, including those three present, to approve
20 the delegation of authority, and that it may be re-delegated to
21 Regional Directors, and in turn, redelegated to individual
22 inspectors only on a case-by-case basis in consultation with
23 OELD.

24 Commissioner Ahearne would also request that the
25 staff be prepared -- I'm sorry. I misspoke. I would like to

1 go back and correct the other item after we affirm this one, sir.
2 Commissioner Ahearne would like to add something to the first
3 item.

4 So in this case, we have a 3 to 0 vote from you
5 who are present and ---

6 COMMISSIONER KENNEDY: John, that's not exactly the
7 way I understood this paper. Indeed, I am reading my note:
8 "I concur subject to the clarification included in the
9 Inspector and Auditor's report -- Auditor's memorandum of
10 August 1st, 1979 in which he said: 'The authority to administer
11 oath should be delegated only to the Director and Senior
12 Investigative official, that is, the Assistant Director for
13 Investigations, OIA, and the Executive Officer for Operations
14 Support of I&E. It should only be redelegated to these
15 officials to the cognizant investigator on a case-by-case
16 basis.'" That does not include the Regional Directors, as I
17 understand it.

18 MR. HOYLE: The reason that I spoke as I did,
19 Commissioner Kennedy, was the General Counsel also gave you a
20 memorandum the day after the Inspector and Auditor had, and ---

21 COMMISSIONER KENNEDY: I read it.

22 MR. HOYLE: We had worked up proposed language in a
23 staff requirement memorandum, which we circulated to each of the
24 Commissioners' offices and ---

25 COMMISSIONER KENNEDY: May I see it?

1 MR. HOYLE: Yes, sir. I felt I had your concurrence.

2 COMMISSIONER KENNEDY: Well, this is not as I had
3 originally voted.

4 CHAIRMAN HENDRIE: I think we -- rather than ---

5 COMMISSIONER KENNEDY: I will change my vote.

6 CHAIRMAN HENDRIE: -- which we have tried to avoid
7 doing at affirmations sessions ---

8 COMMISSIONER KENNEDY: If you will call for a vote,
9 I will vote. I simply wanted to note that it was not as I
10 had originally voted.

11 CHAIRMAN HENDRIE: All right, in that case, I will
12 ask people to affirm their votes -- I'm not quite sure what
13 that means in this case ---

14 COMMISSIONER KENNEDY: I will vote with the majority.

15 MR. HOYLE: Perhaps I should read the language and
16 have you vote on that.

17 COMMISSIONER KENNEDY: I have read that language and
18 I'm now agreeing to it, if that's satisfactory.

19 CHAIRMAN HENDRIE: I think the rest of us have done
20 it, and those in favor of 454 as adjusted, please say "Aye".

21 COMMISSIONER KENNEDY: Aye.

22 CHAIRMAN HENDRIE: Aye.

23 COMMISSIONER BRADFORD: Aye.

24 MR. HOYLE: Going back to the first item, the
25 subpoena authority regarding Surry.

1 Commissioner Ahearne would like to have his
2 request expressed in the staff requirement memo, that the staff
3 should be prepared to go to the Department of Justice to request
4 use immunity in case the subpoena approach does not produce
5 results, and that was also reflected in the staff requirement
6 memo which was circulated to your offices.

7 CHAIRMAN HENDRIE: Duly noted. I don't think that
8 changes the vote.

9 COMMISSIONER BRADFORD: I would also agree with that,
10 though, if there is no disagreement on it. If there is, you
11 may be short a vote.

12 CHAIRMAN HENDRIE: I'm neutral. I don't know what it
13 means, and I don't think you can reasonably explain it to me,
14 both in view of my frailty and the nature of the session.

15 Okay, I thank you very much.

16 (The Commission meeting was adjourned at 10:00 a.m.)
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