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# INQUIRY INTO THE TESTIMONY OF THE EXECUTIVE DIRECTOR FOR OPERATIONS

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## VOLUME III INTERVIEWS

Classified by T.G. McTierman  
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INQUIRY INTO THE TESTIMONY OF THE EXECUTIVE DIRECTOR FOR OPERATIONS

VOLUME III - INTERVIEWS

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# EXECUTIVE CORRESPONDENCE

## REPORT OF INTERVIEW

Dr. Clifford Smith, Director, Office of Nuclear Material Safety and Safeguards was interviewed on January 12, 1978, by Jerome Nelson, William Ryan and James Fitzgerald in his office in the Willste Building, Silver Spring, Maryland. Smith advised that he joined NRC on November 22, 1976, and was employed as the Director of the Fuel Cycle Division. In this capacity he was not involved in safeguards matters. On either April 7, or 9, 1977, he became Acting Director of the office when Kenneth Chapman left and shortly thereafter in April assumed the position of Director.

Smith became involved in working on the MUF release package. NRC had received a Freedom of Information Request from a reporter by the name of Burnham for MUF information. At or about the same time the National Security Council had approved the release of this type of information with the limitation that any data released had to be at least six months old.

Smith advised that in preparing the text of the MUF report and particularly the working on "no evidence" Bob Burnett dealt with the Department of Energy and it was decided to say that there was no evidence of theft and diversion because none of them had any evidence. According to Smith he had no evidence and of course he was not involved in the CIA briefing. He said that Gerry Page agreed with him and Burnett.

A draft of the report was prepared in early June as well as about 40 questions and answers covering the subject matter of the report. Fred Crane, now in the Test and Evaluation Branch, was the "lead man" in preparing the report. A meeting with the Commissioners was scheduled for June 3, 1977, with Mr. Crane as speaker. The main thrust of the presentation was the difficulties in coordination between Department of Energy (DOE) and NRC. The NSC's desire for a common format was discussed and NMSS indicated how they intended to compromise. The questions and answers were briefly mentioned. Smith advised that the "heat" was on to get the data together for release. At the time, according to Smith he was looking forward more to the press briefing, which was scheduled to follow the release of the MUF report, since he was among those who would personally give this briefing. Smith advised that there was pressure to get the information out because (1) the British were about to release their report, (2) a commitment had been made to Congressman Dingell to make the information available to his committee, and (3) Burnham had requested the information under the Freedom of Information Act. He said that in June, DOE and NRC had agreed on a release date and announced the planned date "to the world." This was done with the blessing of the Commissioners.

Before preparing the June draft, according to Smith, he had a meeting with the National Security Council. Specifically, he met with Jean Tuckerman who was an aide to Mr. Brezinski. Smith recalled that Jim Partlow

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accompanied him to the meeting. The council expressed concern to him that the report of NRC would be compatible with the report issued by ERDA (DOE).

Smith recalled that there was another meeting at about this time with James Schlesinger. Both Giller and Starbird were with him. They briefed Schlesinger and Smith and Smith said that there was brief discussion about the statement in the draft about "no evidence." The Department of Energy was firm that they had no evidence of any theft or diversion. According to Smith, when the group first walked in the room, Schlesinger placed his finger on the page of the draft which contained the "no evidence" statement and asked Starbird, "are you sure?" "can we say this?" and Starbird replied, "I am and we can." When the briefing was over the NRC representatives left but Starbird and Giller remained since Schlesinger had indicated that he wished to talk with them on other matters. Smith was asked if he told Lee Gossick of this meeting and he replied that he didn't think so, but couldn't remember.

[ Smith said that the "no evidence" question was a "constant thing" while the report was being prepared. Smith was asked what he considered the word evidence to mean and he replied that, to him, it meant "hard technical evidence." It did not mean speculation. Mr. Smith said that he never received any comments from the Commissioners about the previously circulated questions and answers. E

Smith advised that about a week before the August briefing of the Commissioners, a time was set for the report to go to the printers, so that it would be ready in time for the press briefing. The date had been set because, in addition, Congressman Dingell had been promised that he would receive a copy of the report 72 hours before its release. They were "under the gun." Bob Burnett got the "OK" from the Office of Policy Evaluation. At the same time Burnett received a telephone call from Cookie Ong. Ong told Burnett that Commissioner Gilinsky was in Europe but that he apparently had a problem with the report. Burnett asked Ong what the problem was and Ong replied that he did not know. Smith advised that Burnett told Ong "we have to go," and that he had had the material since June. The alternative would have been to cancel out and renege on NRC's commitments to the NSC, Dingell and the DOE.

Smith stated that on August 1, a copy of the report was delivered to Congressman Dingell's staff. On August 2, at the briefing of the Commission, Smith and Burnett went over the format of the report. Commissioner Gilinsky right away wanted to know what the "rush" was and whether it was too late to make changes. Smith and Burnett pointed out to Commissioner Gilinsky that his office had the draft report for some time and they had not been advised that he wanted any changes. They also pointed out the tight time schedule they were on. Smith was asked if Lee Gossick was there and he advised that Gossick was there. He was asked if Gossick said anything but it was Smith's recollection that Gossick said nothing.

Smith advised that Commissioner Gilinsky indicated that he had a problem with the "no evidence" statement in the report. Smith pointed out to Gilinsky that the statement had been in the "Q and A's" submitted with the draft and he had received no objection to it. Smith stated at the time that he had no evidence and told Gilinsky that he, Smith, assumed that if there was such evidence that Gilinsky or the other Commissioners would have given the information to him. "Evidence" was not defined. Smith was asked if Gilinsky made any reply and Smith advised that he, Gilinsky winced but said nothing. When Burnett pointed out to Commissioner Gilinsky that the NRC report covered the time period from 1968 forward, Gilinsky seemed satisfied with the report. Smith said that it was obvious that Gilinsky was "bothered."

Smith said that when the briefing was over, Commissioner Gilinsky huddled with Commissioner Kennedy.

Either Gilinsky or Kennedy called Gossick over to them. Gossick then came over to Smith and Burnett and told them that the Commissioners wanted to meet with them. Smith and Burnett then followed Gossick into a small room adjacent to the meeting room where both Commissioners were waiting.

Smith recalled, that while the briefing was in progress and the matter of "no evidence" was being discussed, Commissioner Kennedy stated, "I don't have any evidence."

Smith was asked what happened at the meeting in the small room. He said that Commissioner Gilinsky did the talking. Gilinsky advised them about a briefing by the CIA and said that when the CIA briefed them it did appear that suspicious things had gone on but there was nothing definite. Gilinsky pointed out that apparently the intelligence community was divided over the question of whether or not there had been a diversion. Gilinsky said that there was circumstantial evidence and specifically mentioned the "movements of Shapiro." Gilinsky told Smith and Burnett that they should be cautious on how they talk of lack of evidence and told them that they, Smith and Burnett, should have the CIA briefing. The tone was, "If I were you, I would be cautious about what I said."

Smith stated that he and Burnett knew no more after the meeting than they knew before. He learned nothing new and that it was his personal feeling at that time that there still is no evidence of a theft or diversion. He got the impression that in light of the MUF and some suspicious circumstances some intelligence people were saying the material could have gone to Israel. Smith recalled that at one point in the meeting, Lee Gossick was "pulled out of the room." Smith was asked whether after the meeting he discussed it with Gossick and he replied that he did not. Smith was asked whether he had ever received any guidance from the Commission on the "no evidence" question and he replied that he had not.

Smith stated that after the meeting it was his view that there was no problem with the "no evidence" statement from 1968 and beyond but that one had to be cautious with the time before 1968. With regard to Commissioner Kennedy it was Smith's view that he did not believe there was any evidence "period."

Smith was asked his opinion of the testimony by Lee Gossick before the Udall and Dingell Committees on the "no evidence" matter. Smith said that he would probably have made the same statement and that he would make it today. Smith was of the view that you have to "define evidence." According to Smith evidence is not speculation or the possibility that something happened, but it means hard evidence now.

Smith recalled that in the August 2 briefing of the Commission that there was some discussion of using the term "definitive" evidence, not "conclusive" evidence. When this was discussed both he and Burnett pointed out to Gilinsky that to use this term you would have to be prepared to say something else about what you were talking about, namely, what evidence you had that was not definitive. It would mean that you do have some evidence. Smith was asked whether Gilinsky said anything in reply and he answered that he did not. Smith said that this did not lead him to believe there was any evidence.

Mr. Smith said there was no question that Gilinsky had a problem with "evidence," that he was happy with the statement for the period from 1968 on, and that he cautioned them. It was clear he "had problems" and it appeared to Smith they were based on circumstantial speculation.

Smith advised that sometime after the release of the MUF report and perhaps before Gossick's testimony before the Udall Committee, Lee Gossick showed him a copy of a memorandum prepared by Bill Reamer which was a synopsis of information that Bryan Eagle had furnished the Conran Task Force. According to Smith it was a "bunch of suspicions." After reading the memorandum he gave it to Burnett. It was then given back to Lee Gossick. It said that at the time of the NUMEC matter in 1966, Shapiro was close with "high officials" of the Israeli government. It related to Shapiro's trips and movements and his advocacy of the State of Israel. Smith stated that "it was nothing much more than what Gilinsky said in the room," and "I felt this just confirmed that they did not have anything." He considered that I did not say anything and that there was no need for them to have the briefing. it was the sort of thing that a speculation could be made that because of Shapiro's movements, connections and advocacy of an Israeli state, he might have sent material. Later Gossick asked Smith what he thought of the memorandum and, according to Smith, he told Gossick, "Hell, I don't see anything there at all." It was Smith's recollection that Gossick replied, "I agree."

Smith was asked if, at the time of the press briefing he was aware of the fact that Gerry Page had seen a two or three page document at the CIA. Smith replied that at that time he was not aware of the CIA document.

Smith recalled that at the press briefing a reporter asked whether there was a CIA report and that Giller, Starbird, Burnett and he had answered that they did not know of any. Smith did not recall if Page said anything. A day or so later Page told him of the document he had seen at the CIA but it was not a report but several pieces of paper. Smith told Page that it did not sound like a report to him. When Page told him what was in the document, according to Smith it sounded like the same thing Gilinsky had told him and Burnett in the meeting in the small room. Smith advised it was the "same speculation."

Smith noted with regard to the problem of MUF in general that if a new plant were built it would still have a MUF problem because it is an integral part of the chemical process.

Smith was asked whether at the August briefing of the Commissioners or the small session following it, he recalled Lee Gossick saying anything and he did not recall. Smith again repeated that no guidance has been received from the Commission on the "no evidence" matter. Smith was asked what he meant by guidance and he replied, "A paper to the staff."

Smith was asked whether he recalled talking to Gossick about his testimony before the Congressional committees. He replied that he may have talked to him before his testimony before the Dingell Committee but he did not recall talking to him before his testimony before the Udall Committee. His office helped with the testimony, but he has no recollection with dealing with "no evidence."

According to Smith, sometime after Commissioner Gilinsky wrote his letter of December 12, 1977, Gossick told him that at the time of the CIA briefing, Gossick had asked if he should attend and was told that he did not need to know the information to do his job. Smith said that after Congressman Udall wrote his letter, Gossick was very upset and that he wanted to demand a meeting with Udall because he had nothing to hide or gain after 31 years of military service. Gossick then asked the staff to pull together everything where the staff had used the "no evidence" phrase.

