

ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Title: **AFFIRMATION SESSION --**
PUBLIC MEETING

Location: **Rockville, MD**

Date: **Friday, April 3, 1998**

Pages: **1 - 6**

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1250 I St., N.W., Suite 300
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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

3 ***

4 AFFIRMATION SESSION

5 ***

6 PUBLIC MEETING

7 ***

8 Nuclear Regulatory Commission

9 Room 1F-16

10 One White Flint, Bldg. 1

11 11555 Rockville Pike

12 Rockville, Maryland

13
14 Friday, April 3, 1998

15
16 The Commission met in open session, pursuant to
17 notice, at 10:30 a.m., the Honorable SHIRLEY A. JACKSON,
18 Chairman of the Commission, presiding.

19 COMMISSIONERS PRESENT:

20 SHIRLEY A. JACKSON, Chairman of the Commission

21 GRETA J. DICUS, Member of the Commission

22 NILS J. DIAZ, Member of the Commission

23 EDWARD McGAFFIGAN, JR., Member of the Commission

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1 ALSO PRESENT FOR THE NUCLEAR REGULATORY COMMISSION:
2 ANNETTE VIETTI-COOK, Assistant Secretary
3 KAREN D. CYR, General Counsel

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P R O C E E D I N G S

[10:30 a.m.]

CHAIRMAN JACKSON: Good morning, ladies and gentlemen.

This is an Affirmation Session. We have two items to come before us this morning. Before I ask the Assistant Secretary to lead us through the items for affirmation, do any of my colleagues have any opening comments they would like to make?

[No response.]

CHAIRMAN JACKSON: If not, please proceed.

MS. VIETTI-COOK: The first item for affirmation is SECY-98-024, Final Amendments to 10 CFR Parts 60, 72, 73, 74, and 75, "Physical Protection for Spent Nuclear Fuel and High-Level Radioactive Waste."

This rulemaking provides amendments to 10 CFR Parts 60, 72, 73, 74, and 75 to clarify and make consistent physical protection requirements for independent storage of spent nuclear fuel and high-level radioactive waste. All Commissioners have voted to approve the publication and implementation of these final amendments subject to the changes and clarifications attached.

In addition, the staff should report when it will be able to proceed with physical protection rulemaking for Part 50 licensees who have ceased operations and are storing

1 the spent fuel in the pool, and who remain under the
2 physical protection requirements of 10 CFR 73.55 with
3 exemptions on a case by case basis. The staff should
4 explain the criteria for granting exemptions to 10 CFR 73.55
5 requirements in the interim period before the rulemaking is
6 completed.

7 Would you please affirm your votes?

8 CHAIRMAN JACKSON: Aye.

9 COMMISSIONER DIAZ: Aye.

10 COMMISSIONER DICUS: Aye.

11 COMMISSIONER McGAFFIGAN: Aye.

12 MS. VIETTI-COOK: The second item to come before
13 the Commission is SECY-98-021, Louisiana Energy Services,
14 Review of LBP-96-25 (NEPA Issues); Review of LBP-97-8
15 (Environmental Justice).

16 The Commission is being asked to act on an order
17 addressing the environmental questions raised in these two
18 Atomic Safety and Licensing Board (Board) decisions
19 regarding the proposed Claiborne Enrichment Center (CEC)
20 that Louisiana Energy Services (LES) plans to build near
21 Homer, Louisiana. The Commission granted these petitions
22 for review by LES and by the NRC staff to consider first the
23 issue of whether the Final Environmental Impact Statement
24 (FEIS) failed to discuss adequately the need for the CEC,
25 the alternative of no action, and the CEC's secondary

1 benefits, and second, whether the Final Environmental Impact
2 Statement failed to address adequately the "environmental
3 justice" issues.

