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Description of document:	Nuclear Regulatory Commission (NRC) <u>Briefing on SECY 77-268, Public Release of Inventory Discrepancy, 1977</u>
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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

September 11, 2017

SUBJECT: DETERMINATION ON THE APPEAL OF MANDATORY DECLASSIFICATION  
REVIEW NRC 001-2016

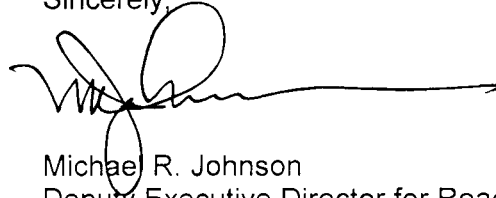
On March 8, 2017, you sent the U.S. Nuclear Regulatory Commission (NRC) a letter appealing the Mandatory Declassification Review of the document titled, "(U) Briefing on SECY 77-268 Public Release of Inventory Discrepancy Data," dated June 3, 1977 (Agencywide Documents Access and Management System Accession No. ML17109A090). The NRC conducted a line-by-line review of the requested document and consulted with other parties that potentially had equity in the document. Following these activities, the agency declassified and authorized the release of the document, in part (Enclosure). Since a portion of the requested document contains Restricted Data, the NRC forwarded your appeal to the appropriate authority within the U.S. Department of Energy in accordance with Title 10 of the *Code of Federal Regulations* Part 1045, "Nuclear Classification and Declassification." Additionally, since a portion of the requested document potentially contains classified foreign government information, the NRC is engaged in ongoing consultation with the associated foreign government prior to declassification of the concerned portion. During our phone call on September 1, 2017, you indicated that you are not requesting another version of the document once the remaining classified equities are dispositioned. However, since the NRC will still complete this step as part of the declassification process, we will notify you when it is complete for your information.

If you feel that this assessment and review is incorrect, you have the right to appeal the decision within 60 days of the date of this letter to the Interagency Security Classification Appeals Panel (ISCAP) in accordance with Executive Order 13526, "Classified National Security Information," and, "The Interagency Security Classification Appeals Panel (ISCAP) Bylaws, Rules, and Appeal Procedures," 77 FR 40261 (July 9, 2012). Appeals to the ISCAP shall be addressed via email to [ISCAP@nara.gov](mailto:ISCAP@nara.gov) or by mail to:

Executive Secretary, Interagency Security Classification Appeals Panel  
Attn: Mandatory Declassification Review Appeals  
c/o Information Security Oversight Office  
National Archives and Records Administration  
700 Pennsylvania Avenue, NW, Room 503  
Washington, DC 20408

If you have any questions, please contact Mr. Darryl Parsons, Chief of the Information Security Branch, Division of Security Operations, Office of Nuclear Security and Incident Response, by telephone at (301) 415-7751 or by e-mail at [Darryl.Parsons@nrc.gov](mailto:Darryl.Parsons@nrc.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael R. Johnson', with a long horizontal flourish extending to the right.

Michael R. Johnson  
Deputy Executive Director for Reactor  
and Preparedness Programs  
Office of the Executive Director for Operations

Enclosure:  
Redacted Briefing on SECY 77-268 Public  
Release of Inventory Discrepancy Data

~~CONFIDENTIAL~~

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(U) UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

(U) Briefing on

SECY 77-268, Public Release of Inventory

Discrepancy

- - -

(U) 11th Floor Commission Meeting Room  
1717 H Street N.W.  
Washington, D.C.

Friday, June 3, 1977

(U) The Commission met, pursuant to notice, at 10:00

a.m.

(U) PRESENT: Chairman Rowden, Commissioners Kennedy and  
Gilinsky.

- - -

Declassified by: Darryl H. Parsons, Chief  
Information Security Branch  
Division of Security Operations  
Office of Nuclear Security  
and Incident Response

Declassified on: 20170814

NATIONAL SECURITY  
INFORMATION

Unauthorized Disclosure  
Criminal Sanctions

RESTRICTED DATA

This Document Contains Restricted Data as  
Defined in the Atomic Energy Act of 1954.  
Unauthorized disclosure subject to  
Administrative and Criminal sanctions.

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1 (U) CHAIRMAN ROWDEN: The next portion of this meeting  
2 deals with a subject matter which is classified. So we  
3 will go into a closed session. Are the attendees staff  
4 attendees?

5 (U) MR. GOSSICK: As far as I can tell.

6 (U) CHAIRMAN ROWDEN: John, are those in attendance all  
7 Staff attendees?

8 (U) VOICE: Yes, all of the individuals in the room are  
9 staff personnel.

10 (U) CHAIRMAN ROWDEN: All right. Clifford.

11 (U) MR. SMITH: We would like to brief you on NRC's  
12 inventory release program, which is paper SECY 77-268. Fred  
13 Crane, Chief of our Analysis Section, is going to give the  
14 presentation. We have been, of course, working very closely  
15 with I & E and we have had a series of conferences  
16 and meetings with ERDA.

17 (U) Basically the presentation today will answer some  
18 questions that you have posed to us at an earlier date, go  
19 over with you the release date, the release package, the  
20 steps remaining before release, the ERDA release program,  
21 and we will point out the differences between ERDA's release  
22 and NRC's release, the public affairs release schedule, and  
23 a summary of the data to be released and our explanations of  
24 that data.

25 (U) I might add that we are concerned about the

1 differences that we do have with ERDA, some problems that  
2 might present us when the material goes public.

3 (U) ~~(FOUO)~~ For example, one taht we will get into later,  
4 ERDA is re-defining MUF, so they are saying MUF is equal  
5 to zero when it is less than LEMUF. We are not saying that  
6 at all, of course. The difference there is ERDA feels all  
7 of their MUFS can be explained. We point out that there  
8 are always going to be some uncertainties, because of the  
9 very nature --

10 (U) CHAIRMAN ROWDEN: Do we have an explanatinon of the  
11 MUFS?

12 (U) MR. SMITH: We have one --

13 (U) CHAIRMAN ROWDEN: One that is prminent and compre-  
14 hensible?

15 (U) MR. SMITH: I think we do. We will get to that.

16 (U) ~~(FOUO)~~ COMMISSIONER GILINSKY: What do you mean they  
17 are saying that MUF is zero when it is less than LEMUF?

18 (U) ~~(FOUO)~~ MR. SMITH: They are in effect saying they feel  
19 all material can be accounted for.

20 (U) ~~(FOUO)~~ COMMISSIONER GILINSKY: They won't give the numbers,  
21 or they will explain the numbers in that fashion?

22 (U) ~~(FOUO)~~ MR. SMITH: They will explain those numbers. If a  
23 MUF is less than LEMUF they are in effect saying they are  
24 positive all of that material is caught up and placed. So  
25 therefore -- we know it is there, therefore it is zero.

1 (U) ~~(OHQ)~~ COMMISSIONER GILINSKY: What about the fact that  
2 the cumulative MUFS are not close to zero?

3 (U) ~~(OHQ)~~ MR. SMITH: They are not presenting their data in  
4 the form of cumulative MUFS. That is one of the differences  
5 we want to point out.

6 (U) COMMISSIONER GILINSKY: Presumably people know how  
7 to add.

8 (U) MR. SMITH: I agree. I am just highlighting for  
9 you some of the differences in terms of the approach to the  
10 release problem NRC and ERDA have, and some of the difficulties  
11 we think it will bring about.

12 (U) Let me let Fred go ahead and make the presentation  
13 and then we would like to come back and point out in greater  
14 detail these difficulties with ERDA.

15 (U) For instance, we are giving data for the elements  
16 and the isotopes and they are only giving it for the  
17 elelents. We are going to report every six months, they are  
18 going to report once a year. Our data is cumulative,  
19 their data is yearly, and some of the implicationsof this.

20 (Slide)

21 (U) MR. CRANE: As Dr. Smith said, the purpose of this  
22 is to provide you with a status report on this program.

23 (Slide)

24 (U) The things I will be talking about today are  
25 some of the questions raised earlier by the Commission about

1 the program, the date of the release, the release package  
2 itself, what it contains, those steps we have to go through  
3 befcore we can effect the release, the ERDA release program  
4 which we talked about some already, the release schedule  
5 that Public Affairs put together, and then a summary of the  
6 highlights of the data.

7 (Slide)

8 (U) The Commission was briefed on March 3 on this  
9 subject about the program, and as a result they had some  
10 questions concerning the program.

11 (U) There were three of them. I would like to go  
12 through those briefly.

13 (U) The first question had to do with the format of  
14 future reports. You wanted to be sure there was plenty of  
15 time to review future reports, the format that would be  
16 used. We plan to provide the first report to the public  
17 six months after our initial release, the historic data.  
18 The Commission will have at least two months to review that  
19 report before it goes out.