According to Smith, Gossick at this time either told him, Smith, or he had asked Gossick how he recalled the meeting on August 2 in the small room. Gossick replied that there was nothing much to it and that he, Smith, had told Gossick that was the way he remembered it. Smith said he did not recall the exact words.

Smith was asked if he recalled any Commission policy on the use of the "no evidence" phrase. He replied that there was never a Commission policy and that a "hell of a lot of information flowed out saying no evidence." Smith feels that this whole issue need not have arisen if the NRC had given clear guidance in the question. It was almost SOP to use the statement.

Smith advised that within the last two weeks he had received more than one telephone call from Henry Myers of the Udall staff. In one of the telephone conversations Myers impressed upon him the seriousness in which the matter of Gossick's testimony was being taken on the Hill. Smith said Myers told him that it was a matter of candor and that NRC is not trusted. Myers wondered why it would take McTiernan four weeks to complete an investigation. According to Smith, Myers said that 20 or some people could be interviewed in two or three days. Smith said that Myers told him that it was his feeling that Hendrie wished that it would "blow over." Smith also spoke with Chairman Hendrie six or seven times while Hendrie was preparing a response to Representative Udall.

Smith has also mentioned to Mr. Gossick the meetings of August 2, 1977. Smith told Gossick that he did not remember, based on what was said by Gilinsky, that there was any evidence. "I was surprised that Mr. Gilinsky referred to the small session" in his December 12, 1977, letter.

According to Smith, if Gossick said the no evidence statement was Commission policy he would assume it was because it was SOP to use that terminology. The first time he ever heard of any problem with the phrase was August 2.

## REPORT OF INTERVIEW

Mr. Robert F. Burnett, Director, Division of Safeguards, NMSS, was interviewed by Jerome Nelson, William Ryan, and James Fitzgerald on January 12, 1978, in his office in the Willste Building, Silver Spring, Maryland. Burnett was advised of the purpose of the interview and the fact that the result of the interview would be reported to the Commission and interested Congressional Committees.

Burnett advised that he had joined NRC as Director, Division of Safeguards, on June 13, 1977. Initially, he set up a schedule of briefings by all his Branch Chiefs and Assistant Directors in which they were given an opportunity to inform him of the current activities in the branch and any problems they were encountering. Burnett stated that he believed that at this time the Conran Task Force had completed its work into the allegations by James Conran and the Division of Safeguards was assigned the responsibility of developing an action plan to implement the recommendations of the Task Force. Accordingly, he assigned the review and evaluation of the Task Force Report to appropriate member of his staff who prepared a draft action plan which was forwarded to the Commission for approval, which it received.

At about the same time the public release of MUF data information was in preparation. Burnett advised that his staff had the primary responsibility for gathering the data and preparing the report. Fred Crane of Burnett's division was the "Project Manager" on the preparation of the MUF report.

At about the same time, according to Burnett, he asked James Conran to give him a personal briefing on his concerns, including Apollo. Conran met with Burnett for several hours. Burnett stated that Conran showed him several documents, which he read and then returned to Conran.

Burnett stated that one of the primary problems in the preparation of the MUF report was to obtain the concurrence of NRC and the Department of Energy on the reporting format. The reporting format of the two agencies was different in that NRC and the predecessor agency ERDA had different reporting periods.

Burnett stated that before the briefing of the Commission on the MUF report that perhaps as many as two earlier drafts were forwarded to the Commission and interested offices. The Office of Policy Evaluation raised certain problems with the draft and they were acted upon by his Division. To the best of his knowledge, there were no comments on the "no evidence" statement on page 2 of the MUF release.

Burnett stated that on about the Wednesday or Thursday of the week before the August 2 briefing of the Commission he received a telephone call from Cookie Ong. Mr. Ong told him that Commissioner Gilinsky had a problem with the report. Ong did not know what the problem was. Burnett advised Ong that there was a fixed date for release of the report to the printers and that the concerns should be identified prior to that date. When Burnett did not receive any comments from Commissioner Gilinsky's office by that date the report was forwarded according to the schedule to the printers. Burnett pointed out that August 4, 1977, was the date for release of the report to the public. Prior to public release, NRC had agreed to give a copy of the MUF report to Congressman Dingell's office on August 1, 72 hours before public release. Burnett advised that prior to the public release the State Governors, of those states, where installations were located, were also briefed on the report.

Burnett was asked who made the decision to release the report to the printers and he did not recall who made the decision. He was asked whether Lee Gossick was involved in the decision and he replied that to the best of his knowledge "Gossick was not."

Burnett said that at the August 2 briefing for the Commission that Commissioners Kennedy and Gilinsky were present. In addition, he, Smith, Gossick and other staff members were present. Burnett advised that Fred Crane of his staff handled the presentation. According to Burnett's recollection the briefing did not deal primarily with the substance of the MUF report but was more about the scheduling of events surrounding the release of the report.

Burnett said that Commissioner Gilinsky expressed a concern about the statement on page 2 of the report that stated that there was "no evidence" of theft or diversion. His concern was about the absoluteness of the statement. Burnett recalled that the use of certain "modifiers" was discussed, perhaps such as, "no direct evidence," "no physical evidence," "no conclusive evidence." According to Burnett, he and Smith advised Commissioner Gilinsky that the use of the "no evidence" statement had been the subject of negotiation with the Department of Energy and that NRC had accepted ERDA use of that phrase. Burnett said that he pointed out to Commissioner Gilinsky that the MUF report, as indicated on page 1 of the report, related only to the time period from January 1, 1968, to September 30, 1976. With this observation, Commissioner Gilinsky agreed that the MUF report could be released.

Burnett was asked if Lee Gossick was present at the August 2 briefing and whether he had said anything. Burnett recalled that Gossick was present but did not recall him saying anything. Burnett said that it was his view that the Apollo incident in 1966 was outside the scope of the report.

Burnett recalled Smith telling the Commission that if they had any evidence of theft or diversion, it should be brought to his, Smith's, attention. Burnett said that at this time he had been told that there had been a briefing of the Commission by the CIA in 1976 from his discussions with James Conran but that he was not familiar with the contents of that briefing. Burnett advised that he could not recall hearing it from anyone during the August 2 MUF briefing.

Burnett said that when the MUF briefing of the Commission on August 2 was completed, he and Smith were informed by Lee Gossick that Commissioners Kennedy and Gilinsky wished to talk with them. Burnett, Smith and Gossick went into a small outer office. Kennedy and Gilinsky were present. Burnett recalled that other persons kept "sticking their heads in" to coordinate matters with Gossick and Kennedy or others.

In this meeting Mr. Gilinsky suggested to Smith and Burnett that they should have the CIA briefing. Gilinsky mentioned that as a result of the CIA briefing he was aware that high officials in the intelligence community had different opinions on the possibility of diversion of material. Burnett recalled that the information was not conclusive and there was no certainty on what had happened. Gilinsky advised Smith, Burnett and Gossick that the CIA briefing was not conclusive. Burnett said, that he believed that Gilinsky was referring about Apollo. Burnett could not remember that Commissioner Gilinsky discussed the substance of the CIA briefing but indicated that there were a "lot of things that couldn't be answered." It was his opinion that Commissioner Gilinsky was still concerned about the absoluteness of the "no evidence" statement.

It was Burnett's impression that the main purpose of the meeting in the outer office was to arrange the CIA briefing for Mr. Smith and Burnett not to give guidance or caution. Burnett was asked whether Gilinsky had said in the briefing that the CIA had said diversions had occurred and he did not recall any such statement. It was Burnett's recollection that Gilinsky "never used that direct a statement."

According to Burnett the first draft of the MUF report did not have the "no evidence" statement in it. The statement was originated with the ERDA staff in coordinating the report with the Department of Energy. Fred Crane worked it into the NRC report. Burnett said the question was "referred" to the National Security Council by ERDA and ERDA informed NRC that it got a favorable answer from NSC on the "no evidence" usage.

According to Burnett the agreement with ERDA for releasing the MUF information was that if any question were asked about inventory differences before 1968 they were to be referred to ERDA.

Burnett commented that after he came to NRC in June, "Q and A's" were forwarded to the Commission to support the draft of the MUF release package. Another set of "Q and A's" were prepared for the other hearings.

Burnett said that before the August 4 release of the MUF report and before the August 2 briefing of the Commission there were other briefings. He recalled one which took place in the Executive Office Building at which Huberman was present. Apollo was not mentioned at the MUF meeting. Two days later there was a joint NRC-ERDA briefing of James Schlesinger by himself and Smith of NRC and Lyon and Starbird of ERDA. Burnett did not recall any discussion of the "no evidence" statement except he did recall Schesinger asking Lyon, "Harvey can we say that?", to which Lyon replied "yes." According to Burnett the matter was then dropped and he and Smith left. It was Burnett's recollection that the people from ERDA remained in Schlesinger's office. Burnett was asked if during this meeting Apollo was mentioned and he replied that to his best recollection it was not.

Burnett stated that the word "ever" on page 2 of the MUF report "got by him" since the report was limited to the period since 1968. ✓

Burnett was asked whether he had conversations with Lee Gossick about the "no evidence" statement and he advised that he had a meeting with Gossick recently, in Gossick's office in which Gossick asked him for his opinion on the "no evidence" statement and that at Gossick's request his office assembled materials for Gossick which set out where similar statements were made in the past. It was Burnett's recollection that Jerry Page came up with a "package."

Burnett was asked whether since he was employed by NRC he had seen any staff guidance of the "no evidence" matter and he replied that he was not aware of any such guidance. Burnett was asked whether he had talked with Commissioner Gilinsky or Chairman Hendrie about this matter and he replied that he had not talked to either of them.

## REPORT OF INTERVIEW

Ralph G. Page, Deputy Director, Division of Safeguards, was interviewed on January 5, 1978, by William E. Ryan and James Fitzgerald in his office in the Willste Building. He was advised that the interview related to certain testimony given by Lee V. Gossick before Congressional committees, in particular, testimony by Gossick that there is no evidence of the theft or diversion of any significant amounts of special nuclear material. Page was advised that Chairman Hendrie had directed that an inquiry be made into the accuracy of the Gossick testimony. Page was also advised that based upon our inquiry a report would be submitted to the Commission and to the interested members of Congress.

Page was asked to describe the history of the safeguards program in AEC/NRC. Page advised that he has been dealing with safeguards matters since 1966 while with the AEC. In those days, safeguards matters were not put into licensing requirements, but rather were provided for by contractual provisions. There were such provisions for NUMEC Apollo in early 1966.

Page advised that in approximately March 1966 he prepared a memorandum that pointed out that the AEC could no longer rely, as they had in the past, on the intrinsic value of special nuclear material and the heavy penalties for theft in the Atomic Energy Act to safeguard special nuclear material. As a result, AEC began to develop regulations that provided an accounting procedure for special nuclear material. Page advised that the AEC regulations had no provisions for safeguards. This occurred in 1966 and the regulations were issued in 1967.

Page said that in 1966 an Ad Hoc Advisory Panel on Safeguards was formed under the leadership of Dr. Ralph Lumb. This panel visited several sites throughout the United States that were involved with special nuclear material, including NUMEC Apollo. Page said that the Lumb panel had met Dr. Zolman Shapiro, President of NUMEC, and questioned him on safeguards matters. The panel particularly discussed with Shapiro the causes for the past inventory differences at NUMEC. Shapiro took the position that the reason for the difference was the high quality control of the material being processed at NUMEC, which required in the processing that the material be recycled several times. Page stated that as a result of the AEC investigation of the large inventory difference at NUMEC in 1965/66 there was no suggestion of a diversion of material nor was it even alluded to by the investigating team. Page stated that he still questions whether there was any diversion of material at NUMEC.