4 The Commission (with all Commissioners agreeing
5 and one exception, as noted below) has voted to approve the
6 attached order affirming in part, reversing in part, and
7 remanding for further proceedings the Board's NEPA rulings
8 in LBP-96-25 and LBP-97-8. Specifically, the Memorandum and
9 Order affirms the Board's findings regarding the likely
10 price effects of the CEC but provides additional guidance to
11 the Board that in performing ultimate cost-benefit balancing
12 under NEPA, the Board must consider in addition to the price
13 effects, the other benefits of the CEC. It also affirms the
14 Board's decision to require the NRC staff to revise the
15 current FEIS "no action" discussion to reflect an evaluation
16 of both the costs and the benefits of not building the CEC
17 and to reconsider the Final Environmental Impact Statement's
18 current discussion of resumed logging. It reverses the
19 Board's decision to invalidate the Final Environmental
20 Impact Statement's reliance on the CEC's secondary benefits
21 and reverses the Board's decision to require a thorough NRC
22 inquiry into possible racial discrimination in the siting of
23 the CEC. It affirms the Board's decision that the NRC staff
24 should revise the Final Environmental Impact Statement to
25 provide more analysis of the CEC's effect on pedestrian

1 traffic between the nearby communities and to analyze local
2 property value effects more thoroughly.

3 Chairman Jackson disapproved only section 5.a of
4 the Commission order (with respect to LBP-97-8) titled,
5 "Racial Discrimination in Siting." She would have affirmed
6 in part and reversed in part the Board's requirement of a
7 further NRC staff investigation into the Claiborne
8 Enrichment Center siting. In light of the alleged
9 irregularities, gaps, and inconsistencies in the siting
10 process, it was her preference that the NRC staff should
11 further investigate the siting process without focusing on
12 LES's alleged intentional racial motives, to ensure that the
13 siting criteria were reasonable and applied equitably.

14 Would you please affirm your votes?

15 CHAIRMAN JACKSON: Aye.

16 COMMISSIONER DIAZ: Aye.

17 COMMISSIONER DICUS: Aye.

18 COMMISSIONER McGAFFIGAN: Aye.

19 MS. VIETTI-COOK: That's it.

20 CHAIRMAN JACKSON: Is there anything else to come
21 before us today?

22 MS. VIETTI-COOK: No.

23 CHAIRMAN JACKSON: If not, we are adjourned.

24 [Whereupon, at 10:37 a.m., the meeting was
25 concluded.]

CERTIFICATE

This is to certify that the attached description of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: AFFIRMATION SESSION --
PUBLIC MEETING

PLACE OF MEETING: Rockville, MD

DATE OF MEETING: Friday, April 3, 1998

was held as herein appears, is a true and accurate record of the meeting, and that this is the original transcript thereof taken stenographically by me, thereafter reduced to typewriting by me or under the direction of the court reporting company

Transcriber: Rose Guston

Reporter: Mark Mahoney

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

AFFIRMATION SESSION

PUBLIC MEETING

Nuclear Regulatory Commission
Commission Hearing Room
11555 Rockville Pike
Rockville, Maryland

Thursday, April 16, 1998

The Commission met in open session, pursuant to notice, at 1:30 p.m.,
Shirley Ann Jackson, Chairman, presiding.

COMMISSIONERS PRESENT:

SHIRLEY ANN JACKSON, Chairman of the Commission

GRETA J. DICUS, Member of the Commission

NILS J. DIAZ, Member of the Commission

EDWARD McGAFFIGAN, JR., Member of the Commission

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STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

JOHN C. HOYLE, Secretary

KAREN D. CYR, General Counsel

DISCLAIMER

This is an unofficial transcript of a meeting of the United States Nuclear Regulatory Commission on April 16, 1998 in the Commission's office at One White Flint North, Rockville, Maryland. 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 information 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 determination 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.

P R O C E E D I N G S

[1:30 p.m.]

MR. HOYLE: Chairman Jackson, Commissioners Dicus and McGaffigan are now assembled. You may begin.

CHAIRMAN JACKSON: Good afternoon ladies and gentlemen. This is an affirmation session. We do have one item to come before us this afternoon. Before I ask the Secretary to lead us through the item for affirmation, do any of my colleagues have any opening comments they would like to make?

(CHORUS OF "NOS".)

MR. HOYLE: None, Chairman Jackson.