20 (U) As part of that concern, the question of book-  
21 keeping reconciliations was borught up. There was a concern  
22 that prior MUFS might be cancelled out by bookeeping  
23 reconciliations. Any time there is any reconciliation that  
24 is done, which is a rare event, that will be explained very  
25 clearly in the report, and those numbers will all be listed.



1 (U) The second question had to do with discrepancies  
2 under investigation, such discrepancies are still classified  
3 and the point is that even after six months, these kinds of  
4 figures will be classified and withheld from the public.  
5 The concern was that this could create an image of weakness  
6 in safeguards at particular facilities where the MUFs were  
7 withheld.

8 (U) CHAIRMAN ROWDEN: Let me state the concern in a  
9 somewhat different fashion. That may be one element of  
10 concern, but the other element is that identifying the  
11 facility seems to run counter to the basic reason for not dis-  
12 closing the fact that there is a MUF at a particular facility  
13 which is under investigation.

14 (U) The thought was that -- the basic reason for  
15 classification is not just to withhold information, or  
16 create a situation where that information could be used for  
17 mischievous purposes. If you are in a position where you  
18 are not disclosing that "X" amount of material in this somewhat  
19 uncertain posture, but identifying the facility, for  
20 which information is not being released, you are indirectly  
21 disclosing at least part of that information and creating a  
22 climate for that sort of possible mischief.

23 (U) MR. CRANE: Yes. That is a question that has been  
24 of concern before. The judgement had been made that that  
25 is not the same level of concern as the one wherein you

1 provide data directly to the public while an investigation is  
2 still on, and those exact figures may lend more credibility to  
3 a hoax. This is a problem that given the commitment to  
4 release, and the classification question that I don't think  
5 we can totally avoid, without withholding all of the data,  
6 and I don't think it is a desirable approach.

7 (U) CHAIRMAN ROWDEN: In other words, it is inherent  
8 in the system, that that notification is going to be made  
9 public.

10 (U) MR. SMITH: That is right. We have gone around and  
11 around on this.

12 (U) CHAIRMAN ROWDEN: There is no way you can avoid  
13 that, other than not releasing information, as long as there  
14 is an item under investigation.

15 (U) MR. CRANE: There is an alternative that has been  
16 suggested, that none of the releases identify the facility  
17 by name. You talk about facility X,Y, Z.

18 (U) MR. SMITH: I think that is even worse.

19 (U) MR. CRANE: I don't think the people who are  
20 asking for this kind of information would agree with that, or  
21 like that.

22 (U) What we can do, of course, is to explain the  
23 situation as clearly as possible when we do withhold, that  
24 the withholding of it is not an indication of any weakness in  
25 the safeguards system, that this is not routine, but this

1 happens now and then, and in the past our concerns have  
2 pretty much been taken care of.

3 (U) COMMISSIONER GILINSKY: Well, it is an indication  
4 of a problem.

5 (U) MR. CRANE: Yes, it is.

6 (U) COMMISSIONER KENNEDY: It is an indication of a  
7 possible problem.

8 (U) MR. CRANE: Of a possible problem, yes.

9 (U) COMMISSIONER GILINSKY: I mean it is a problem if  
10 you can't account for the material, whether or not it has  
11 been diverted.

12 (U) MR. CRANE: But the fact that it is not  
13 included doesn't mean that you can't account for the material  
14 necessarily. It may be you don't know what the exact  
15 numbers are.

16 (U) COMMISSIONER GILINSKY: You can't account for it at  
17 that point.

18 (U) MR. CRANE: In concrete numbers, yes.

19 (U) COMMISSIONER GILINSKY: In numbers.

20 (U) MR. CRANE: Yes. So there is that aspect of it.

21 (U) COMMISSIONER GILINSKY: I mean if the system were  
22 working perfectly, you wouldn't have this happen. So one has  
23 to face the facts.

24 (U) COMMISSIONER KENNEDY: You would also be unique  
25 among systems.

(U) COMMISSIONER GILINSKY: Well, true. But you don't  
~~CONFIDENTIAL—RESTRICTED DATA~~

1 want this happening very often, that is the point. And if  
2 it does happen often, we do have a serious problem.

3 (U) MR. CRANE: We anticipate by the time we make  
4 the historic release, we will be releasing every one at  
5 least on that basis, the B & W investigation will be complete  
6 and that was the only one we thought we might have to withhold  
7 originally. But it looks like that will be complete and we  
8 can release all of the figures initially, at least for  
9 the first one there is no problem.

10 (U) The third issue had to do with the pre-1968 data,  
11 who was going to release that, ERDA or NRC, for early licensed  
12 facilities. That has been resolved, and ERDA will release  
13 the data and handle any questions on it.

14 (U) COMMISSIONER KENNEDY: Why '68?

15 (U) MR. CRANE: That is the time that the regulatory  
16 safeguards functions came into being as far as licensed  
17 facilities are concerned.

18 (Slide)

19 (U) The release date, target date --

20 (U) CHAIRMAN ROWDEN: Could I ask you a question in  
21 this regard?

22 (U) Looking through the back-up package, I note some  
23 of the numbers predate 1968. It seems to be somewhat  
24 inconsistent.

25 (U) MR. CRANE: The data are based on inspection reports.

1 And when a figure is given, it will be given from the time  
2 of the inspection, the previous inspection, back to the time  
3 when the last data was collected. In some cases that went  
4 back before '68 and there are no records in between.

5 (U) CHAIRMAN ROWDEN: There is no way to differentiate  
6 between the time periods, pre and post '68?

7 (U) MR. CRANE: That is right.

8 (U) MR. SMITH: You could if you perhaps extrapolated.  
9 In other words, we could try to estimate. If you are given  
10 a period of time, the question is how much of it is for this  
11 month, how much for that month, based on the records.

12 (U) COMMISSIONER KENNEDY: I would suggest you would never  
13 be able to extrapolate.

14 (U) MR. SMITH: We elected not to do that.

15 (U) CHAIRMAN ROWDEN: I don't know if it is a feasible  
16 course of action, but if not, there ought to be a clear  
17 explanation as to why it is pre-68.

18 (U) MR. CRANE: The target date is for July 1, 1977.

19 (slight)

20 (U) This was set up pretty much by ERDA. However,  
21 they have recently backed off on that, primarily because  
22 on July 1, Congress will not be in session, they will be off  
23 on a July 4 holiday. They want to brief Congress, and  
24 don't want to do it at this time because it would sidetrack  
25 their efforts on the Energy Organization bill. So they would

1 like to delay it until the latter part of July or the  
2 early part of August. That is at least the way they are  
3 planning right now.

4 (U) Assuming we want to go out the same time as they  
5 do.

6 (U) CHAIRMAN ROWDEN: They ought to be coordinated in  
7 some fashion. I assumed one of the reasons for going to  
8 NSC for the briefing is they would, among other things,  
9 act as a coordinating body in this matter. Has this  
10 matter been discussed with them?

11 (U) MR. SMITH: I didn't attend that briefing. Jerry,  
12 at the NSC meeting, did the matter of the date come up?

13 (U) MR. PAGE: The date was mentioned, and the same  
14 thing Fred said now was said there. There was no response  
15 from NSC. The only thing they urged was we release the  
16 data simultaneously, and if possible have a single package.  
17 We objected to having a single package, but we thought it  
18 was a good idea to release them simultaneously.

19 (U) Another consideration is some of the data we are  
20 planning to release is presently classified by ERDA, for  
21 reasons other than the safeguards sensitivity. There is  
22 some MUF data classified now because of the Naval reactor  
23 program. ERDA plans to declassify that data simultaneously  
24 with the date of release. So if we try to precede them  
25 we will run into a problem of that classification issue.

1 (Slide)

2 (U) ~~(OHQ)~~ To answer your question specifically, I am working  
3 with them trying to iron that out. They commented they  
4 had conversations with the Executive Branch, and that is the  
5 way it was put, possibly delaying this thing.

6 (U) ~~(OHQ)~~ CHAIRMAN ROWDEN: I don't know what the date is,  
7 there may be other considerations that are driving ERDA's  
8 position, but I could strongly state a personal viewpoint that  
9 the release ought to be a release which takes place at the  
10 same time.

11 (U) MR. SMITH: WE agree with that.

12 (U) COMMISSIONER KENNEDY: Is ERDA aware that in all  
13 likelihood the British will be releasing before that?

14 (U) ~~(C)~~ MR. CRANE: I was at a meeting with the British  
15 recently, and what they were saying is their investigation  
16 is going to begin, Windscale, about the 13th of June.  
17 Before that time they wanted to have an established policy  
18 of what they were going to do. [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 (U) Now they may have changed that.

24 (U) COMMISSIONER KENNEDY: Well, the indications I got  
25 were they had recognized they had serious political

1 problems in connection with the Winscale review, and one of  
2 the ways they could best deal with that problem is just put  
3 it all out ahead of time, rather than be forced to do so  
4 during the process of the hearings.