In 1967, according to Page, when regulations were issued a safeguards organization as opposed to a nuclear materials management office was first set up in AEC. Two offices were established. One was the Office of Safeguards and Materials Management under the General Manager. The second was the Division of Nuclear Materials Safeguards under the Director of Regulation. This latter office had to be established "from scratch." Page was assigned to this office in September 1967. In 1970, full responsibility for licensee safeguards was shifted to the Division of Nuclear Materials Safeguards. Until that time, responsibility for safeguards policy for AEC-wide programs was under the General Manager's safeguards organization.

Page stated that from 1967 to 1970, "We felt our way along on material control and accounting safeguards." Page stated that there was a need to tighten the program. The Division of Nuclear Material Safeguards had the responsibility for licensing fuel cycle facilities. They advised these facilities of safeguards requirements. The plan was to require safeguards at all facilities that possessed five kilograms or more of special nuclear material.

According to Page, the first license amendment was issued in 1969 but this amendment related only to material control and accounting.

In the case of NUMEC in 1966, Page advised that the AEC inquiry disclosed that the company had failed to "close" a material balance (by taking a complete inventory) for a number of years. The company allowed losses to accumulate from one contract to another. Quantities of special nuclear material were assumed to be present in the scrap pile which when finally measured was found to have less material than estimated.

Page stated that in 1967 and 1968 AEC started to work on regulations for physical security of special nuclear material. The first were issued in 1969 and covered only protection of material in transit. The regulations required a tracking of material from one place to another. In 1970, the first regulations controlling safeguards at a "fixed site" were issued. These required barriers or fences, including the use of barbed wire.

They did not require armed guards but did require a manned security force or an intrusion alarm. Extensive improvements in physical protection were made beginning in 1971 or 1972 when AEC incorporated new security requirements as conditions of licensees. When these were issued, the AEC received much criticism from the industry. Specifically the industry felt the AEC had violated the provisions of the Administrative Procedure Act in issuing the new requirements as license conditions rather than issuing them as regulations.

Page advised that to his recollection in the case of the Apollo facility there was always physical security as such was required as an AEC contract requirement since the site handled classified material. It was not like it is today but they did have armed guards although there were no routine searches of people entering or leaving the plant. It was Page's view that in the early days special nuclear material could have been removed from the plant without detection.

Page stated that in 1968 or 1969 the General Accounting Office did a review on a number of AEC plants including the one at Apollo.

Page further stated that the annual inventory difference at Apollo was for several years about the same as it was in the pre-1966 period. He pointed out that in 1975 and 1976 an IE Task Force went to Apollo and discovered several new "loss streams" that had not been considered previously. Examples were the incinerator, a coolant system and the fact that the high enriched uranium area and the low enriched area utilized "common sumps" for floor drainage. He pointed out that these same kind of problems existed long before 1976 when they were identified. Page stated that, "We have learned a lot, but "another inventory difference could occur tomorrow."

Page advised that on the basis of his experience he believes that no materials have been diverted. H

Page referred to Jim Lovett who was employed by AEC and who left to join NUMEC at Apollo. Page said that he had known Lovett for years professionally and had last seen him in Vienna in November 1977. Page said that Lovett expressed the view to him that no diversion of materials had occurred at Apollo.

Page advised that since 1975 he has had little direct involvement with NUMEC on licensing cases in view of his position as Deputy Director. His last visit to the Apollo site was made during 1976.

Page stated that one day James Conran came into his office and expressed a concern about the 1965/66 inventory difference at NUMEC and the possible diversion of materials. Page asked for information about Conran's concern but was given nothing. Page discussed Conran's visit with Director Chapman who advised him that he was aware of Conran's concerns but believed that they were not justified. Page stated that Conran prepared a draft overview report concerning the NRC safeguards program in 1976 consisting of three volumes. This document was reviewed by a peer group who concluded that Conran took extreme positions on safeguards issues which were not supported by the facts.

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Page stated that during the week of May 3, 1976, he was questioned by two FBI agents about the inventory difference at NUMEC. The agents were [redacted]. The agents inquired if there was a summary document that dealt with the inventory differences at Apollo. Page briefed the agents on the matter and used an appendix to the Conran paper for this purpose. Page read to the agents from the Conran appendix. The agents then asked for a copy of the entire Conran draft report. Page checked with Chapman who gave his approval. The agents gave Page a classified mailing address and Page mailed the draft report to the FBI. Page stated that he has no record of the delivery of the report and that the agents asked him not to discuss that he had given them the report. Page recalled that he had called Agent Conrad to determine if he had received the report and Conrad advised that he had.

Page stated that in early 1976, at about the time Chairman Anders was leaving, Chapman called him in and told him to get with certain ERDA people and meet with the CIA. Bob Tharp was the ERDA contact. Page was advised by Chapman that Anders had spoken with the President and information was desired to determine whether ERDA, NRC, or CIA believed that material had been diverted from NUMEC.

According to Page, he went to CIA Headquarters and met Tharp who arrived before he did. They met with two persons, one of whom he believes was on the Israeli desk at CIA. Someone brought in some freshly typed pages of paper. There were two, three, or four pages of paper. There was no heading. Page was asked if he noticed whether there was any classification on the papers. He did not recall any classification on the papers. He did not recall any classification but observed it may have been secret.

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According to Page, the papers he saw at the CIA had no information about the diversion of special nuclear material. In substance, there was no information in the papers that there was any diversion of material or any diversion to Israel.

Page said that he and Tharp prepared a handwritten summary of the CIA document which was typed for them by a secretary. There were three copies of the summary. CIA retained one. ERDA retained one and the other was brought back from the meeting by him.

Page stated that when he returned from the CIA visit he did not follow through with the matter because of a previous commitment, but George McCorkle did. He recalled that McCorkle discussed the matter with Chapman and received a call from Tharp and McDowell at ERDA about certain minor changes in the summary. McCorkle, Tharp, and McDowell met and thereafter Chapman asked McCorkle to brief the Commission on the document. According to Page, McCorkle briefed Commissioners Rowden and Kennedy. He then briefed Chairman Anders. Page did not recall if Commissioner Gilinsky was briefed. When the Commissioners expressed no problem with the summary, McCorkle told ERDA that they could send their copy of the summary to the White House.

Page was asked if he had discussed the matter of the summary with the FBI and he did not recall discussing it.

Page was asked about the letter, dated July 30, 1976, to Scowcroft. He stated that Bob Erickson and some people from ERDA prepared the letter. They were not instructed specifically to discuss NUMEC. The letter was intended to discuss the status of safeguards. According to Page, the letter was prepared in response to an oral request of the National Security Council. Page suspected that the request for the report related to the other summary document prepared by him with ERDA and the CIA.

Page stated that numerous letters had been written on the question of theft and diversion and the staff had always answered the question by saying that there was no evidence.

Page advised that he was present at the news conference which was held just prior to the release by ERDA and NRC of information on inventory differences. He was asked to sit on the stage with Clifford Smith and Bob Burnett. Both Smith and Burnett were new and wanted Page available to help in answering questions. When a reporter asked whether there was any CIA report on the Apollo inventory difference in 1966, the answer was given that no one was aware of any report. Page wondered at the time what answer he would give if he was asked that question but the discussion just drifted off and he was not asked to respond.

Page stated that he was present at the August 1976 hearings before Congressman Dingell at which Lee Gossick testified. Page stated that he would have said the same thing Gossick said on the question of theft or diversion. Page referred to the Q and A's prepared in Secy letter 76-268 in connection with this hearing which said essentially the same thing. According to Page, no questions were raised by the Commission to these questions and proposed answers.

Page stated that he was unaware of an AEC, NRC, ERDA, or CIA official believing that a theft or diversion of special nuclear material might have occurred until questioned by Commissioner Gilinsky after Mr. Gossick testified. Page stated, "It was like a bolt from the blue." Page was asked, in conclusion whether Chapman had ever said anything to him about the diversion of special nuclear material. Page replied that if anything was said it did not filter down to the staff. Page said he has not seen anything that indicates that a diversion occurred.

Referring to the Q and A's that were sent to Representative Udall on August 19, 1977, Page said he received a call from Hugh Thompson, who at the time was working as an assistant to Mr. Gossick. Mr. Thompson said that after the document had been sent to Udall someone had proposed new wording for the answer to Question 12 which would have limited statements to post-1968. Page recommended against sending a clarifying letter because it would merely stimulate a follow-on question of what evidence do you have about diversions prior to 1968, "and I would have to say that we have none."

## REPORT OF INTERVIEW

Roger Mattson was interviewed in his office in the Phillips Building, Bethesda, Maryland, on January 4, 1978, by Thomas McTiernan and William Ryan, OIA, and James Fitzgerald, OGC. He was advised of the purpose of the interview and the fact that a summary of interview will be made available to the Congress. Mr. Mattson had previously been interviewed by Jerome Nelson and Mr. Fitzgerald of OGC on December 20, 1977, on the same topic.

Roger Mattson started with a background observation--he understands that for years there has been speculation and rumor about a possible diversion of material from Apollo. Many people in the staff had heard the speculation. He recalled that in 1974 Senator Ribicoff had asked AEC spokesmen Dixy Lee Ray and Ed Giller about Apollo during hearings on the Energy Reorganization Act, and their answers concentrated on known measurement uncertainties at that facility.

Then Conran in the course of his work heard about some sensitive information at ERDA concerning Apollo. Conran tried to get the information, but ERDA declined, saying it was classified and Conran hadn't a need to know. Conran's technical reports and his April 4, 1977 letter to the Commission included questions about the Apollo information. Mattson chaired a Task Force appointed by the Commission to address Conran's concerns. Barry Rich of ERDA told the Task Force about the sensitive information held by ERDA, as described in references 83 and 102 of the Task Force report of April 29, 1977.

The Task Force posed written questions to the Commission on Apollo (attachment to reference 102). The Task Force proceeded in this formal manner because Gossick, McTiernan, Rich, Eagle, and Rowden had ascribed a highly sensitive nature to the Apollo information. The Commission agreed with the Task Force that it did not need the sensitive information to complete the work it had been assigned. The Commission agreed instead to tell the Task Force about the process for receiving and acting on information provided by CIA and ERDA. That is, the Commission agreed to answer the questions posed by the Task Force in the attachment to reference 102.

On Saturday, April 23, 1977, Eagle and Strauss briefed the Task Force, responding, for the Commission, to its questions and describing how the Commission had received and acted on the Apollo information. That meeting is recorded in reference 102 of the Task Force report. (A chronology of events concerning reference 102 is attached. It was constructed from NRC records and logs and Mattson's memory.) Eagle started the briefing by reading a statement which he said had been approved by the Commissioners. The statement was quoted by the Task Force in the first paragraph of reference 102. Its essence was that the CIA/ERDA briefings "raised serious questions and provided no conclusive

answers." Strauss also indicated the Commission had stopped making "no evidence" of diversion statements after the CIA/ERDA briefings. Yet, as the Task Force noted at page 4-15 of its report, the Commission had not given any new direction in this regard to the staff after the CIA/ERDA briefings. That is, the Commission did not direct the staff to stop saying there was "no evidence" of diversion. One of the recommendations of the Task Force report was that the Commission should direct the staff to qualify such statements. Mattson recalls that the Task Force attributed the need for qualifiers to the impossibility of defending absolute statements of "no diversion" because of uncertainties in measurement technology. To substantiate his recollection, Mattson cited the statements at the middle of page 4-12 of the Task Force report and Task Force recommendation number 3 at page 3-4.

