

ORIGINAL RETURN TO SECRETARIAT RECORDS

NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

AFFIRMATION SESSION 78-11

Place - WASHINGTON, D. C.

Date - May 25, 1978

Pages 1 - 7

Telephone:
(202) 347-3700

ACE - FEDERAL REPORTERS, INC.

Official Reporters

444 North Capitol Street
Washington, D.C. 20001

NATIONWIDE COVERAGE - DAILY

DISCLAIMER

This is an unofficial transcript of a meeting of the United States Nuclear Regulatory Commission held on MAY 25, 1978 in the Commission's offices at 1717 H Street, N. W., Washington, D. C. The meeting was open to public attendance and observation. This transcript has not been reviewed, corrected, or edited, and it may contain inaccuracies.

The transcript is intended solely for general informational purposes. As provided by 10 CFR 9.103, it is not part of the formal or informal record of decision of the matters discussed. Expressions of opinion in this transcript do not necessarily reflect final determinations or beliefs. No pleading or other paper may be filed with the Commission in any proceeding as the result of or addressed to any statement or argument contained herein, except as the Commission may authorize.

jeri
cr 7628
whitlock

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

PUBLIC MEETING

AFFIRMATION SESSION 78-11

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

Thursday, 25 May 1978

The Commission met, pursuant to notice, at 3:55 p.m.

BEFORE:

- DR. JOSEPH M. HENDRIE, Chairman
- PETER A. BRADFORD, Commissioner
- VICTOR GILINSKY, Commissioner
- RICHARD T. KENNEDY, Commissioner

PRESENT:

SAMUEL CHILK, Secretary

pv

1 CHAIRMAN HENDRIE: The Secretary will lead us in
2 an affirmation.

3 MR. CHILK: This is SECY paper 78-255, that deals
4 with an FOIA appeal of Stanley Klein for documents in the OIA
5 file on his open-door complaint; and it is a joint effort
6 between OIA and OCG to resolve this appeal, which the
7 Commission, as recommended in the paper, has been asked to
8 approve the release of 10 documents to Mr. Klein.

9 Chairman Hendrie has approved the recommendation of
10 the paper. Commissioners Gilinsky and Kennedy have approved
11 the recommendation.

12 COMMISSIONER GILINSKY: I understand there is some
13 deletion. I have been persuaded that it should not be. I have
14 changed my vote here.

15 MR. CHILK: The deletion that is being requested,
16 if I can just air the issue for a moment, is that in the
17 release of the 10 documents, the Commission decided not to
18 release the file number and the internal circulation list.
19 That is the point at issue.

20 I don't think that Commissioner Bradford disagrees
21 with the release of the 10 documents. I have just heard of
22 Commissioner Gilinsky's change of vote. But originally, he
23 agreed with the release of the 10 documents.

24 What they are objecting to is a retention,
25 nonrelease of the file numbers and the internal circulation
memorandum. That is, as I understand it, that is Commissioner

pv

1 Bradford's view.

2 COMMISSIONER BRADFORD: I think if you take -- I
3 guess it was originally the SECY paper that contains the OGC
4 views and starting point.

5 COMMISSIONER KENNEDY: I don't understand what --
6 what is it we were called upon to vote on, in the first place?
7 And what is it that we voted, and where are we now?

8 MR. CHILK: We were called upon to vote a
9 recommendation of the general counsel that we dispose of an
10 FOIA appeal by releasing 10 documents to Mr. Stanley Klein.

11 COMMISSIONER KENNEDY: With the exception of what?

12 MR. CHILK: With the exception of the deletion of
13 file numbers, internal circulation, and the deletion of some
14 names.

15 COMMISSIONER KENNEDY: Excuse me, I can't hear.

16 MR. CHILK: The deletion of file numbers and the
17 deletion of internal distribution lists that are on the paper,
18 and the distribution of certain names that are referred to.
19 There seems to be no argument about the release of the paper,
20 and there seems to be no difference about the matter of names.

21 Commissioner Bradford, I believe, feels that the
22 internal distribution, 3.2, you know, 320 point, wherever you
23 file it, shouldn't be released. The document has recommended
24 that it won't be released. OIA does not want it released
25 because they think that it represents a shopping list to

pv 1 potential lookers at the system.

2 There is an internal circulation list; that is the
3 issue.

4 COMMISSIONER KENNEDY: What would be the purpose of
5 releasing the internal circulation list? I don't think that
6 is relevant here. I think that there is no question about
7 ~~complying~~ with the law.

8 COMMISSIONER BRADFORD: That is my problem. I
9 don't think that the law permits withholding the information
10 that OIA wants to withhold.

11 MR. CHILK: The general counsel has pointed out
12 that it is permissible to withhold this under the --

13 COMMISSIONER KENNEDY: The executive legal director
14 has indicated -- it is my recollection, that the general counsel
15 said the same thing.

16 CHAIRMAN HENDRIE: I wonder if I can call Mr. --
17 Vic, if you changed your vote, then this item comes off the
18 agenda. We are not scheduled -- we do not have scheduled a
19 meeting for the Commission to discuss. If we are going to
20 discuss the major merits of the issue and decide whether it
21 should or shouldn't go, or that it doesn't or does comply with
22 the law, let's schedule a meeting of the Commission, and OGC
23 can present their views, and anybody else who wants to,
24 theirs. And maybe the Commission can make a decision. Okay?

25 So, let's scratch it as an affirmation item at the

pv

1 present time.

2 COMMISSIONER KENNEDY: We will now be in violation
3 of the law? We will have not accomplished the release within
4 the time specified?

5 CHAIRMAN HENDRIE: I suppose.

6 COMMISSIONER BRADFORD: I don't have any difficulty
7 with that.

8 MR. KELLEY: There would remain the question of
9 whether we might later decide to also delete -- what you are
10 objecting to, we might send out an additional copy releasing
11 more --

12 COMMISSIONER BRADFORD: At that point, we would
13 have to indicate to them that we still had a piece of it under
14 review.

15 MR. KELLEY: Yes.

16 COMMISSIONER BRADFORD: You could indicate what was
17 definitely "yes," what was definitely "no," and what was
18 deleted.

19 MR. KELLEY: It is 9/10 of a loaf. You would prefer
20 to wait?

21 COMMISSIONER KENNEDY: I am not going to release --
22 agree to release documents that say "parts of the documents
23 are still being discussed."

24 CHAIRMAN HENDRIE: We keep turning inevitably to
25 the substance of the matter, and that is the nature of an

pv
nd#7

1 affirmation session.

2 (Whereupon, at 3:55 p.m., the meeting was
3 adjourned.)

4 * * * *

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