5 (U) MR. SMITH: We can check that out.

6 (U) COMMISSIONER KENNEDY: That may have some effect  
7 on the release date. Up until now it has been the other  
8 way around. The British have been concerned we would be  
9 forcing their hand. It may well be inadvertently, if ERDA  
10 is talking about delaying into August, it may turn out the other  
11 way around.

12 (Slide)

13 (U) MR. CRANE: This summarizes what is in our release  
14 package. An introduction that highlights what is in the  
15 report itself, and the points about the data. A discussion  
16 of the meaning of inventory discrepancies. History of safe-  
17 guards with emphasis on the evolution of material accounting  
18 as a safeguard tool.

19 (U) The data will be presented for high enriched  
20 plutonium, U-233, in two cumulative figures, one covering  
21 the NRC and one the AEC facilities, that is, Group I facilities  
22 that are licensed to handle and process significant amounts  
23 of U-233, and will cover from 1968 until September of last  
24 year.

25 (U) CHAIRMAN ROWDEN: Will there be a discussion of  
the upgrading of requirements in this area during the past



1 year or so, regulatory requirements? There have been some  
2 steps taken in that regard. There are two aspects of that.  
3 One, what actions have been taken to upgrade requirements,  
4 and, two, what we have underway looking toward a better  
5 system.

6 (U) I am not quite sure how you can deal with the latter.

7 (U) MR. SMITH: In the history of safeguards we touch  
8 on that. Perhaps we might go into that in more detail.

9 (U) CHAIRMAN ROWDEN: There ought to be something which  
10 reflects that some steps have been taken, and that a major  
11 effort is underway involving not insignificant resources  
12 to address the matter of materials accounting.

13 (U) MR. CRANE: Yes, sir.

14 (U) CHAIRMAN ROWDEN: As a matter of fact, I understand  
15 we are going to have a briefing on the status of that effort  
16 within the next couple of weeks.

17 (U) MR. SMITH: That is correct.

18 (U) COMMISSIONER GILINSKY: There are a couple of  
19 points on the other side that I think need to be dealt with.  
20 One is the problem of cumulative MUFs. It is all very well  
21 to say you expect discrepancies on a statistical basis, and  
22 so on, but don't necessarily imply there is something  
23 wrong. On the other hand, it is a little troubling to find  
24 they all tend to be -- not all, but they tend to be  
25 on one side. I think that is something that you have to come  
to grips with in some way.

1 (U) MR. CRANE: Yes, sir, it is troubling if you think  
2 of MUFS inventory discrepancies only due to random occurrences.  
3 And they don't. There are biases in the system, things like  
4 hold-up, that sort of thing.

5 (U) COMMISSIONER GILINSKY: But the hold-up you would  
6 expect to balance out over time.

7 (U) MR. CRANE: They do to some extent, as you will  
8 see.

9 (U) COMMISSIONER GILINSKY: But that hasn't happened,  
10 I think, in a satisfactory way.

11 (U) COMMISSIONER KENNEDY: Is it likely to happen  
12 unless there is an actual shut-down and clean-up?

13 (U) MR. CRANE: We could have a situation like at  
14 Kerr McGee where they cleaned up.

15 (U) COMMISSIONER GILINSKY: They got it down pretty  
16 well.

17 (U) MR. CRANE: It is still one of the bigger  
18 remaining MUFS, cumulatively.

19 (U) COMMISSIONER GILINSKY: At any rate, I think that  
20 is an area you have to deal with.

21 (U) The other one I think is that even if the MUFS  
22 are small, it doesn't mean the situation is okay, as we dis-  
23 covered in some facilities, because it is material unaccounted  
24 for, it doesn't mean you properly accounted for the  
25 material that you accounted for.

1 (U) We know very well there are cases where  
2 facilities have over-accounted for materials, say in effluent  
3 streams, and the MUFs looked pretty good, but in fact the  
4 situation was very bad.

5 (U) So I think you really have to explain both of  
6 those points.

7 (U) MR. CRANE: I agree. There are research efforts  
8 going on on small MUFs, how you best look at those, as  
9 opposed to the larger ones.

10 (U) COMMISSIONER GILINSKY: But I think this docu-  
11 ment has to deal with this point. I think the impression one  
12 gets is that if the MUFs are low, everything is okay. And  
13 that is true if you have done everything properly. But we  
14 know that that has not been the case at least in some  
15 instances in the past.

16 (U) I think you need a kind of cautionary note there.

17 (U) MR. CRANE: We want to avoid absolute statements.

18 (U) COMMISSIONER GILINSKY: Yes.

19 (U) MR. CRANE: We will be discussing some of the  
20 significant discrepancies which I will show you later.  
21 And we have a glossary of terms.

22 (slide)

23 (U) This viewgraph shows you an example of the  
24 release format as we currently plan to include in the  
25 public report. As an example, there are several like this.

1 This is for uranium; it covers from '68 up to September  
2 1976. It covers both elements and isotopes. The figures  
3 for B&W have footnotes. As I said before, the investigation  
4 is not closed on those yet. We expect it will be, and when  
5 they are, it will be reported and the figures will probably  
6 be adjusted.

7 (U) CHAIRMAN ROWDEN: What was the reason for  
8 choosing the format of cumulative reporting, rather than the  
9 format that we supplied to the Dingel committee in response  
10 to their request?

11 (U) MR. CRANE: This decision, when it was made,  
12 GAO had already asked us for cumulative figures. Congressman  
13 Dingel originally asked for cumulative figures. And then  
14 later on he asked that they be broken out.

15 (U) CHAIRMAN ROWDEN: But the reason he asked for  
16 it was because it was the feeling of he or his staff  
17 that it was more illuminating to look at it in the context  
18 of accounting periods. Now we have done that. Is there a  
19 reason why we are adhering to the cumulative approach?

20 (U) MR. CRANE: Well, we could put out the individual  
21 figures.

22 (U) COMMISSIONER GILINSKY: Aren't we also supplying  
23 the figures for each year?

24 (U) MR. CRANE: We are not planning to. We could, we  
25 have them. They don't come by years, that is one of the  
problems.

1 (U) CHAIRMAN ROWDEN: Either on a yearly basis or  
2 whatever the accounting period base is.

3 (U) MR. CRANE: One problem is the proprietary  
4 question. Although the people in NMSS and the lawyers feel  
5 that the cases have not been made so far by those licensees  
6 that claim this data is proprietary, there is an indication  
7 that the individual numbers, the case might not be so clear.  
8 So we would at least have to go back to the licensees  
9 individually and ask them how they feel about those.

10 (U) COMMISSIONER GILINSKY: Aren't we planning to  
11 release these in the future every six months?

12 (U) MR. CRANE: That is a problem we have to face  
13 there, too. We have to go to the licensees with each of the  
14 numbers we plan on releasing unless we can establish a  
15 precedent here that there is an overriding public interest  
16 that makes the proprietary claim invalid.

17 (U) COMMISSIONER GILINSKY: You mean the path is  
18 not clear for releasing this material on a six-month or  
19 yearly basis?

20 (U) MR. CRANE: Not from a proprietary point of  
21 view.

22 (U) COMMISSIONER GILINSKY: Why are we talking about  
23 it?

24 (U) MR. SMITH: That is an issue we are trying to  
25 resolve now with the legal people.

1 (U) MR. CRANE: We have five licensees out of the 23  
2 or 29 we have asked who have claimed the data are proprietary.  
3 We are in the process, we have reviewed it, and we don't feel  
4 they can support it. There is another licensee who said he  
5 will let the data go out now, Westinghouse, but in the  
6 future he reserves the right to claim proprietary at any time.

7 (U) MR. SHAPER: This is a common problem with  
8 respect to the proprietary information. If the licensee  
9 himself says it is proprietary information, we have a  
10 procedure and rules for dealing with that. They have to  
11 justify it, they have to show us or prove to us it indeed  
12 is proprietary.

13 (U) Our preliminary feeling is it is weak, extremely  
14 weak, for them to say it is proprietary. But we do have  
15 our rules, and even if they say it's proprietary, we can  
16 still release it if we say the public interest outweighs  
17 the benefit of that proprietary information to them. So the  
18 problem is manageable, but it has to be dealt with.

19 (U) COMMISSIONER GILINSKY: But we are on the verge of  
20 telling the public we will from now on release the material  
21 periodically.

22 (U) CHAIRMAN ROWDEN: If there is a valid proprietary  
23 claim, we have to deal with it, make a determination as to  
24 whether we would disregard it and take the consequences  
25 or explain to the public why, because of the private right,

1 we are unable to release the information. I assume -- maybe  
2 my assumption is wrong -- this does not involve the more  
3 significant facilities.