The Task Force asked the Commission (through Eagle and Strauss) what was done with the information gained in the CIA/ERDA briefings. The response was that individual Commissioners went to people in the Executive Branch to confirm the correctness of the information. Eagle said that the Commissioners all made contacts. See reference 102 for Eagle's characterization of these activities.

Based on the Eagle and Strauss briefing, Mattson said he personally concluded in the course of the Task Force deliberations that the Commissioners and top management had probably been told in the CIA/ERDA briefings that there was no conclusive evidence of a diversion from Apollo in the 1960s.

After the meeting with Strauss and Eagle, Mattson spoke to Gossick and asked him to confirm the list of people at the CIA/ERDA briefings. He did, and Mattson recalls Gossick mentioned he had a travel or other schedule conflict at the time of the CIA briefing and did not recall why he was not at the ERDA briefing. On questioning, Mattson said he was not aware of an Anders' decision to exclude Gossick on "need to know" grounds.

Mattson noted an inconsistency between statements by Builder and those of Strauss and Eagle regarding the CIA/ERDA briefings. One of the things Builder said in Task Force reference 91 was essentially that the staff received no direction from the Commission to do anything as a result of the CIA/ERDA briefings. The position of Eagle and Strauss was that senior staff people did not need direction on such matters. The Task Force tried to rectify this inconsistency, according to Mattson, by recommending that the Commission direct the staff to use qualifiers on the "no evidence" of diversion type of statement, just as the Commission had apparently been doing since the briefings in early 1976. Again, an important distinction, as Mattson recalls, is that the Task Force apparently thought that Strauss and Eagle meant that the Commission's reasons for qualification of such statements had more to do with uncertainties in measurement technology than with evidence of diversion

of material from Apollo. Mattson cited page 4-14 of the Task Force report to substantiate this distinction. That page described the importance and relevance to safeguards that the Task Force would have attached to knowledge of evidence of diversion from Apollo.

Mattson recalls that McTiernan told the Task Force on April 7, 1977, that it needn't get into Apollo since the FBI had already addressed that issue. It is not clear to Mattson what FBI investigation McTiernan was referring to, but he believes McTiernan was advising the Task Force that criminal prosecution aspects of Apollo had been addressed by others. Reference 46 of the Task Force report says that the FBI declined to do an investigation of Apollo on February 25, 1966. Reference 102 on the other hand refers to Department of Justice reports and investigations of Apollo known to the Commissioners. Mattson recalls that the Task Force was told nothing further about FBI investigations of Apollo.

In the May 3, 1977, briefing of the Commission by the Task Force, the Commission overruled the Task Force recommendation that its report was unclassified and ordered that the report be sent to the National Security Council for classification review, apparently due to the sensitivity of the Apollo information. Mattson recalls that the Commission did not invite Gossick or any NRC staff reporting to the EDO, except the Task Force members, to attend the May 3 briefing.

Mattson and Rowden met with Udall and Dr. Myers on May 25, 1977, to discuss the Task Force report. Mattson recalls that Rowden advised Congressman Udall that if he needed more information on Apollo than that given to the Task Force and described in its report and references, he should ask the National Security Council. Mattson recalls that reference 102 was supplied to Dr. Myers about July 20, 1977.

Gossick, before his Udall testimony on July 29, 1977, had access to the Task Force report and reference 102. Mattson recalls telling Gossick shortly before the testimony that the subcommittee probably had more interest in Apollo than in Conran. Mattson recalled, after reference to his desk calendar for 1977, that he attended meetings in Gossick's office on July 13, 20, and 28 for the purpose of reviewing Gossick's testimony being prepared by others for the Udall hearing of July 29. Mattson also recalls asking Gossick in that time period if he had read reference 102 and Gossick replied, "No, should I?" Mattson recommended

that either Gossick should read 102 or talk to John Davis who attended the CIA briefing. Mattson was not asked and did not volunteer to tell Gossick what to say about Apollo in his testimony. Mattson expressed to us his view that the EDO should have been briefed about the CIA/ERDA briefings by the Commissioners before testifying. Mattson also said in response to questions that he would have insisted on being informed of the full content and specifics of the CIA/ERDA briefings and Commission follow-up before answering questions on Apollo which went beyond the narrow scope of the Task Force inquiry into the process by which the information was handled.

Mattson recalled his understanding, in connection with the Dingell hearing, that NRC was planning to defer to ERDA's expertise on the old Apollo information since NRC's predecessor, the AEC regulatory staff, did not exist at the time of the alleged diversion. Mattson was not at the MUF meeting on August 2. He was at the Udall and the Dingell hearings and recalls his impression at the time that the thrust of inquiries on Apollo was aimed at differentiating speculation and measurement uncertainty from evidence of diversion. At the time of the Udall and the Dingell hearings, Mattson did not believe there was conclusive evidence of diversion. His belief was based principally on the briefing by Strauss and Eagle. He also noted that Task Force reference 56 showed that Chapman, who attended the 1976 CIA/ERDA briefings, also concluded that there was no hard evidence and so advised the Task Force.

At one of Gossick's weekly staff meetings in late July or early August 1977, Mattson recalls hearing a discussion by Gossick and others on the impending release of MUF data and the potential questions on evidence of diversion. The thrust of the discussion was how to properly qualify answers to the questions--no significant quantities, etc. Mattson recalls that a number of office and division directors were present and probably included Smith, Burnett, Volgenau, Gossick, and Fouchard. He recalls that the sentiment expressed in that discussion was that ERDA should take responsibility for questions about material unaccounted for at Apollo in the 1960s, therefore, there was felt to be a need for the temporal qualification of NRC responses to questions on evidence of diversion.

Mattson realized in late summer or early fall of 1977, following newspaper accounts and the exchange of letters between Udall and Hendrie, that some people were making a distinction between "no hard evidence" and "no evidence." In light of his present understanding of this distinction, Mattson does not believe today that the information the Task Force was given could be reasonably interpreted to imply the existence of conclusive or hard evidence of diversion at Apollo. To the contrary, the Task Force was told there were "serious questions and no conclusive answers."

Chronology of Events Concerning Reference 102  
of Conran Task Force Report

Conran Task Force convened by Commission	4/7/77
Mattson appointed authorized classifier by Gossick	4/7/77
Mattson advised by Division of Security to mark classified material "treat as classified" pending systematic review of all material generated by task force.	4/8/77
Mattson delivers formal questions from task force to Rowden on Apollo (attachment to Reference 102)	4/18/77
Task Force met with Eagle and Strauss	4/23/77
Draft of Reference 102 marked "treat as Secret, NSI" and sent to Eagle for comment.	4/25/77
Reference 102 signed in final by Reamer; one copy to Task Force Files, another to Eagle; marked "treat as Secret, NSI."	4/27/77
Task Force Report completed and delivered to Commission.	4/29/77
Commission briefed by task force on its report; report ordered to be "treated as classified" and distribution limited to Gossick and Smith, only.	5/3/77
Task Force report referred by Eagle for Commission to NSC and ERDA for classification review and marked "treat as confidential, NSI".	5/4/77
NSC and ERDA advised NRC that Task Force report not classified; report placed in NRC public document room and given wide internal distribution by Gossick.	approx. 5/25/77
Rowden and Mattson met with Udall and Myers to discuss task force report; references offered for review.	5/25/77
FOIA request by Kranish for task force references.	5/25/77
Fialka FOIA request for 102 and other task force references.	6/8/77

Task force classified references including 102 transferred to NRC Division of Security for declassification review pursuant to FOIA requests.	6/10/77
Reference 102 withheld from FOIA releases to Kranish by Mattson on the basis that it was pending classification review.	6/10, 24, 30/77
Speth request for 102 and other task force references.	6/13/77
Memorandum, Brady to Grimsley, saying reference 102 should be classified "Secret, NSI."	7/14/77
Brady letter to ERDA requesting classification review of reference 83.	7/15/77
Myers requests access to all references.	7/?/77
Task force classified references including 102 transferred to Dambly by Division of Security.	7/18/77
Task force classified references minus 102 returned by Dambly to Division of Security.	7/18/77
Reference 102 transferred from Dambly to Gossick.	7/18/77
Rehm asked Mattson to complete classification review of reference 102.	7/18/77
Mattson classified reference 102 as "Secret, NSI."	7/19/77
Gossick memo to Gilinsky and Kennedy requesting their views on propriety of making reference 102 available to Myers.	7/19/77
Gilinsky memo to Gossick advising that Myers should see reference 102; requested CIA information package; questioned irregularity of delay in formal classification date on reference 102.	7/19/77
Fay delivered reference 102 to Myers for review and returned it to NRC uncopied.	7/19 or 20/77
Task force classified references other than 102 forwarded to other agencies (CIA, NSC, ERDA, FBI, etc.) for declassification coordination.	7/21 and 7/26/77

Moss letter requests Gossick to provide all documents relative to Conran and task force.	7/22/77
ERDA letter to Brady correcting reference 83 concerning nature of ERDA files on Apollo.	8/3/77
Gossick letter to Kranish including denial of reference 102 on FOIA appeal.	8/4/77
Rich internal ERDA memo correcting information in reference 83.	8/4/77
Chilk letter to CEQ declining to provide reference 102 as Speth requested on 6/13; highly sensitive classified information being coordinated by NRC with NSC and ERDA.	8/12/77
Fowler saw all classified task force references at NRC, but did not request copy of 102.	approx. 8/26/77
Greene saw all classified task force references at NRC, but did not request copy of 102.	approx. 8/29/77
Brady letter to CIA requesting permission to release task force references on Apollo to GAO.	8/29/77
Weiss saw all classified task force references at NRC.	approx 9/29/77
Weiss received copy of 102 at his request.	10/7/77
CIA letter replying to Brady letter of 8/29/77 saying GAO fully briefed on Apollo/NUMEC and release of NRC documents not necessary, and Congressman Moss should not have them either because they contain misrepresentation of CIA position.	10/14/77
Beck saw reference 102 at NRC, but did not request copy.	11/16/77
Fay delivered copy of reference 102 to Myers.	12/14/77
Mattson asked by Rehm to review basis for classification of reference 102.	12/15/77
Brady letter to CIA requesting declassification review of reference 102.	12/16/77

CIA letter to Brady raising no objection to release of reference 102.	12/22/77
Brady letter to DOE requesting declassification review of reference 102.	12/23/77
DOE letter to Brady raising no objection to release of reference 102.	12/27/77
Brady to Mattson memo confirming that DOE basis for original classification of reference 102 no longer existed and CIA had no objection to its release.	12/27/77
Mattson declassified reference 102 and notified Commission through the EDO. Copy placed in NRC public document room with other task force references.	12/27/77
DOE to Brady letter correcting paragraph number 2 of reference 102 - ERDA briefing of NRC in early 1976 was not Top Secret/NSI or compartmented intelligence information.	1/3/78
Dingell letter to Hendrie included discussion of reference 102.	1/9/78
Gilinsky letter to Dingell clarifying a point in 1/9/78 Dingell letter with regard to reference 102 and attaching copies of Gossick and Gilinsky memos of 7/19/77 (see above).	1/16/78