CHAIRMAN JACKSON: Mr. Secretary, please proceed.

MR. HOYLE: Thank you. The paper before the Commission is SECY-98-079 which concerns the Hydro Resources, Inc. proceeding. The Commission is being asked to act on an Order granting a temporary stay of the Atomic Safety and Licensing Board's Memorandum and Order, LBP-98-5, which was issued on April 2. In that Order, the Presiding Officer denied petitioner's motion for a stay of staff's grant of a materials license authorizing Hydro Resources to conduct an in situ leach mining and milling operation. The effect of this Order before you now would be to stay the effectiveness of Hydro Resources' license for a short period of time necessary for the Commission to review and rule on both the petitioner's pending motion for a full stay and their pending petition for review of LBP-98-5. Each of you has voted to approve the Order granting the petitioner's request for a temporary stay pending the

Commission's review of the full stay motion and petition for review. At this time I would like to call upon each of you individually to affirm your votes. Chairman Jackson?

CHAIRMAN JACKSON: Aye.

MR. HOYLE: Commissioner Dicus?

COMMISSIONER DICUS: Aye.

MR. HOYLE: Commissioner Diaz?

COMMISSIONER DIAZ: (no response)

MR. HOYLE: Commissioner Diaz?

COMMISSIONER DIAZ: (no response)

MR. HOYLE: Commissioner McGaffigan?

COMMISSIONER MCGAFFIGAN: Aye.

MR. HOYLE: Chairman Jackson, I have three votes so perhaps Commissioner Diaz dropped off the line. I heard a beep as I was speaking.

CHAIRMAN JACKSON: Okay. We have a majority.

MR. HOYLE: We do, and he has previously ...

CHAIRMAN JACKSON: (unintelligible) Karen, can we ... (unintelligible)

KAREN CYR: We in the past have said that if he'd been present, he would have voted to affirm and I think we can...

MR. HOYLE: He was asked if he fell off the line to hang up so the operator could reconnect him. Perhaps they are trying to do that now.

CHAIRMAN JACKSON: Okay, perhaps we can wait a minute.

MR. HOYLE: Okay.

CHAIRMAN JACKSON: How are you?

COMMISSIONER MCGAFFIGAN: Fine.

COMMISSIONER DICUS: How are you?

KAREN CYR: How are you doing?

COMMISSIONER MCGAFFIGAN: What time is it in India?

CHAIRMAN JACKSON: It's getting pretty late, but I'm here.

COMMISSIONER MCGAFFIGAN: Is it midnight, or two in the morning?

MR. HOYLE: 10:30.

CHAIRMAN JACKSON: (unintelligible)

MR. HOYLE: They're making one more attempt to get him on the line.

COMMISSIONER MCGAFFIGAN: He's giving us a signal of some sort.

GARY ARMSTRONG: He did drop off and they are in fact trying to get him reconnected right now.

MR. HOYLE: Okay. Thanks, Gary. He was using a cell phone, I understand, whether that made any difference or not. This is certainly a first to have not one but two Commissioners coming in by phone, and particularly, out of the country.

COMMISSIONER MCGAFFIGAN: Do we still have Chairman Jackson?

CHAIRMAN JACKSON: I'm still here.

COMMISSIONER MCGAFFIGAN: We don't want to get him and then lose you.

CHAIRMAN JACKSON: No, I think I'm going to be I'm hard-wired.

MR. HOYLE: Do you have the monsoons with you over there?

CHAIRMAN JACKSON: No, the monsoon season doesn't start until June.

MR. HOYLE: June.

CHAIRMAN JACKSON: Very hot, though. Very hot.

COMMISSIONER MCGAFFIGAN: Does your path cross Ambassador Richardson's at any point? We understand he's in the country from the press reports.

CHAIRMAN JACKSON: (unintelligible)

COMMISSIONER MCGAFFIGAN: U.N. Ambassador Bill Richardson?

CHAIRMAN JACKSON: No, (unintelligible).

COMMISSIONER MCGAFFIGAN: Here he is, maybe?

MR. HOYLE: Commissioner Diaz?