4 (U) MR. CRANE: It does not include B&W, but it  
5 includes both United Nuclear Corporation facilities, NFS  
6 Erwin, B&W Lynchburg Navy and --

7 (U) CHAIRMAN ROWDEN: Even though they are doing  
8 government work at these facilities basically?

9 (U) MR. CRANE: Yes. They are in competition for  
10 the Navy contracts. And Kerr McGee at Farley.

11 (U) COMMISSIONER GILINSKY: Ren't these figures  
12 known, because they have to pay the government for the  
13 material that is missing? Presumably those numbers are  
14 pulbic.

15 (U) MR. SHAPER: The fact that the Government knows it,  
16 that they have to tell the Government, doesn't necessarily  
17 mean they are public.

18 (U) MR. STRAUSS: They don't tell their competitors.

19 (U) COMMISSIONER GILINSKY: The penalties that  
20 they pay now aren't public?

21 (U) MR. SHAPER: It depends on the contract. Some-  
22 times there is no payment for "process losses".

23 (U) MR. VOLGENEAU: What they pay for is not  
24 necessarily the MUFs.

25 (U) MR. TERRELL: The material was designated 2790,

1 but they don't come to us with a claim.

2 (U) MR. SHAPER: What we said in the rules and the  
3 reason we protected the information up to now is we deemed  
4 it to be proprietary. Now we are discarding that route.  
5 If they come to us and said we think it is proprietary, then  
6 we have to apply our own rules and see, number one, whether  
7 or not we agree with them, and, number two, whether or not  
8 the public interest balances out in terms of release.

9 (U) MR. STRAUSS: Do we then get into difficulty  
10 with using our deeming things to be proprietary in other  
11 areas where in the past that has been important?

12 (U) For example, security plans of light water  
13 reactors. Will going after the United Nuclear claim that  
14 this kind of information is proprietary and prevailing,  
15 assuming that, can that in any way jeopardize our ability to  
16 turn around and insist that the light water reactor security  
17 plan for Diablo Canyon, or wherever, is in fact proprietary?

18 (U) MR. SHAPER: I don't know, but I guess it is  
19 possible.

20 (U) MR. STRAUSS: One ought to think about it.

21 (U) COMMISSIONER KENNEDY: Yes, very hard.

22 (U) COMMISSIONER GILINSKY: What sort of situation  
23 are we put into by the fact that we agreed this material was  
24 proprietary at one point?

25 (U) MR. SHAPER: We did that by rule. We can change  
the rules. ~~CONFIDENTIAL RESTRICTED DATA~~



1 (U) COMMISSIONER KENNEDY: It wasn't a question of  
2 agreeing. Didn't we decide it was in order that we could  
3 protect it until we could determine whether it ought to be  
4 classified or not, since we didn't know whether it was  
5 classifiable or not?

6 (U) MR. SHAPER: That is essentially right. We knew we  
7 wanted to protect it. We looked at the various niches in  
8 the Freedom of Information Act that were available as a  
9 basis of protection. The closest niche was proprietary.

10 (U) MR. CRANE: When we wrote to the licensees we  
11 said 2.790 had been applied unilaterally by NRC, we are  
12 going to take it off, they now had a chance to treat it like  
13 any data they submit to the Commission.

14 (U) COMMISSIONER GILINSKY: We didn't mean it was  
15 really proprietary then?

16 (U) CHAIRMAN ROWDEN: I think we necessarily had  
17 to take the position that there was some credible basis for  
18 deeming it to be proprietary, even though there may have been  
19 other objectives in mind.

20 (U) MR. SHAPER: We have a court case that supports  
21 this.

22 (U) MR. STRAUSS: The only difficulty I see is  
23 taking it half way off, taking it off over here and leaving  
24 in on there.

25 (U) CHAIRMAN ROWDEN: But it is different type

1 information we are dealing with, the security plans.

2 (U) MR. STRAUSS: The competitive advantage  
3 argument-- B&W can make the claim if the numbers are  
4 known to United Nuclear, United Nuclear can use them in  
5 contract bidding.

6 (U) CHAIRMAN ROWDEN: The fact of the matter is there  
7 has been general acceptance of our treating security plans  
8 as proprietary with the understanding we are doing it to  
9 avoid disclosure, even though we perhaps should take further  
10 steps in this regard, accept the fact that this information  
11 should be made public, as contrasted to information in the  
12 MUF category.

13 (U) MR. SHAPER: Plus the fact the great majority  
14 of the licensees are not making that claim.

15 (U) CHAIRMAN ROWDEN: Look, we can't resolve the  
16 question now; you have an issue, I think you ought to  
17 come back to us with a proposed resolution of that issue,  
18 if indeed the licensees still insist it is proprietary.  
19 Is their claim a valid one, and if so, how do we deal with  
20 it? Can the information be released in another way?  
21 I don't want to leave the matter of yearly as contrasted  
22 to cumulative reporting. ERDA is going to be on a yearly  
23 basis.

24 (U) MR. CRANE: I am going to show you the differences  
25 across the board now.

1 (U) MR. STRAUSS: Could I ask a question about this  
2 chart? It is a matter of detail, but it shows 22.4 kilograms  
3 of elements and 66 kilograms of isotope.

4 (U) MR. CRANE: Yes, sir. That is not a unique  
5 event. It happens quite often. As a matter of fact, generally  
6 when the difference is that large, there is a problem of  
7 a mixture of enrichments has occurred in some way or another  
8 and this results directly in larger isotope amounts than  
9 elements.

10 (U) MR. SMITH: It is in footnote 1 there.

11 (U) MR. CRANE: You over-estimate the isotope,  
12 the enrichment. If you do that, it will result in large iso-  
13 tope amounts.

14 (U) MR. PAGE: This is indicative of a possible cross-  
15 over of low enriched uranium and high enriched uranium.  
16 When this occurs, there are high and low enriched uranium  
17 on the site at the same place. So operations have not been  
18 separated as they should have been.

19 (U) MR. STRAUSS: Is it ever indicative of somebody  
20 taking out dolgor (?) and sticking in higher pyrite?

21 (U) MR. PAGE: It could be substitution, but we have  
22 rules that protect against that.

23 (U) MR. STRAUSS: That is good to know.

24 (Slide)

25 (U) MR. CRANE: Currently the release package

1 provides specific explanations of the larger discrepancies.

2 (U) COMMISSIONER GILINSKY: Let's take the last one  
3 there, NFS Erwin. If you really look into it you find that  
4 the discrepancies are really larger than the MUFs would  
5 indicate. Have we taken account of that?

6 (U) MR. CRANE: The discrepancies are larger than  
7 the MUFs indicate?

8 (U) COMMISSIONER GILINSKY: We know they were account-  
9 ing for material going into their pond, far in excess of  
10 the material that was actually going in there.

11 (U) MR. PAGE: We have not yet done that, but we  
12 need to consider whether or not we go ahead and modify  
13 these numbers to put in larger MUF quantities on the basis  
14 of the investigative report we made about a year ago.

15 (U) COMMISSIONER GILINSKY: I am just raising that  
16 because we talked about correcting them, when we do  
17 partially account for the numbers, going back and correcting  
18 them. That cuts two ways.

19 (U) MR. CRANE: That particular number does not  
20 include most of what you are referring to. It goes to '74.

21 COMMISSIONER GILINSKY: I thought that practice  
22 went on from the '60s.

23 (U) MR. PAGE: It did.

24 (U) MR. CRANE: We will be adding, if the B&W  
25 investigation report is complete, we will add to B&W, to

1 their list.

2 (Slide)

3 (U) MR. CRANE: Some of these we have talked about  
4 ready. ERDA has to declassify the Navy data. We have  
5 gotten some indication the Navy is re-thinking this whole  
6 thing about whether they want to declassify it all. We have  
7 to remove the proprietary label --

8 (U) COMMISSIONER KENNEDY: What effect would that  
9 have?

10 (U) MR. CRANE: If it is classified, we can't release  
11 it.

12 (U) COMMISSIONER KENNEDY: But how much of it can't  
13 we release?

14 (U) MR. CRANE: There are six facilities, and --

15 (U) COMMISSIONER KENNEDY: All of the material  
16 related to those six facilities would be classified?

17 (U) MR. CRANE: Yes. The Navy typically has classified  
18 every number relating to inventory in any way. The six  
19 facilities are all uranium.

20 (U) VOICE: Would they be the six largest MUFs,  
21 or pretty close to it?

22 (U) MR. CRANE: They certainly include at least the  
23 first three.

24 (U) COMMISSIONER GILINSKY: I thought they were  
25 classifying throughputs rather than MUFs.

1 (U) MR. CRANE: The Navy classifies everything.  
2 Admiral Rickover has signed off on the plan, at least.  
3 However, as a result of some of the complaints that licensees  
4 have made, they think it should still be classified. But  
5 they are re-thinking it. I really doubt they are going to  
6 reverse themselves.