R. Beck	Representing U. S. Congressman Udall
R. Brady	Director, Division of Security, NRC
S. Chilk	Secretary of the Commission, NRC
D. Dambly	Staff member, Office of Executive Legal Director, NRC
J. Dingell	U. S. Congressman
B. Eagle	Executive Assistant to the Chairman, NRC
E. Fay	Staff member, Office of Congressional Affairs, NRC
J. Fialka	Reporter, Washington Star Newspaper
C. Fowler	Representative of GAO
V. Gilinsky	Commissioner, NRC
L. Gossick	Executive Director for Operations, NRC
T. Greene	Representing U.S. Congressman Moss
D. Grimsley	Staff member, Division of Rules & Records, NRC
J. Hendrie	Chairman, NRC
R. Kennedy	Commissioner, NRC
A. Kranish	Trends Publishing, Incorporated
R. Mattson	Director, Division of Systems Safety and Chairman of Conran Task Force, NRC
J. Moss	U. S. Congressman
H. Myers	Assistant to U.S. Congressman Udall
W. Reamer	Staff member, Office of General Counsel and member of Conran Task Force, NRC
T. Rehm	Assistant to Executive Director for Operations, NRC

M. Rowden	Former Chairman, NRC
C. Smith	Director, Office of Nuclear Material Safety and Safeguards, NRC
G. Speth	Former Acting Chairman, Council on Environmental Quality
P. Strauss	Former General Counsel, NRC
M. Udall	U. S. Congressman
L. Weiss	Representing U.S. Senator Glenn

## REPORT OF INTERVIEW

John Davis, Deputy Director of the Office of Inspection and Enforcement, was interviewed in his office on January 4, 1978, at 9:00 a.m., by Thomas J. McTiernan and William Ryan of the Office of Inspector and Auditor and James Fitzgerald of the Office of the General Counsel. At the outset, Mr. Davis was advised of the purpose of the inquiry - to examine charges made and questions raised about EDO's testimony before House Subcommittees in July and August 1977 regarding lack of evidence of diversion of special nuclear material. He was also advised that his statement would be made available to Congress.

Mr. Davis first heard of the NUMEC (Apollo) investigation by the AEC in the 1960's while he was Director of Region II of the AEC. He held that position from 1963 to 1973. While not personally involved in that investigation, as he recalls its conclusion, it was that the high inventory discrepancy (Material Unaccounted For or MUF) experienced by that facility was a result of a carry-over of losses from several prior contracts which added up to large discrepancy at time of discovery. He further indicated that about a month ago, Mr. Norman Haller of the Office of Inspection and Enforcement had found a copy of information dealing with this matter.

Mr. Davis was questioned about the ERDA/CIA briefing he attended in February 1976. At that time he was Acting Director of the Office of Inspection and Enforcement. He prefaced his discussion of the briefing by advising that his memory of that matter was not very clear as it occurred just before the onset of a serious illness. He recalls that he got a phone call from someone that a briefing was scheduled and he is unsure he knew the topic prior to his arrival. He recalls only one briefing attended by Commissioners Anders, Gilinsky, and Kennedy, and Mr. Kenneth Chapman and Carl Builder of the Office of Nuclear Material Safety and Safeguards. If others were present, they were few in number.

He believes Chairman Anders opened the briefing by describing the subject as "very sensitive" and that it was a "matter of interest." However, he does not recall that the precise nature of the interest was delineated. Harvey Lyon of ERDA spoke first. To the best of his recollection, Mr. Lyon's presentation was confined to the circumstances surrounding the inventory discrepancy--that over several years the facility had a number of AEC contracts, that the discrepancies were carried over from contract to contract, and when they were finally audited a large discrepancy was revealed for which NUMEC ultimately paid over \$1 million. Mr. Lyon talked from a folder but not in the manner of a formal prepared presentation. His portion of the briefing took about 15 minutes and Mr. Davis does not recall him offering to turn over any documents. Mr. Davis has no recollection that any mention was made by Mr. Lyon of a conclusion of diversion of the material from NUMEC. Some questions were asked by those being briefed but it was not a "grilling."

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Mr. Davis recalls that the CIA portion of the briefing was longer than Mr. Lyon's and that the CIA was asked more questions. He does not recall the substance of the questions. He believes the CIA representative spoke from notes but did not give a formal prepared briefing.

When the second speaker concluded, he asked for questions, and then the briefing terminated. He recalls no wrap-up or summarization at the end.

From the standpoint of the Office of Inspection and Enforcement, Mr. Davis was interested in whether anyone had any facts about material moving out of the plant and, if so, how this was accomplished. A possible diversion pathway would be relevant to future inspection efforts. However, Mr. Davis recalls no such specific information being imparted at the briefing. The information was inconclusive. At its conclusion, he determined that no action was called for. He did not sit down and discuss the matter with his staff.

Mr. Davis kept no notes of this briefing. After the briefing he did not discuss the subject with anyone until the more recent interest in the matter. When Mr. Ernst Volgenau came on as Director of the Office of Inspection and Enforcement, it did not occur to Mr. Davis to brief him of the matter. Nor did he have any discussions with Mr. Lee V. Gossick, about the briefing until after publicity associated with a radio interview of Ken Chapman. Only after the recent "renewed interest" in the matter did he discuss it with Commissioner Kennedy and Messrs. Gossick and Volgenau.

If, after the February 1976, briefing, he was asked if he was aware of any evidence that significant quantities of SNM had been diverted from NUMEC, he would respond that he knew of no facts which clearly established that any significant quantities of material had been diverted out of the plant. A)

Mr. Davis concluded "the briefing was not the high point of my career."

## REPORT OF INTERVIEW

William A. Anders was interviewed on January 27, 1978, at his General Electric Company office in San Jose, California by William Ryan and James Fitzgerald. Mr. Anders was advised of the subject of the interview, specifically the testimony of Lee V. Gossick before the Udall Committee and the Dingell Committee that there was no evidence of a theft or diversion of a "significant" amount of special nuclear material, and the position taken by Commissioner Gilinsky in a letter to Congressman Dingell that this did not comport with his view.

### NRC View

#### Change in Statements

Anders stated that he probably would not have made so categorical or "flat" a statement as made by Gossick in his testimony before the Committees because of a relatively gradual change in the Commission's sensitivity concerning the issue of the possibility of diversion - from the less qualified and flat "no evidence of diversion" statements made by the old AEC to generally more cautious statements. This change was based on a gradual assimilation of background on safeguards, including a number of meetings with other agencies and NRC staff. The CIA briefing in February 1976 was one such meeting.

Anders recalled that at one time shortly before he left the NRC he received a letter for signature that contained a flat statement that there was no evidence of theft or diversion of material. This letter had been cleared through the offices of the other Commissioners as was the general practice. Before signing the letter he remembered that he talked to Commissioner Gilinsky, whose office had signed off on the text, and pointed out to him that the statement in the

letter on theft and diversion did not appear to represent his, Gilinsky's, view. Gilinsky agreed with him and the statement in the letter was changed. Anders observed that he gradually adopted a more cautious position on this question than what had been the position of the former Atomic Energy Commission. Anders also recalled an incident in approximately April 1976 when, in course of turning over the Chairmanship to Marcus Rowden, he reminded Rowden that the Commission should be careful not to make flat statements on the question of theft or diversion and that Rowden agreed with him.

#### Safeguards Concerns

Anders said that from its inception in 1975 the NRC decided to take a hard look at safeguards because of the serious nature of the subject, increasing public interest in this area, the MUF situation (e. g., the incident which occurred at Erwin, Tennessee,) and the fact that the Congress was very interested, as expressed by their discussions surrounding the Energy Reorganization Act which formed the NRC. According to Anders, Jim Conran's concerns were not an important contributing factor and that his activities tended to be somewhat counter productive and disruptive to the Commission's orderly and vigorous approach to safeguards.

#### Views on Diversion

Anders said that his personal view for some time has been that there has been no significant diversion. Anders explained that this view was not significantly changed by the CIA briefing which contained mostly suspicions and suppositions by the briefer and, for reasons described below, appeared of somewhat dubious credibility.

Anders said that his general impression was that the NUMEC plant at Apollo, because of its age, could have had a process loss of the magnitude of the unaccounted-for material and that this impression was supported by reports of more recent process losses at that facility.

#### February 1976 CIA Briefing

##### Briefer

Anders was asked about the 1976 briefing by the CIA. Anders said that the briefing was given by Carl Duckett of the CIA.

##### Arrangements

Anders was asked how the briefing by the CIA was set up. He did not recall but speculated that it may have been set up by either Commissioner Kennedy, who pursuant to an informal understanding among the Commissioners normally took the lead responsibility on safeguards matters, or Commissioner Gilinsky, who also played a substantial role in such matters. Other possibilities were Mr. Chapman or Mr. Eagle or himself, although it was not Anders' general practice to set up meetings.

##### Classification

Anders refused to discuss the substance of the CIA briefing unless he was given what he considered to be proper clearance to do so from the CIA. He stated that at the briefing Mr. Duckett had emphasized the extreme sensitivity of the information. He was advised that the interviewers had been informed verbally by CIA that there was no objection on their part to discussing the substance of the briefing as long as no disclosure revealed sources and methods of information, but he was aware that Adm. Turner had refused to declassify the subject matter. Anders stated that, even though much of the

information provided at the briefing had already appeared in the press, he was a stickler on classification and national security matters and that he would only discuss the substance of the briefing if proper declassification or "need to know" procedures were followed. An oral statement by the interviewers was not considered sufficient by him.

#### Nature of Information

Anders said that his recollection of the details of the briefing was dim. He said that there were things said at the briefing that made it sensitive apart from what was said about NUMEC-Apollo. He characterized some of the information as speculation and not bearing directly on safeguards per se. His impression was that some of the information was so speculative, provocative, and/or sensitive that it should not have been given to this group.

#### Style

Anders said that the style or ambience of the presentation raised questions in his mind as to accuracy and objectivity of the information presented. Anders had known Duckett for some time and had had high regard for his competence and objectivity. But at this briefing he observed that Duckett seemed very nervous and somewhat disorganized and that a considerable amount of sweat was on his brow. Anders said that at the time he wondered if Duckett might be on some sort of personal crusade or if he might be trying to run his own foreign policy.

Anders said that he took what Duckett said with a grain of salt and came out of the CIA briefing only with suspicions - both on the possibility of diversion and the objectivity of the briefing.

### CIA File

Anders was asked if he recalled a package of papers in the possession of Duckett at the CIA briefing and he did not recall it, nor did he recall that any documents were offered to the NRC participants for inspection. Anders said that he could not imagine CIA offering its file on the matter to the NRC and observed that "we" would not want it, since if "we" needed it, we could go back to the CIA and get it. Anders was asked about the statement attributed to him that NRC had no proper storage facilities for the material allegedly offered to NRC by CIA. He did not recall any such statement but replied that NRC, in view of its charter and operation, would have no need for their own storage facilities for such material.

### Difference of Opinion

Anders was asked whether Duckett in the CIA briefing told the group that there was a split in the intelligence community on whether there had been a theft or diversion of material. He did not recall such a statement, but Anders did recall that ERDA in another briefing had advised the NRC that ERDA and the FBI did not agree with Duckett. It is Anders' present general impression that there was such a difference of opinion between CIA (Duckett?) on the one hand and AEC/ERDA and the FBI on the other hand.