COMMISSIONER DIAZ: Yes, I'm here.

MR. HOYLE: Okay.

COMMISSIONER DIAZ: Something happened -- I don't know what.

MR. HOYLE: Okay, sir. I ask you to affirm your vote. The others have already done so.

COMMISSIONER DIAZ: Aye.

MR. HOYLE: Alright. That completes the voting. Chairman Jackson?

CHAIRMAN JACKSON: Is there anything else to come before us today?

MR. HOYLE: I have nothing more. Your colleagues have nothing.

COMMISSIONER MCGAFFIGAN: Have a good trip.

CHAIRMAN JACKSON: The meeting is adjourned.

MR. HOYLE: Thank you.

(CHORUS OF GOODBYES)

[Whereupon, at 1:37 p.m., the affirmation session was adjourned.]

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This is to certify that the attached description of a meeting of the U.S. Nuclear
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Transcriber: *Debra K. Wright*

Reporter: (TAPE RECORDING)

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

AFFIRMATION SESSION

PUBLIC MEETING

Nuclear Regulatory Commission
Commission Hearing Room
11555 Rockville Pike
Rockville, Maryland

Thursday, April 30, 1998

The Commission met in open session, pursuant to notice, at 1:52 p.m.,
Shirley Ann Jackson, Chairman, presiding.

COMMISSIONERS PRESENT:

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P R O C E E D I N G S

[1:52 p.m.]

CHAIRMAN JACKSON: Good afternoon. This is an affirmation session. We have three items to come before us this afternoon. Before I ask the Secretary to lead us through the items for affirmation, do any of my colleagues have any opening comments they wish to make? If not, Mr. Secretary, please proceed.

MR. HOYLE: Thank you, Chairman Jackson. The first paper is SECY-98-040. This is a final rule regarding requirements for shipping packages used to transport vitrified high level waste. This rule amends Part 71 of the Commission's regulations to add vitrified high level waste contained in a sealed canister designed to maintain waste containment during handling activities associated with transport to the forms of plutonium which are exempt from the double containment packaging requirements for transportation of plutonium. This amendment responds to a petition for rulemaking submitted by the Department of Energy. All Commissioners have voted to approve the publication and the implementation of this final rule. May I have you affirm your votes, please?.

CHAIRMAN JACKSON: Aye.

COMMISSIONER DICUS: Aye.

COMMISSIONER DIAZ: Aye.

COMMISSIONER MCGAFFIGAN: Aye.

MR. HOYLE: Thank you. The second one is SECY-98-091 regarding the Louisiana Energy Services case. The Commission is being asked to act on an

order responding to a motion by Louisiana Energy Services to withdraw its License application to construct and operate the Claiborne Enrichment Center and to terminate the proceeding. All of you have voted to approve an order granting the LES motion to withdraw its license application and terminate this proceeding. This order will render all remaining issues in this case moot. May I ask you to affirm your votes?

CHAIRMAN JACKSON: Aye.

COMMISSIONER DICUS: Aye.

COMMISSIONER DIAZ: Aye.

COMMISSIONER MCGAFFIGAN: Aye.

MR. HOYLE. Thank you. The third item is SECY-98-002A regarding the International Uranium Case. The Commission is being asked to act on an order responding to the challenge of three petitioners to the Presiding Officer's denial of standing in LBP-97-12 and 97-14. The Commission has voted to approve an order that I provided you this morning which affirms the decision of the Presiding Officer in these two LBP orders to deny the standing of the petitioners. May I ask you to affirm your votes, please?

CHAIRMAN JACKSON: Aye.

COMMISSIONER DICUS: Aye.

COMMISSIONER DIAZ: Aye.

COMMISSIONER MCGAFFIGAN: Aye.

MR. HOYLE: Thank you.

CHAIRMAN JACKSON: Mr. Secretary, is there anything else to come before us this afternoon?

MR. HOYLE: There's nothing.

CHAIRMAN JACKSON: If not, we're adjourned. Thank you.

[Whereupon, at 1:58 p.m., the affirmation session was adjourned.]

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