7 (U) MR. TERRELL: Isn't it the same licensees who are  
8 also claiming proprietary there?

9 (U) MR. CRANE: Yes, as a matter of fact.

10 (U) We talked about the proprietary and the B&W  
11 report. And the fact we had to have continuing cooperation  
12 and coordination with ERDA to iron out the differences.

13 (U) COMMISSIONER GILINSKY: Do we have a study under-  
14 way for Erwin comparable to B&W?

15 (U) ~~(C)~~ MR. VOLGENEAU: Yes, but it is not an investi-  
16 gation in the sense that Apollo was, or is. The thing underway  
17 at NFS is that a review of the four weakest facilities  
18 that we are expediting and due to have finished with MNSS  
19 this fall. YOU will recall that we have four or five  
20 subgroups within the Task Force that is looking not  
21 only at NFS, but Apollo and White River and others, one of  
22 which is accountability and others are also physical security,  
23 for example.

24 (U) COMMISSIONER GILINSKY: When does that come to  
25 some conclusion?

1 (U) MR. VOLGENEAU: I believe our schedule calls for  
2 the Task Force or -- I keep calling it a task force. It  
3 is a joint MNSS-IE team. It is due to be finished with its  
4 work this fall, in October or November. But as for recommen-  
5 dations and implementation of license conditions, it will be  
6 somet time after that.

7 (U) VOICE: Evaluations are scheduled to be done,  
8 we are shooting for 1 October at the request of the  
9 Commission.

10 (U) COMMISSIONER GILINSKY: This goes back over the  
11 history of the facility?

12 (U) VOICE: This is a comprehensive evaluation plan  
13 and we have four different teams.

14 (U) COMMISSIONER GILINSKY: It deals with the present  
15 system.

16 (Slide)

17 (U) MR. CRANE: We have talked about the differences  
18 between ERDA and NRC's release program. I went through the  
19 reasons we have for wanting to use cumulative figures.

20 (U) MR. SMITH: You didn't add, on the cumulative  
21 figures, the reason was not only in terms of how we  
22 submitted it in the past to GAO, but also we get our  
23 figures from certain inspection periods. What you have to  
24 go through to convert those to yearly figures.

25 (U) MR. CRANE: That's right. That is a little

1 different than the Chairman's question. We could report  
2 the individual inspection period results, put them into a  
3 yearly format which requires forcing the data into that  
4 format.

5 (U) So reporting the individual periods would still  
6 be slightly different in format than ERDA's.

7 (U) CHAIRMAN ROWDEN: What would the time sequence be?

8 (U) MR. CRANE: It varies depending on the facility.  
9 Some of the early ones, the time periods are quite long,  
10 over a year.

11 (U) COMMISSIONER KENNEDY: But more recently much  
12 shorter.

13 (U) MR. CRANE: Yes, since '74 it would fit more  
14 reasonably into a yearly format. But before '74 it  
15 doesn't.

16 (U) ~~(OHIO)~~ The elements and isotope question, we feel this  
17 is important, that the isotope data be released. ERDA  
18 feels to release both would confuse the public. We feel it  
19 presents a more accurate picture of the situation, particularly  
20 since the isotope data was the only data mentioned in the  
21 requirements before '74 for measurement.

22 (U) COMMISSIONER KENNEDY: Are we making a major  
23 effort in this regard to assure that it doesn't confuse,  
24 as ERDA suggests it might?

25 (U) MR. CRANE: We have tried. We are putting it



1 into the description, telling what MUF is, why isotopes and  
2 elements MUFs might be different. We feel that the fact  
3 that element-isotope MUFs are different reflects very  
4 clearly the fact that MUFs are really statistical variables,  
5 random variables, and they don't come out exactly the way  
6 you might expect the measurements. We make that point.

7 (U) The discussion format is a minor one. It  
8 results directly because of their using the yearly and we  
9 are using the cumulative. We have agreed with them to switch  
10 back to September of '76 rather than going through December  
11 of last year, which was the natural route, because all of the  
12 data would be six months old. But they wanted to do it on  
13 a fiscal year basis, so we have agreed to do that.

14 (U) They call it inventory differences, as you  
15 remember from their briefing. We call it inventory discrep-  
16 ancies. Our initial reaction was to equate the two, and  
17 that is the way the Commission paper reads. As a result of  
18 redent developments, I think we might want to keep the  
19 difference because they are different.

20 (U) COMMISSIONER KENNEDY: Is anyone going to be  
21 able to understand that?

22 (U) MR. CRANE: We would like to keep the difference  
23 until we can resolve the question and make sure that the  
24 difference is clear to the public, or they change.

25 (U) MR. SMITH: You might explain --

1 (U) MR. CRANE: I will do that on the next slide.

2 (U) MR. SHAPER: I guess we could resolve this by  
3 flipping a coin.

4 (U) COMMISSIONER KENNEDY: His point is, I guess,  
5 that actually there is a difference between these two things.

6 (U) MR. CRANE: Yes.

7 (U) COMMISSIONER KENNEDY: We ought to find out what  
8 that is and eliminate that. I think putting these reports  
9 out with different terminology, meaning different things,  
10 is going to be very confusing.

11 (U) Let me just add that no matter how you try, and  
12 you have obviously tried mightily, it is a fine piece of  
13 work, it is going to be enormously confusing, which gets  
14 to another thing I hope we can talk about, which is how  
15 we are going to get all of this presented.

16 (Slide)

17 (U) ~~(OHIO)~~ MR. CRANE: Recently, within the last few  
18 days, ERDA has given us a new approach, it is different  
19 than the one they briefed here a couple of weeks ago, and  
20 the one they briefed at the NSC on the 17th. They now  
21 propose to report in the body of the report only the '76  
22 data, fiscal '76 data, which happens to be a 15-month fiscal  
23 year. They will report those figures, they will explain  
24 those figures, and for all those that are explained, they  
25 will say the MUF is zero.

1 (U) ~~(OHIO)~~ COMMISSIONER GILINSKY: They will actually put  
2 zero there?

3 (U) ~~(OHIO)~~ MR. CRANE: They will have both numbers. They  
4 have the size of the MUF, a prose type explanation, non-  
5 quantative, then they put a zero.

6 (U) ~~(OHIO)~~ COMMISSIONER GILINSKY: Let me see if I understand  
7 this. What they are saying is if the difference is less  
8 than some specified statistical amount, it is explainable,  
9 and therefore it is not unaccounted for. Is that the point?

10 (U) ~~(OHIO)~~ MR. SML H: Yes, that is exactly what they are  
11 saying.

12 (U) ~~(OHIO)~~ COMMISSIONER GILINSKY: That is very clever.

13 (U) ~~(OHIO)~~ MR. PAGE: Of course they don't calculate  
14 what the uncertainties are. They don't have a requirement  
15 to determine LEMUF.

16 (U) ~~(OHIO)~~ MR. CRANE: The real problem is the things they  
17 explain down to that level are also statistical variables  
18 that have uncertainties associated with them, and they are  
19 ignoring that.

20 (U) ~~(OHIO)~~ MR. TERRELL: Is the word "inventory" different  
21 from the zero number?

22 (U) ~~(OHIO)~~ MR. CRANE: They have explained inventory diff-  
23 erences and unexplained inventory differences. The unexplained  
24 inventory differences they say is all zero.

25 (U) ~~(OHIO)~~ I shouldn't say all zero because I only saw an  
example.

1 (U) COMMISSIONER KENNEDY: I am not sure why we  
2 couldn't use the same terminology and simply not make the  
3 same conclusion.

4 (U) MR. SMITH: We thought about that, Commissioner.  
5 We were a little concerned if we used the same terminology,  
6 but that it came to some different conclusions, we might  
7 succeed in confusing the public even more. We share your  
8 concern.

9 (U) COMMISSIONER KENNEDY: It is going to be awfully  
10 hard to confuse them more than they will be.

11 (U) MR. SMITH: We felt if it were just NRC  
12 releasing the data it would be confusing enough, let alone  
13 NRC and ERDA going out with separate packages, different  
14 reporting periods; it is going to be quite confusing, and  
15 we have been doing everything we can to try to resolve  
16 these differences.

17 (U) ~~(OHIO)~~ But frankly when it gets to such things as  
18 MUF being zero, we are just at a stand-off.

19 (U) ~~(OHIO)~~ CHAIRMAN ROWDEN: How long is it going to take  
20 people to assess the difference between the two approaches  
21 and to shoot theirs out of the water?

22 (U) ~~(OHIO)~~ MR. SMITH: John Harris? Joh, you and I  
23 were talking about this. I think we felt that there were  
24 enough reporters in town that will know the difference.