### Anders' Reaction

Because of Duckett's demeanor, the nature of some of his statements, the possible foreign policy implications of such statements (whether true or false) and the importance of the safeguards question to the NRC and White House, Anders thought the White House should know about the briefing and therefore be in a position to take whatever action the Executive Branch, with its investigative authorities and capability, thought was warranted.

As a result Anders alerted Mr. James Connor, Secretary to the Cabinet at the White House. Anders said that he felt he could not tell Connor what had been said in the briefing because of classification considerations but recommended that White House personnel have the briefing. Anders said that he had no further communications with the White House on the subject since he handed over the Chairmanship to Rowden shortly thereafter, but he had recently read a New York Times report of a statement made by Mr. Jody Powell about the Apollo/NUMEC investigation that seemed to support Anders' view that no diversion had occurred.

#### Effect on Policy

Anders was asked whether, as a result of the CIA briefing, there was any revision in the policy of NRC on the question of the theft or diversion of material. He replied that the Commissioners had not articulated a specific policy on this subject at that time and that the CIA briefing did not cause the Commissioners to formulate a specific policy. It was a period of transition and increasing sensitivity in this area and not one of a sudden shift of attitude. In his, Anders', view he had put the issue into the right hands since the White House (Executive Branch) now knew of the matter and the people who were involved with safeguards in NRC, Chapman and Builder, had the information and would act accordingly. He, Anders, left the NRC and went to Norway as U. S. Ambassador at the end of April 1976.

#### Gossick's Role

##### Absence from CIA Briefing

Anders was asked why Lee Gossick was not involved in the CIA briefing. Anders could not remember explicitly whether or not Gossick had been present

at the briefing or, if not, specifically why he had not been invited. Anders stated that Gossick's absence might be explained by a combination of factors, including a strong request by the briefer that the size of the audience be kept to a bare minimum due to the sensitivity of the subject matter and a general practice by Anders of trying to balance the massive workload on senior staff, aggravated by their having to travel frequently between their offices in Bethesda and the Commissioner's Offices in the District of Columbia. Gossick was physically located in Bethesda and not at H Street and because of this and his heavy workload Gossick would, on occasion, ask not to be required to attend certain meetings. Anders said that, when he determined that Gossick did not have to be at a meeting, he, Anders, would not require him to be there.

Anders stated that it was important to understand that the Energy Reorganization Act of 1974 permitted direct communication between the Commissioners and the Directors of the major staff functions -- without the direct participation of the Executive Director. Anders' view was that this was a bad management arrangement and that he, Anders, generally operated through the Executive Director. Anders said that the question of whether there should be a so-called "weak" or "strong" Executive Director had not been resolved at that time. Anders recalled that Ken Chapman, the Director of Safeguards, worked to maintain direct contact with the Commission on safeguards problems. It was Anders' view that this tended to keep Gossick directly out of and not fully informed on all safeguards matters.

Also based on his recollection of the general situation, Anders stated that it seemed credible to him that Gossick could have interpreted the lack of an

invitation to the briefing as a sign that he did not have a "need to know" or a charter for action in this area -- even though that really was not the intent.

#### Secret Seven

Anders further explained that it was necessary to set up procedures for determining who had a need to know certain very sensitive information, such as that relating to nuclear weapon fabrication details. Commissioner Gilinsky expressed the view to Anders that NRC should treat this as an important matter. At Gilinsky's suggestion, according to Anders, a small group, sometimes referred to as the "secret seven", was formed to have access to such information. Anders was asked why Gossick was not a member of this group. Anders replied that Gossick generally dealt with nuclear safety issues and administrative problems and in this case did not have a need to know.

#### Discussions with Anders

Anders was asked whether after the CIA briefing he had ever discussed the substance of that briefing with Gossick or the matter of theft or diversion. Anders stated that he did not recall any such conversation and that since he left the NRC Chairmanship a few months after the briefing he had no knowledge of what Gossick was or was not told subsequently.

#### Gossick's Sensitivity

By way of explanation Anders said, based on his recollection of the general situation, that it seemed quite possible that Gossick was not in a position to become as sensitive on safeguards questions at the time as were the Commission and key safeguards staff leaders. According to Anders, a lack of sensitivity on Gossick's part could well have been due to his lack of direct

involvement in safeguards matters, his absence from the CIA briefing, his focus on other NRC business and the fact that the Commission's view on the question of past diversions was in a state of transition and that no formal policy had been adopted. [It seemed quite conceivable to Anders that the gradual shift in the Commission's attitude may not have been apparent to someone such as Gossick who was not directly involved and that Gossick may not have been sensitive to the issue in discussions he may have had with representatives of ERDA or others.]

#### Gossick's Character

Anders stated that, based on his working relationship with Gossick, he considered Gossick to have the highest integrity and great devotion to public service. Anders observed that he could not imagine Gossick lying to anyone. Anders said that Gossick, although not generally involved in sensitive and subtle policy issues, was nonetheless quite an intelligent, hard-working person who got things done and that his performance as Executive Director had been excellent.

#### Other Questions

##### McCorkle Briefing

Anders was asked if he recalled being briefed by George McCorkle of NRC on a sensitive matter just prior to his leaving the Commission and he did not recall the briefing.

##### Myers' Question

Anders was asked a question, posed by Henry Myers of the staff of the Udall Committee, as to how he viewed Lee Gossick's knowledge of the question relating

to theft or diversion of material. Anders commented that the question implies that Gossick was sensitive to the issue and, as stated above, Anders believes that Gossick may well not have been sensitive to this issue.

#### Letter to JCAE

Anders was asked about an NRC letter, dated April 2, 1976, to the Joint Committee on Atomic Energy which enclosed numerous questions and answers, one of which reflected that the NRC was of the view that there had been no theft or diversion of material. Anders replied that, in his opinion, JCAE Staff Director Murphy knew what was going on and may have had a briefing from Duckett himself. Anders further replied that the AEC and NRC received hundreds of questions from Murphy, many redundant, and had developed over the years what was essentially a standard set of replies. Anders said that on these questions he left it mainly to staff and particular Commissioners to screen and review the responses and could well have not focused on the particular question since NRC staff and Commissioners (or their offices) had "signed off" on the response (as was the practice for all correspondence of the Commission). Anders said that he has no present recollection of the letter or the question and the answer given. Anders added that he would probably not answer the question on the possibility of theft or diversion the same way now or then had he focused on it.

#### Anders' Recent Communications

Anders was asked to whom he had spoken in recent months about this matter. He advised that after he read about the issue in the nuclear trade press he had called former NRC Chairman Rowden (who was a Commissioner and attended the CIA briefing with Anders) in D. C. to find out what had happened at the

hearings and what was going on as the debate developed. He also had mentioned the issue very briefly to ex-Commissioner Mason after Mason had visited the Anders for dinner in their home in California. Anders said that it was his policy not to initiate contacts with the NRC and therefore he had not discussed the issue with Commissioners Kennedy and Gilinsky, Executive Director Gossick or any other person in attendance at the subject meeting. He recalled having been contacted by NRC General Counsel, Jerome Nelson, Director of Office of Inspection McTiernan, and Udall committee staffer Henry Meyers seeking his recollection of the CIA meeting.

## REPORT OF INTERVIEW

Kenneth Chapman was interviewed on January 6, 1978 at 1:00 p.m. in his office at the National Aeronautics and Space Administration by Thomas McTiernan and William Ryan of the Office of Inspector and Auditor and James Fitzgerald of the Office of the General Counsel. Mr. Chapman was informed of the purpose of the interview and the fact that the interview summary would be made available to the interview summary would be made available to the Congress.

Mr. Chapman was Director, Office of Nuclear Material Safety and Safeguards from 1975 until April 1976. He said he first became aware of NUMEC/Apollo in the spring of 1975 in a conversation with Mr. Seymour Smiley of his staff. While he does not recall the specifics of the conversation, it planted the seed of interest. A short while later one Commissioner asked Mr. Chapman about the inventory discrepancies at NUMEC in the 1960's and he, therefore, spoke to Harvey Lyon (ERDA) who told him ERDA was reopening the matter. Thereafter, the NUMEC matter began to come up.

In the fall of 1975, James Conran told him that ERDA was keeping information on the subject from him, (Mr. Conran). Mr. Chapman called Edward Giller of ERDA to inquire about Mr. Conran's allegation. Mr. Giller said that Mr. Conran was pressing for NUMEC information and did not apparently need the NUMEC information and his requests had been turned down. However, if Mr. Chapman insisted on the information being made available, he would give it to him. Mr. Chapman declined this offer.

In October or November 1975, Mr. Conran came back to him and also began to go to the Commissioners with his allegations, which included claims about NUMEC material having been diverted. Because of these claims, Chairman Anders asked Mr. Chapman to arrange a briefing on NUMEC. Mr. Chapman recalls that he went to Mr. Giller to arrange for a briefing on what Harvey Lyon was doing and "everything they had in their files" relative to NUMEC. Either Chairman Anders or Mr. Giller suggested that the CIA also brief the Commissioners. Mr. Chapman believes he set up both briefings through Giller, ERDA and CIA, but Commissioner Kennedy may have arranged the CIA briefing.

Mr. Chapman said that there was great concern about who should attend the briefings. Previously, for "very sensitive" information involving bomb construction details only seven people were cleared at NRC -- the five Commissioners, Mr. Chapman and Mr. Carl Builder. According to Mr. Chapman, the attendance at the briefing was supposed to be limited to these seven individuals. When he arrived at the briefing, he was surprised to see others present. Mr. Chapman had proposed that only the seven persons previously mentioned attend. Mr. Lee V. Gossick was not included by him. There was no overt action to exclude Mr. Gossick but he was not among the seven

cleared for sensitive information. It should be noted, however, that Mr. Chapman normally did not go through Mr. Gossick in his dealings with the Commission on sensitive safeguards matters. This was based on his interpretation of the Energy Reorganization Act of 1974 which established the position of Director of Nuclear Material Safety and Safeguards and provides that he "may report directly to the Commission as provided in section 209."

As he recalls the briefing was set up as one meeting. He does not recall separate briefings by the CIA and ERDA although this could have been the case. There were two presentations -- one by Harvey Lyon of ERDA and one by Carl Duckett of the CIA.

Mr. Chapman declined to discuss the details of the briefings because of their classification. However, he did state that Mr. Lyon asserted that he had covered all the information that was in ERDA files. Mr. Lyon said there was an inventory discrepancy, and that it had been paid for. He did not speak to diversion. When he left the briefing, Mr. Chapman felt that either Mr. Lyon did not know the full story or was not being candid. Mr. Lyon did have a package of materials with him apparently to demonstrate that ERDA was being completely open. These were offered but Chairman Anders refused them saying NRC had insufficient secure storage facilities. Mr. Chapman does not recall the CIA making any similar offer of documents nor does he recall Mr. Duckett bringing any documents to the briefing. [REDACTED]

[REDACTED] No information was given that any material had left the NUMEC plant in an improper fashion.

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Mr. Chapman thinks someone asked directly whether there was any evidence of diversion and Mr. Duckett evaded it. The briefing was inconclusive since Mr. Duckett did not say material was diverted; he did not say that it was not. Mr. Duckett said something to the effect: "I do not have evidence that there was a diversion and I do not have evidence that there was not a diversion." However, the President of the company, Mr. Shapiro, had the opportunity to divert. He said there was not enough evidence to "prosecute", but Mr. Chapman got the impression that Mr. Duckett was not happy with this result.