25 (U) ~~(OHIO)~~ MR. HARRIS: The ERDA package which we have

1 seen just will not sell. They are going to withhold the  
2 gaseous diffusion cascade, they are going to withhold the  
3 weapons facility numbers, the rest of them that they have got  
4 they are going to describe as zero. So this program won't  
5 float.

6 (U) ~~(C)~~ MR. CRANE: Another interesting figure is their  
7 uranium MUFs since 1947 is 100 kg, less than the NRC's  
8 reported figures since 1968.

9 (U) COMMISSIONER GILINSKY: That includes the  
10 enrichment and everything?

11 (U) MR. CRANE: Total. That is what I was told.

12 (U) COMMISSIONER GILINSKY: They must not be  
13 including classified facilities. So they wouldn't be  
14 including enrichment plants.

15 (U) MR. CRANE: There is only two they are excluding.

16 (U) MR. HARRIS: There is no diffusion or weapons  
17 data that will be given by ERDA.

18 (U) COMMISSIONER GILINSKY: So they don't have any  
19 other material.

20 (U) MR. CRANE: It is my understanding there are  
21 only two they are not going to release.

22 (U) COMMISSIONER GILINSKY: Are they releasing  
23 Portsmouth?

24 (U) MR. HARRIS: No diffusion data, nothing.

25 (U) MR. PAGE: There is nothing in the package that

1 indicates any diffusion.

2 (U) COMMISSIONER GILINSKY: Those are the large  
3 amounts.

4 (U) MR. CRANE: I think that is what Mr. Lyon told  
5 you a couple of weeks ago, there were only two.

6 (U) CHAIRMAN ROWDEN: Well, they had responsibility  
7 for the naval reactor facilities before '68, they also  
8 had R and D facilities doing work. So it is much larger than  
9 what is going on now.

10 (U) MR. CRANE: I may have mis-stated that.

11 (U) ~~(OHQ)~~ CHAIRMAN ROWDEN: Those figures are going to  
12 startle people, I think, even on an absolute basis. But on  
13 a comparative basis with the figures we issue from '68 it  
14 will raise a lot of eyebrows.

15 (U) ~~(OHQ)~~ MR. SMITH: Basically the difference is we are  
16 using the approach if you can't measure it, to the extent  
17 you can't measure it, you have a MUF. What ERDA is doing  
18 is making engineering estimates, I guess one could call  
19 them, as to how much might be here or there.

20 (U) ~~(OHQ)~~ COMMISSIONER GILINSKY: They are re-defining MUF.

21 (U) ~~(OHQ)~~ MR. SMITH: That's right. So depending on the  
22 kind of estimates you make, or assumptions, you can work that  
23 MUF figure down.

24 (U) ~~(OHQ)~~ CHAIRMAN ROWDEN: Is this the same approach  
25 they took in submitting this information to GAO and to  
the Hill committees?

1 (U) MR. SMITH: No.

2 (U) COMMISSIONER GILINSKY: Those numbers were  
3 enormous.

4 (U) MR. SMITH: This is completely different.

5 (U) CHAIRMAN ROWDEN: It seems to me they have  
6 already created a record on this.

7 (U) ~~(C)~~ MR. CRANE: Their number for GAO in uranium  
8 was about 28,000 kg.

9 (U) ~~(C)~~ COMMISSIONER KENNEDY: 28,000?

10 (U) MR. CRANE: A lot of that is in low enriched.

11 (U) MR. SMITH: They have worked their backlog off.  
12 They have had a lot of people on this.

13 (U) ~~(OHQ)~~ MR. PAGE: In the briefing of the National  
14 Security Council, Harvey Lyon's presentation was principally  
15 directed at indicating there really were no big MUF  
16 problems in ERDA facilities, they could explain away all of  
17 the MUFs that were there, except relatively unimportant  
18 quantities.

19 (U) ~~(OHQ)~~ MR. CRANE: This is really our basic difference  
20 right now. We have said there are uncertainties that will  
21 always be there, there is nothing you can do about it. They  
22 would like to make absolute statements that can explain  
23 everything away.

24 (U) COMMISSIONER GILINSKY: When you say there is  
25 nothing you can do about it, are you talking about

1 historical data?

2 (U) MR. CRANE: Yes.

3 (Slide)

4 (U) CHAIRMAN POWDEN: No throughput figures are  
5 going to be given by ERA or by us?

6 (U) MR. CRANE: Not at this time.

7 (U) CHAIRMAN ROWDEN: Why do you say not at this  
8 time?

9 (U) MR. CRANE: Well, there is an open question about  
10 the classification of through-put and inventory data at  
11 this point. And there is the proprietary question also. We  
12 noted in the Commission paper it was a question that had not  
13 been resolved yet, the classification of such data.

14 (Slide)

15 (U) Public Affairs has come up with a proposed  
16 release schedule, as I mentioned before. We plan on  
17 briefing the Congress starting at least the week before  
18 release. Congressman Dingel has asked specifically for it.  
19 And there will be a briefing for the Public Affairs Officers.  
20 On the date of release those states in which facilities  
21 reside will receive copies of the release before the total  
22 release actually takes place. The outstanding Burnham-O'Toole  
23 request for a pre-brief, and also as indicated, AIF, and general  
24 press briefing.

25 (U) COMMISSIONER GILINSKY: Why are we briefing the



1 AIF, singling them out?

2 (U) MR. HARRIS: We suggested that because they have  
3 a pretty good communications system that feeds out to  
4 the industry. So we thought we would brief them about  
5 the same time we brief the press, or a couple of hours before  
6 so they could get some of it out through their communications  
7 channels.

8 (U) COMMISSIONER KENNEDY: Why can't Burnham, O'Toole  
9 and AIF and the general press briefing be done at the  
10 same time?

11 (U) MR. HARRIS: We felt some of it could possibly  
12 be done together. We felt Burnham and O'Toole were entitled  
13 to hack at the thing as long as they wanted to. I think  
14 both of them would probably write in greater depth.

15 (U) MR. STRAUSS: They both have been relatively  
16 understanding of the Commission's problems.

17 (U) MR. HARRIS: They have.

18 (U) COMMISSIONER KENNEDY: Wait, don't take that  
19 chart away, please. I am not sure that answers my questions.

20 (U) MR. HARRIS: The subject is so complex that I  
21 figure it will take us 3 to 4 hours to run through this  
22 thing, to satisfy Brunham and O'Toole. I think in the  
23 general press briefing we won't hold those guys more than  
24 an hour. At the end of that hour, they will not understand  
25 it.

1 (U) COMMISSIONER KENNEDY: Well, that even leans more  
2 heavily on my point. If Burnham and O'Toole are involved  
3 in this briefing, it just might be the rest of these guys  
4 would learn something while you are trying to communicate  
5 to Burnham and O'Toole and wouldn't that be helpful?

6 (U) MR. HARRIS: I don't know.

7 (U) COMMISSIONER KENNEDY: At least they would have  
8 had the opportunity. Otherwise they will be here for an  
9 hour, learned nothing, and gone, according to your thesis.

10 (U) MR. HARRIS: There will be other newspaper  
11 people who are reasonably conversant with what we are talking  
12 about, and who will comprehend.

13 (U) So there will be plenty of tough questions I  
14 think in the general press conference.

15 (U) CHAIRMAN ROWDEN: It is not a press conference,  
16 it is a press briefing, or is it? You describe it as a  
17 press briefing. Is there a distinction between that and a  
18 press conference?

19 (U) MR. HARRIS: I think not really. We would  
20 probably make it generally known we are prepared to discuss  
21 this subject, and I think we would have a pretty fair turn-  
22 out.

23 (U) COMMISSIONER KENNEDY: Has the concept of a  
24 press conference been considered and rejected? This may  
25 be one of the most important pieces of release made in

1 the last two and a half years that I am aware of.

2 (U) MR. HARRIS: Briefing and conference, I would  
3 use the terms interchangeably. We would call the reporters  
4 in, give them a package, and attempt to explain it, yes.  
5 It can be a press conference.

6 (U) COMMISSIONER KENNEDY: Would there be a statement  
7 by some high official, like a Chairman?

8 (U) MR. HARRIS: If the Chairman would like to do it,  
9 yes, sir. We undoubtedly would involve Dr. Smith and his  
10 staff for the detailed presentations.

11 (U) COMMISSIONER GILINSKY: Would there be a sort of  
12 slide show?

13 (U) MR. HARRIS: The package, the release package  
14 is essentially what you have before you, and if slides would  
15 help in the presentation, that would be very useful.

16 (U) COMMISSIONER GILINSKY: You mean you are going  
17 to have these guys there with a large document which they  
18 have not seen previously?

19 (U) MR. HARRIS: We will try to hack our way through  
20 the thing. It is a very complex thing.

21 (U) COMMISSIONER GILINSKY: With a press release on  
22 top of it?

23 (U) CHAIRMAN ROWDEN: What are you trying to do?  
24 One of the concerns is you are going to set loose a bunch  
25 of nuts that will come in with a lot of wild claims, they

1 have all of this material, and they will be innundated in  
2 terms of coping with that. A good way to stimulate that  
3 sort of thing is have a full-blown press conference, with  
4 some official of the Commission, with the TV cameras, and  
5 we will have them, no doubt about that, for that sort of  
6 an exercise.

7 (U) Now maybe it is wanted, and maybe the sort of  
8 public attention that is going to inevitably focus on this  
9 will dictate that course of action.

10 (U) I always though the basic objective was to get  
11 press understanding, that people were going to report this,  
12 not just O'Toole and Burnham, but the wire services and  
13 others, and that within the limits -- believe me there are  
14 limits in communicating with them about what this is about --  
15 you ought to bring them in and spend a couple of hours  
16 with them, not just a limited period, but a couple of hours  
17 with them, and let them have at you.

18 (U) COMMISSIONER KENNEDY: My point, not just Burnham  
19 and O'Toole, but everybody who wants to spend that many  
20 hours and Burnham and O'Toole, it seems to me, can help  
21 you in the process of communication with them, because they  
22 will know the questions to ask.

23 (U) MR. HARRIS: This is possible. We will have  
24 our hands full, I think, trying to convey this. I do  
25 think in terms of a limited briefing, the tall hat is on this

1 information, regardless of how we go public with it, the  
2 interest is there. So I think it is in our best interests  
3 to make it available and to give the best explanation that  
4 we can give to as large a number of reporters as we can  
5 get together.

6 (U) CHAIRMAN ROWDEN: Can you really give a separate  
7 briefing to AIF without it being misunderstood? Dont you  
8 really have to put that in a different context?

9 (U) COMMISSION KENNEDY: I think they ought to be  
10 invited to the same meeting.

11 (U) CHAIRMAN ROWDEN: As a matter of fact, they might  
12 ask some questions which would help. I think if you invite  
13 them you have to broaden the universe of invitees. I  
14 think further consideration has to be given to this aspect  
15 of it.

16 (U) MR. HARRIS: I think so. Our problem is  
17 industry is entitled to information on this package. That  
18 seemed to be one way to do it.

19 (U) COMMISSIONER GILINSKY: Why are they any more  
20 entitled than anybody else?

21 (U) MR HARRIS: Well, I will back off and I won't  
22 attempt to defened that.

23 (U) CHAIRMAN ROWDEN: Wait a minute.

24 (U) COMMISSIONER KENNEDY: I WOULD.

25 (U) CHAIRMAN ROWDEN: Sure, they are in the business,

1 they have a direct interest.

2 (U) I would also say that maybe an organization such  
3 as NRDC, which has indicated a direct interest in the safe-  
4 guards area, should be invited. There are ways this can  
5 be dealt it, recognizing legitimate interests, people who  
6 want to understand what is going on.

7 (U) MR. HARRIS: We were seeking to use every  
8 available avenue to get this material out. I think that is  
9 an important thing. The AIF seemed to be an effective way.

10 (U) CHAIRMAN ROWDEN: To not only get it out, but  
11 get it understood.

12 (U) MR. HARRIS: Yes.

13 (U) COMMISSIONER GILINSKY: It is not the separateness  
14 I objected to, but I get the impression that this is sort  
15 of the time sequence, briefing O'Tool-Burnham, briefing AIF,  
16 and then the public or the press, and I think that is not  
17 right, as far as the AIF goes.

18 (U) COMMISSIONER KENNEDY: That was my point.

19 (U) MR. STRAUSS: Maybe you can go back to steps  
20 from that; with Congressional briefings beginning a week  
21 before the scheduled release date, realistically what is the  
22 chance that Mr. O'Toole and Burnham are still going to be  
23 around waiting to write their stories on the scheduled  
24 release date?

25 (U) COMMISSIONER KENNEDY: They will have it written

1 the next day.

2 (U) MR. HARRIS: The material at that time would  
3 still be classified. The Congressional briefings that take  
4 place before the release would have to be on a classified  
5 basis.

6 (U) MR. STRAUSS: You think that will hold?

7 (U) MR. HARRIS: I don't know. It is about the only  
8 way to do it. I think Dingel is in with a request for  
9 72 hours in advance. So you have to start this well in  
10 advance.

11 (U) MR. GOSSICK: John, is it your feeling we owe  
12 Burnham anything special?

13 (U) MR. HARRIS: I think the only reason this infor-  
14 mation is going to be is because of Burnham. To a lesser  
15 extent, O'Toole. I think BURNHAM is entitled to about  
16 everything we can do to make this information available and  
17 understandable to him.

18 (U) CHAIRMAN ROWDEN: He has acted responsibly here,  
19 as has his newspaper, and I think we have to recognize that.

20 (U) MR. HARRIS: Yes, he has.

21 (U) MR. STRAUSS: It is not so much he asked, but  
22 that he understood our reasons for taking some time in  
23 answering.

24 (U) MR. SHAPER: He has earned a scoop.

25 (U) MR. STRAUSS: Right.

(Slide)

45

1 (U) MR. CRANE: I would like to spend a few minutes  
2 showing you what the data itself look like. This is from  
3 '68 to September '76, and what I am showing here is the  
4 total MUF for each facility. The numbers inside the bars  
5 here are the percentage that that facility is of the total  
6 industry.

7 (U) ~~(C-RD)~~ [REDACTED] [REDACTED]

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8 [REDACTED] [REDACTED]  
9 [REDACTED] The rest of it is spread out  
10 pretty much over the rest. There are 16 others, that  
11 represent the smaller figures. This doesn't mean that they  
12 control the material better, but they are smaller operations.

13 (Slide)

14 (U) This is the same thing for isotope. It really  
15 shows the same situation. We have a switch here, but  
16 again 52 percent of it goes to those two facilities.

17 (Slide)

18 (U) This is another way of looking at the data.  
19 Historically across the industry, for instance in 1968,  
20 this is the total MUF for the industry as a whole. And it  
21 brings it up to 1976, and the last figure only goes through  
22 September 1976.

23 (U) There are a couple of important things to note  
24 here, and the most important one is the trend. I think  
25 there is a definite downward trend in these figures. We

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1 have indicated where major changes have taken place in  
2 regulations. It is interesting to note it is generally  
3 a year after they take place.

4 (U) COMMISSIONER GILINSKY: Is the definition of  
5 this discrepancy constant over time?

6 (U) MR. CRANE: Since '68, yes. Before '68 it was  
7 different.

8 (U) MR. STRAUSS: You are saying in the years with  
9 regulatory change it has increased?

10 (U) MR. CRANE: The next year there has been a  
11 decrease, that is the way I put it.

12 (U) I am not willing to jump to any great conclusions  
13 as a result of that. But the most important thing I believe  
14 is the trend, particularly when you look at the next view-  
15 graph.

16 (Slide)

17 (U) This shows what the activity in the industry  
18 has been over the same time period. The lowest level of  
19 activity, which is the average of shipments and receipts --  
20 that is the way we define it -- has been in later years, when  
21 the smallest discrepancies occurred.

22 (Slide)

23 (U) To accent that, i have an over-layer which is a  
24 little bit confusing. But these figures without the numbers  
25 on top of them are the activities, and the others are the  
inventory discrepancies.

1 (U) They are, of course, on different scales. But  
2 the point is the trend that exists. I think this is an  
3 important point that can be made in our release.

4 (U) We have suggested including in the release not  
5 the activity versus the figures, but the fact that there is  
6 this downward trend, which, after we have looked at the  
7 numbers hard, we feel there is this greater control we have  
8 over the situation today than we did back in 1968.

9 (U) MR. VOLGENEAU: What is that activity? The sum --

10 (U) MR. CRANE: Average of shipments and rece pts.

11 (U) MR. VOLGENEAU: Average. What does that mean?

12 (U) MR. CRANE: When you add the two and divide by 2.

13 (U) ~~(C)~~ MR. VOLGENEAU: Would you repeat that? Because if  
14 they do, if there is any indication of through-put, if  
15 you take that and multiply by 30 percent, you get the  
16 through-put for Apollo; there may be problems.

17 (U) MR. CRANE: I am not saying I am releasing  
18 that activity data. That wasn't part of the release. I was  
19 just showing that to make the point. We could make a  
20 statement to the effect that we have seen this increase in  
21 activity at the same time we have seen a decrease in  
22 discrepancies.

23 (Slide)

24 (U) This is the plutonium data. Again we have some  
25 83 percent of the total plutonium concentrated in four

1 facilities. The total figure is 39 kg. This figure is  
2 considerably smaller than ERDA's, by the way, in plutonium.

3 (Slide)

4 (U) This shows the same kind of relationship I showed  
5 you before about the history. Again we see this downward  
6 trend. The point in the activity is not quite as clear.  
7 I will show that again.