In response to questions of the interviewer, Mr. Chapman indicated some things that were not mentioned at the briefing; neither Mr. Helms nor the President were mentioned; there was no mention of the classification level of the briefing, other than it had "sensitivity"; details printed in later Fialka articles were not given, i.e., monitors, encoded phones, etc.; and there was no mention of the FBI. There was no wrap-up to the briefing. Notes were not taken.

After the briefing, Chairman Anders took his own steps. Mr. Chapman did not know Mr. Anders went to the White House. Mr. Chapman and Mr. Builder did discuss the briefing's relevance to their tasks. Essentially their position was (based on what they had heard) if there had been a diversion they thought it must have been done under sanction by U.S. Government officials at a very high level, and under that circumstance it would not be relevant to the development of a safeguards security system. Further, if diversion had not occurred, the matter was not relevant. They therefore, felt there was no need to follow the subject on their own.

Mr. Chapman knew of no follow-up conversations with regard to diversion. It was not talked about and no policy flowed from the briefing. Before the briefing, as far as Mr. Chapman knows, there were no NRC policy statements on the matter of diversion. Similarly, after the briefing there was no specific policy adopted. The Commission always said it had "no evidence of diversion." After the briefing, Mr. Chapman considers that he had no evidence of diversion. If the subject of "conclusive" or "hard" evidence was ever discussed, he was not a party to it.

Later, when the Conran allegations were coming to the fore, Mr. Chapman did mention NUMEC to Mr. Gossick. Specifically, he told him that the briefing had not proved anything conclusively one way or the other.

In his opinion, Mr. Gossick's statement to Congress that the Commission had looked into the matter and found no evidence of diversion was too strong. Mr. Gossick should have followed that statement up with a phrase "nor do we have evidence that it was not diverted."

On a related matter, Mr. Chapman had no recollection of Chairman Anders requesting an assignment be taken on by Mr. Ralph G. Page of Mr. Chapman's staff involving a meeting with ERDA and CIA personnel on NUMEC in the latter part of April 1976. However, if such a request was made (Mr. Chapman believes he could have gone to Mr. Page with such an assignment) since Mr. Builder was at ERDA working on the "Builder Report".

## REPORT OF INTERVIEW

Peter L. Strauss was interviewed by Jerome Nelson and James Fitzgerald of the Office of the General Counsel and William Ryan of the Office of Inspector and Auditor at 10:30 a.m. on January 17, 1978 at the offices of the Administrative Conference, 2120 L Street, N.W., Washington, D.C. Mr. Strauss was advised of the purpose of the inquiry and the fact that the summary of the interview would be made available to the Congress. Because it was anticipated that a portion of the interview might involve discussion of classified information, Mr. Strauss was provided with a copy of a document signed by Chairman Hendrie setting forth the interviewers "need to know" such information. Mr. Strauss was further advised that he could call [redacted] at the Central Intelligence Agency to verify this. He did so in the presence of the interviewers.

Withheld under statutory authority of the  
Central Intelligence Agency Act of 1949 (50  
U.S.C., section 403g)

Mr. Strauss served as General Counsel to the Nuclear Regulatory Commission from June 1, 1975 to June 30, 1977. In 1975, he was unaware of any Commission policy regarding statements of "no evidence of diversion" or Apollo/NUMEC. However, he did become aware of a strong "wish" to believe there had never been a diversion of significant quantities of SNM. He gathered this from conversations with people regarding questions of diversion, possibilities of occurrence, risk, precautions, insider threat, and armed takeover. These were concerns of NRC while he was there. All Commissioners were familiar with these subjects, and in his opinion Mr. Lee V. Gossick also would have to have been familiar with them. Commissioners Gilinsky and Kennedy found the safeguards area particularly interesting. Mr. Strauss' recollection of Commissioner familiarity with this subject matter is based on observing the Commissioners' conversations, and attendance at meetings and the CIA briefing in February 1976.

He found that this institutional "wish" tended to persist, even at the highest levels. He recalls that Commissioner Mason on at least one occasion after the CIA briefing made a broad statement concerning the absence of diversions and Mr. Strauss corrected him.

Mr. Strauss recalls no guidance by the Commissioners to staff concerning any Commission policy regarding public statements on Apollo/NUMEC or "no evidence of diversion," other than that which emanated from the Conran Task Force report.

In February 1976 he did attend a one-hour briefing delivered by a man from the CIA in the Commissioners' conference room. He did not attend an ERDA briefing at that time on Apollo/NUMEC. Mr. Strauss has no recollection of how he got in on the briefing. He did get in on it at the last minute, either by walking in accidentally on the assemblage or by demanding that the Chairman include him on the basis of his status as the Commission's lawyer. He recalls that Howard Shapar did not attend

but could have and that Mr. Gossick was not included. He does not know the reason for this. There was an agreement with other government agencies arrived at in the early days of NRC which restricted access to certain sensitive information involving manufacture and design of clandestine fission explosives to seven NRC representatives. Agencies who possess information of use to NRC could dictate who will attend briefings. Therefore, the attendees at this briefing could have been selected by ERDA or the CIA. Mr. Strauss recalls that on other occasions ERDA set numerical limits on attendance and he was met with objections to the effect: "Sorry, you are not on the list. It is ERDA's briefing and they do not want you there." There is no question that someone had selected the people who were to attend, and lack of an invitation is an indication that a person did not have a need to know the information. Mr. Strauss attributes Mr. Gossick's absence from the briefing as the result of a determination that he had no "need to know" and Mr. Gossick's acquiescence in this determination. He does not know whether NRC requested the briefing or whether ERDA or the CIA notified the Commission that they possessed information NRC should know. The briefing occurred at approximately the same time that several magazine and newspaper articles appeared on the subject of an Israeli nuclear bomb, articles which appeared to him to have been the result of deliberate leaks.

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Mr. Strauss got the impression that the CIA held a fairly strong belief that the inventory discrepancies at NUMEC (and paid for by that firm) represented material taken to Israel. He considers that if the CIA information was accurate, there was a strong circumstantial case: missing material; motive; and opportunity. Mr. Strauss said that after the briefing he could not exclude the possibility of a diversion having taken place. He came out of the briefing believing that the Commission had to assume that diversion had occurred. However, he cautioned that in light of the newspaper stories appearing at the time regarding an Israeli bomb, he harbored some suspicion of the truthfulness of the information, i.e., the briefing could be viewed as one of a variety of techniques employed to form this belief in the public mind.

He does not specifically recall having any discussions regarding the briefing other than the meeting with the Conran Task Force reflected in Document 102 and on occasion referring to it in a guarded way intended to remind people who attended the briefing, such as Commissioner Mason, that qualifications should be made. He might have discussed it with Ben Huberman. When substantial losses of weapons grade material again appeared at the Apollo facility, he felt that the prior experience contributed to the urgency of the situation.

After the briefing he personally would not say that there was no evidence of diversion. However, he is unaware of any other indications that the unaccounted for materials at Apollo/NUMEC were in fact diverted. The 11 people at the briefing heard statements which, in his opinion, should make them pause before making a statement that there is no evidence of diversion at Apollo/NUMEC.

Mr. Strauss posed the question of what "evidence" means. He explained that if one meant hard, conclusive information, admissible in a judicial trial, then one could say there was no evidence of diversion. Knowing that the FBI was not bringing any charges against Apollo/NUMEC personnel would enforce this view. In a more colloquial sense, and in terms of its regulatory responsibilities; the NRC could, however, characterize the briefing as giving it "evidence."

Mr. Strauss considers Conran Task Force Document 102 to be an accurate reflection of the briefing he and Bryan Eagle gave to the Task Force. That document states that "no specific instructions can be recalled to have been given at the briefing to the attending NRC staff officials to the effect that guidance should be given to the staff which would reflect ... the relevance and importance of the information." It characterized the Eagle/Strauss position as: Senior safeguards and inspection management were present and would generally know what to do without being told. Mr. Strauss observed that the Commission often was not very direct in matters of this sort. He reaffirmed his belief that the Commission ceased to make "no evidence" statements without qualifications. Diversion, and appropriate safeguards against it, were major subjects of Commission concern and activity throughout the period in question. Those present at the briefing were major actors in this continuing and often heated debate. Mr. Strauss set forth what he considered to be proper qualification:

The Commission must proceed on the assumption that risk of diversion by embezzlement is at least as strong as or stronger than the risk of diversion by force of arms. During the time NRC has been in operation, we have not been persuaded that diversions have occurred from any facility, including Apollo. A steady MUF curve is an indication that diversions have occurred, but we have not been able to identify a diversion path or exclude other explanations for the losses.

Mr. Strauss never directly discussed the CIA briefing with Mr. Gossick. It is possible, however, that he may have indirectly alluded to it in providing comments on staff papers. For example, in reviewing a staff paper prepared for Mr. Gossick's or the Commission's signature, he may have penciled in a change on a "no evidence" statement with a recommendation to make a change. While some of these documents might have been signed off by Mr. Gossick, Mr. Gossick probably would only have paid minimal attention to this as it was not his personal work. Mr. Strauss' contact with Mr. Gossick on this matter was not personal and direct. He does recall a couple of conversations in which Mr. Gossick said he was glad he was not at the CIA briefing, but did not explain why. Mr. Strauss responded to the effect "with good reason."

Since November 15, 1977, when Representative Udall sent a letter to Chairman Hendrie on the matter of Mr. Gossick's testimony, he had only a couple of conversations with Mr. Gossick in which the subject was casually touched upon at a cocktail party given by Howard Shapar and a lunch with several attorneys for the General Counsel's office. Nothing specific was discussed. Mr. Gossick may have asked him whether confining the "no evidence" statement to the post-1968 time frame was a valid defense.

Mr. Strauss said that he considered that Mr. Gossick was being made a scapegoat for a system that has gone wrong in three respects:

- (1) the problem of asking an agency outside the Executive Branch to make judgments based on information of such enormous sensitivity to the Executive Branch. He cited as an example in the export area Dr. Clifford Smith's statement in the Washington Post on January 17, 1978, regarding the sufficiency of IAEA safeguards.
- (2) The safeguards area under the former Director, Kenneth Chapman, seemed to him overwhelmed by former military men. Their approach was to consider in depth the possibility of a gang of ruffians (terrorists) who could surround a plant. The possibility of conspiracy to embezzle at high corporate levels was the most difficult to generate mechanical solutions for, and so the problem tended to be "wished away." In that milieu, it was easy to say there is no evidence of diversion because no one has ever attacked a plant, and we have never found a hole in a pipe where some material was being syphoned off.
- (3) Mr. Strauss mentioned the combativeness surrounding the safeguards issue at NRC, citing an incident at the Erwin facility and a Builder memorandum regarding the difficulty of plants to meet GESMO numbers. He saw anger that an outside group (NRDC) was trying to set NRC's safeguards priorities and this bred a tendency to hunker down. Difficult questions would sometimes be met by those responsible for demands planning with responses understandable only in these terms. Mr. Gossick was not a leader of this tendency, but may well have been its victim.

Mr. Strauss believes that in expressing a "Commission position," Mr. Gossick was not speaking for the Commissioners alone but the entire organization, and that the "no evidence" statement was expressed in the same manner that an ELD attorney might express a Commission position to a Licensing Board.

Mr. Strauss stated that Mr. Gossick might have put the question he was asked by the Congressional subcommittees off on other branches of government, since his knowledge could at best be derivative. Mr. Strauss noted that at the time the statements were made there were precious few people left at NRC who had been at the 1976 briefing --principally Commissioners Kennedy and Gilinsky, whose recollections might not agree. Earlier, when the Commissioners were turning over the stewardship of the agency to Mr. Gossick, he was told there were conversations with Commissioners Gilinsky and Kennedy and Mr. Gossick and informal understandings were arrived at whereby the Commissioners would be consulted by Mr. Gossick on all matters and retain an informal veto power over his decisions.