8 (slide)

9 (U) This has been a downward trend in the activity  
10 in the last three years also. I think over the last three  
11 years it is obvious that the activity was higher than it  
12 was the three years before.

13 (Slide)

14 (U) Again, to see what was happening, we have the  
15 overlay. You notice by the way in the last two years  
16 both are total negative MUFs in plutonium for the industry,  
17 which I believe ERDA showed also. That is due primarily  
18 to B&W.

19 (U) There is a point I would like to make about this  
20 kind of presentation, looking industry-wide. That is, there  
21 is a problem that we have to face up to, that you are adding  
22 negative MUFs to one facility and positive MUFs to  
23 another. That could be misleading. However, we see that that  
24 kind of thing occurs over the total, '68 all of the way  
25 through to the present time; in fact, some of the biggest

1 negative ones were in the early years. So from the point  
2 of view of demonstrating there is a trend here, that  
3 particular point doesn't change that observation.

4 (U) That is all I have.

5 (U) COMMISSIONER GILINSKY: I am a little concerned  
6 that we are taking a little too much of the point of view  
7 that all of this can be explained away. You know, here we  
8 are, we are supposed to be regulating this industry, and  
9 I think we ought to be more sort of viewing it with alarm,  
10 rather than explaining it away.

11 (U) Obviously you want to indicate the situation is  
12 getting better, you don't want to exaggerate what might in  
13 fact be the case.

14 (U) MR. SMITH: You don't think we are doing it in  
15 the written package?

16 (U) COMMISSIONER GILINSKY: I guess I was reacting to  
17 the presentation here.

18 (U) MR. CRANE: I am sorry, I didn't mean to give  
19 that impression, because we have just the opposite view,  
20 that we can't explain it away, you have to set it forth and  
21 there are things we don't know the answers to.

22 (U) CHAIRMAN ROWDEN: I must say I didn't get the  
23 impression it was an attempt to sweep it under the rug. And  
24 I don't think anybody wants that to be our position. We  
25 ought to be saying in straight-forward fashion really what

1 the facts are, the uncertainties, and I would not consider  
2 it to be a posture of explaining away if we tried to explain  
3 simply what the basic circumstances are.

4 (U) I agree with you that we shouldn't take an attitude  
5 of ho-hum about this thing, and that is one of the reasons  
6 we have programs in place to operate these kinds of require-  
7 ments. But we ought to try to give an honest presentation  
8 of what the facts are and why the uncertainties exist.

9 (U) COMMISSIONER KENNEDY: People shouldn't be  
10 unduly alarmed either. They ought to be given the best  
11 factual data and the best explanation of the meaning of the  
12 factual data that can be provided without bias in it, so  
13 they will understand what they are looking at, and thus the  
14 level of alarm will be that appropriate to whatever the  
15 circumstances really are.

16 (U) COMMISSIONER GILINSKY: That is right, but there  
17 are comments that can be made in both directions. In other  
18 words, what these discrepancies are in a sense is a  
19 reflection of our state of ignorance about the true state  
20 of affairs. That is why you end up with having differences.

21 (U) If we knew everything, if we could put it in the  
22 right boxes -- and we also know that we didn't do some of  
23 the accounting right, either. So in a way what it really  
24 reflects is the uncertainty really about the state of  
25 affairs. We really had a very poor system in the past.

1 Hopefully it is getting better.

2 (U) MR. SMITH: One of the things we thought we ought  
3 to point out in the release document is this problem of  
4 inventory discrepancies is not unique to dealing with  
5 plutonium and uranium. You have the same problem with  
6 the precious metals industry, and it all gets back to you  
7 are trying to measure something that you can only measure to  
8 a certain precision.

9 (U) So we try to explain in here we wrap around the  
10 total safeguards approach, but when you get right down to  
11 the bottom line, until your measurement techniques are so  
12 precise, you are going to have that failure.

13 (U) COMMISSIONER GILINSKY: You are going to have  
14 a figure if you are going to use the material.

15 (U) MR. SMITH: Right, that is true.

16 (U) COMMISSIONER GILINSKY: You may decide under  
17 some circumstances it is impermissible to do that if the  
18 figures get too big.

19 (U) MR. SMITH: I agree, the question of plutonium, with  
20 all of the implications it has, what it can be used for,  
21 and you know to the best of your knowledge you can only  
22 measure it down to some point, there is always that uncer-  
23 tainty; that is a judgment the country has to make.

24 (U) MR. TERRELL: I wanted to know if you are going  
25 to offer this briefing to NSC.

1 (U) ~~(OHQ)~~ MR. SMITH: We hadn't planned to. Jerry,  
2 you went when ERDA was there. Do you think we should brief  
3 them?

4 (U) ~~(OHQ)~~ MR. PAGE: That briefing of the National Security  
5 Council that ERDA gave was not very good, and the impression  
6 was left that everything is really great, and that MUFs  
7 are small --

8 (U) ~~(OHQ)~~ MR. SMITH: So maybe we better do our own.

9 (U) ~~(OHQ)~~ CHAIRMAN ROWDEN: I had the impression we  
10 were there also to tell them what we were doing. I thought  
11 it was a joint briefing.

12 (U) ~~(OHQ)~~ MR. PAGE: It was not. It was Lyon's briefing.

13 (U) ~~(OHQ)~~ CHAIRMAN RODWN: They ought to know what we are  
14 doing also.

15 (U) ~~(OHQ)~~ MR. TERRELL: Particularly now I think this  
16 briefing, because this briefing points up something that will  
17 be of interest to the NSC staff, and that is the differences  
18 between the two approaches. They are not going to be happy  
19 with that.

20 (U) ~~(OHQ)~~ MR. PAGE: At the end of that briefing I said  
21 we shouldn't be leaving the impression with the National  
22 Security Council that our MUFs would come out zero. I got  
23 that impression from what Harvey said. I put some charts  
24 on the table and showed them a couple of things, but it  
25 was a very small presentation.

1 (U) CHAIRMAN ROWDEN: They need a briefing.

2 (U) COMMISSIONER GILINSKY: Who was there?

3 (U) MR. PAGE: George Markham, Ben Huberman, Jesse  
4 Cason, Jerry Schter, Joe Carney from OMB was there, and  
5 two others.

6 (U) CHAIRMAN ROWDEN: Set up a briefing.

7 (U) MR. SMITH: Okay.

8 (U) MR. TERRELL: and John Markham.

9 (U) CHAIRMAN ROWDEN: Okay. After that briefing,  
10 I guess I would like a report back and then there is still  
11 a list of unresolved matters.

12 (U) MR. SMITH: That is right. The pre-68 data,  
13 the release date, and the --

14 (U) CHAIRMAN ROWDEN: You might make a special point  
15 of the observation of Commissioner Kennedy vis a vis the  
16 British situation.

17 (U) COMMISSIONER KENNEDY: It has to be worked very  
18 closely.

19 (U) MR. SMITH: And of course the issue of trying  
20 to get the two presentations as close together as possible.  
21 Maybe the National Security Council will get into the  
22 picture on that.

23 (U) CHAIRMAN ROWDEN: Now we have the package, you  
24 gave it to us, not just for information, but if we had any  
25 specific observations. I know I will have several to pass



1 out.

2 (U) MR. SMITH: And we are particularly interested  
3 in what you feel about our explanation of the safeguard  
4 system, about what MUF is, about whether or not we present  
5 it as clearly as possible. We have gone over it a number  
6 of times, but we are so close to it, we look at it 1500  
7 times, and we begin to miss things. So we would appreciate  
8 any input on that.

9 (U) Also in the questions and answers we have  
10 in the end, we have some 40 questions and answers dealing  
11 with it.

12 (U) CHAIRMAN ROWDEN: One of the reasons we have  
13 upgraded our requirements in the materials control and  
14 physical security area is because of the imprecision in  
15 materials accountability. Did you mention that? We have  
16 said it before publicly.

17 (U) MR. SMITH: That is certainly true. We say  
18 that, but we don't say it precisely the way you put it,  
19 which is probably more direct and to the point.

20 (U) CHAIRMAN ROWDEN: Okay. This has been the  
21 impression on the part of those who have approved these  
22 upgraded requirements. We continually make the point that  
23 it is a totally integrated system, and you add compensation  
24 for areas where there are weaknesses. I think that is part  
25 of the picture.

DB

1 (U) We have been laying on requirements that have  
2 cost a lot of people a lot of money in the last couple of  
3 years.

4 (U) MR. SMITH: We make that very clear in the  
5 questions and answers in the back.

6 (U) MR. PAGE: It is in one of the write-ups, too.  
7 It might be expanded upon, but it is there.

8 (U) CHAIRMAN ROWDEN: Okay, thank you.  
9 (Thereupon, at 11:10 p.m. the above  
10 discussion was concluded.)  
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