REPORT OF INTERVIEW

Bryan Eagle was interviewed by William Ryan, Office of Inspector and Auditor (OIA) and James Fitzgerald, Office of the General Counsel (OGC), at 10:00 a.m., January 31, 1978, at his home on 2804 O Street, N.W., Washington, D. C. He was advised of the purpose of the interview and the fact that the summary of interview will be made available to the Congress.

Mr. Eagle joined the Nuclear Regulatory Commission (NRC) around the first of March 1975 when he was appointed Executive Assistant to the Chairman. He served two Chairmen in that capacity - William Anders and Marcus Rowden. After Mr. Rowden's term expired he closed up the Chairman's office and maintained an office of convenience in the Office of Policy Evaluation until October 30, 1978, when he returned to private life.

He declared that there was very little that went through the Chairman's office that he did not to some extent become involved in. He recalls that in 1975 there were a number of efforts for reevaluation of safeguards that were instituted. Congress had mandated such things as the Security Agency Study by the Energy Reorganization Act. There were a number of things going on in the January and February 1976 time frame. For example, at that time Kenneth Chapman and Carl Builder were working on safeguards upgrading and an Erwin MUF had been discovered. James Conran was voicing his views on safeguards and his dissatisfaction with the personnel situation. Mr. Conran was talking with Commissioner Mason and other Commissioners from time to time.

In the latter part of February 1976 there was a briefing by CIA followed a couple of days later by an ERDA briefing. He is unsure what triggered the request to hear from the CIA. All of the events mentioned above were going on. While Mr. Conran says that it was only because of his activities that NRC got involved, Eagle is not sure this was entirely true. The Commission was working on better relations with the CIA, Department of State, etc., to obtain information that would be useful for safeguards efforts, e.g., terrorist activities. He does not remember how the briefing was set up. Probably either Chairman Anders, Commissioner Kennedy or he called up the CIA and arranged it. Mr. Eagle knew Mr. Carl Duckett very well from prior associations in the intelligence community.

Mr. Eagle cautioned that all of his answers or statements had to be prefaced with the caveat "To the best of my recollection."

Mr. Duckett related to them that back in the 1960's when NUMEC came up, an article appeared in the New York Times speculating on a diversion to Israel. Mr. Duckett gave an assessment of the nuclear potential of Israel.

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Mr. Eagle said he had covered to the best of his recollection all information imparted at the briefing with the exception of CIA sources and methods.

Mr. Eagle said this was a classic case of trying to prove a negative - that it is hard to prove that NUMEC material did not get to Israel, but there is no evidence that it did go there. Mr. Eagle stated that he believes Mr. Duckett said there was no hard evidence that this material went to Israel and that the only thing they have is the long chain of circumstantial evidence. He may well have said "we can't prove the negative" and declared that there is no way of tracing the NUMEC material to material in Israel, if it is there. Mr. Eagle has the definite impression that they could not trace the source of any Israeli material. There was no clear conclusion from the CIA briefing.

Mr. Eagle observed that NUMEC's processes were incredibly sloppy. It was an old plant with temporary workers. It was under great pressure to produce an end product. There was the further circumstance that when Atlantic-Richfield took it over, it continued to have large MUFs. This, therefore, tended to lead one away from a conclusion that anyone stole anything.

Mr. Duckett was not ill at ease during the briefing, nor did he convey any indication that he was frustrated with his own agency. He did not appear to be an advocate of any position. He may have felt that the lack of conclusiveness was a loose end and was unhappy about that. There were some questions and answers. It was all very casual and informal.

Mr. Eagle does not recall any prior clearance of attendees by the CIA nor does he recall that Mr. Duckett announced any classification level. He may have said the material is very sensitive and some of it is Top Secret. While he has no recollection of Mr. Duckett evidencing surprise at the size of the audience, he could have been because the briefing was set up very fast. To the best of his recollection Mr. Duckett said that CIA, not being a domestic intelligence agency, had not investigated domestically what had gone on at NUMEC.

Mr. Duckett did come with material to which he referred in the course of his briefing. It was a file folder, medium size. Mr. Duckett did not say he was going to leave the file or that it was an agency file. No one asked to see it and it was not offered. As a matter of fact, NRC did not have adequate storage facilities. Storage of intelligence information requires protection beyond that of Secret or Top Secret. There are intelligence community specifications for storage including alarms, vaults, etc. NRC decided to have two such facilities - at H Street and the Willste Building. Then development of those facilities was part of NRC's overall effort to establish better relations with the intelligence community. Mr. Chapman had had discussions and negotiations

with the intelligence agencies. This process started before the briefings. To discharge safeguards and nonproliferation responsibilities NRC needed intelligence information, and to get that information NRC had to have facilities to protect the information.

Addressing the question of attendance at the briefing, Mr. Eagle said the briefing was set up quickly. He is not sure of the precise reason for Mr. Gossick not being included, then cited a number of possible factors: (1) desire to keep the meeting small; (2) principal operating people were included; and (3) Messrs. Huberman and Strauss were included because of their close connection with Commission business; and Mr. Eagle because of his responsibilities. He does not recall Chairman Anders saying Mr. Gossick will not attend. He was not specifically excluded; just not specifically included. This could have been because others were included, he might have been out of town, or might not have had the necessary clearances. Chairman Anders probably made the selection.

Two days later he attended the ERDA briefing. ERDA described its investigation and stated their conclusion that there was no diversion. Specific mention was made of the FBI investigation, Shapiro's foreign associations, the sloppiness of plant operations, the payment for the MUF, the continued problems under Atlantic-Richfield ownership and the fact that the plant was a problem one. It had a much clearer conclusion.

The briefings did make people more aware of the possibility of an insider threat. After the briefings, Mr. Eagle discussed their briefing with Mr. Anders and maybe Commissioner Kennedy. He never discussed them with Mr. Gossick. In July 1977, Mr. Eagle looked over Mr. Gossick's prepared testimony for the Udall subcommittee. He told him that he had better be sure that what he was saying was consistent with Document 102 of the Task Force report. Hugh Thompson had responsibility for pulling together the testimony and comments. Mr. Eagle may have suggested minor changes or given some language. It was at a large meeting in the conference room next to Mr. Gossick's office, attended by Mr. Gossick, Mr. Clifford Smith and others that he suggested changes that were incorporated. He does not recall getting into any detail with Gossick and, probably would remember if he had. On no other occasion did he discuss anything related to the briefings with Mr. Gossick.

Document 102, referred to above, contained a statement to the effect that since the briefings the Commission has not made statements that "there is no evidence of diversion" without qualification. Mr. Eagle said this reflects the point that the Commission was trying to be careful not to say it could prove a negative. He said the Task Force had identified statements that "no material is missing" or "no material is stolen." NRC was not saying that material has not or has been stolen.

Mr. Eagle read portions of Mr. Gossick's testimony before the Udall and Dingell subcommittee where "no evidence" statements were made. He said they appeared to be accurate and did not seem to him to be out of step with the Commission position. A statement like this was in the MUF release. NRC took up the matter of making misleading statements regarding diversion in handling the Task Force recommendations. He could not say, however, that the Commission ever sat down after the ERDA/CIA briefings and said "now we have to modify our statements." NRC did not have pre-1968 data.

Soon after the briefings Mr. Ralph G. Page was sent out to the CIA to review some material. Mr. Page, was the logical candidate to do this given his service on the LUM panel staff and in Commission safeguards work. Mr. Eagle does not know how Mr. Page was selected for this task or how it came about. Mr. Duckett may have said "if you want to have someone come out to the CIA, he is welcome." He does not recall talking to Page about this until the time of the Task Force. Mr. Page relayed that he did not know if he had seen everything the CIA had but he had not come back with great new lights. He said there was not a lot of material. He related information similar to what Mr. Eagle had heard in the CIA briefings--the chain of circumstances material.

As far as he knows, no one from NRC has reviewed the ERDA files. However, he had the impression there was no problem with ERDA, that if NRC wanted something it got it.

In recent times, he had a conversation with Ann Hodgdon of Commissioner Gilinsky's office. She was looking for information about a package of materials supposedly brought to the briefing by Mr. Duckett. Around July 19, 1977, Mr. Gossick had asked him about that "package" and requested that he speak to Mr. Gilinsky who wanted it. Mr. Eagle did at that time have a hurried conversation with Gilinsky and refreshed his recollection. He pointed out that Mr. Duckett had left the CIA and that he did not know how to identify the package to ask for it. The request faded out. Ms. Hodgdon wanted to know more. She read a letter over the phone to him. He said that a phrase to the effect that the document "was not traceable" needed clarification. She said they were going to leave it alone and he could amplify on it at a later date. Mr. Eagle displayed a copy of the letter from Mr. Gilinsky to Representative Dingell dated January 16, 1978.

He has not had conversations recently with Messrs. Kennedy, Gossick, Rowden or Anders about the subject matter of this interview.

SUMMARY OF INTERVIEW WITH C. W. REAMER  
JANUARY 11, 1978

C. W. Reamer was interviewed by James Fitzgerald of the Office of the General Counsel at 3:30 p.m. on January 11, 1978. Mr. Reamer was advised of the purpose of the inquiry and the fact that the summary of this interview will be available to the Congress.

Mr. Reamer is an attorney in the Office of the General Counsel. He states that he had no knowledge of the NUMEC (Apollo) inventory discrepancies of the 1960's or allegations of diversion of SNM from that plant until his assignment to the Task Force appointed to look into various allegations made by NRC employee James Conran in April 1977. The only matter relevant to the inquiry which pre-dates April 1977 is a vague recollection that an early draft of a Commission paper relating to the NRDC petition for emergency safeguards measures on which he worked may have had some statement regarding past diversion of SNM which Peter Strauss, the General Counsel, may have edited out without explanation.

On April 6, 1977, he was assigned by the Commission to work on the Task Force. He does not know why he was selected, but speculates that it may have been on the basis of his experience in safeguards matters of the agency. The Task Force was a team effort, but he was either assigned by the Task Force or volunteered for that portion which dealt with

Mr. Conran's allegations involving NUMEC. The bulk of the NUMEC portion of the Task Force Report was initially drafted by him, and all members were subsequently involved in reviewing and finalizing it.

Mr. Reamer recalls that there was discussion among the Task Force members on how hard they should pursue Conran's allegations about NUMEC, i.e., should they push for receiving the classified briefing or was there a way of approaching the matter without getting into the substance of the briefing. There were arguments both ways. He argued for a compromise position.

During the course of the Task Force, Mr. Reamer never learned of any evidence regarding diversion of SNM. Everything that he learned about allegations of diversion is contained in the Conran submissions and the interviews with Kenneth Chapman, Carl Builder and Barry Rich, and the briefing they received from Bryan Eagle and Peter Strauss. He recollects the interview with Gerry Page may also have touched on NUMEC. He suggested that the documents attached to the Task Force Report memorializing these interviews be reviewed. He recalls that Mr. Rich was reluctant even to confirm for the Task Force that there was an ERDA file on the matter and that Mr. Chapman said the question was still "goosey." Mr. Reamer wrote some of the interview summaries.

The Task Force decided they did not need the ERDA/CIA briefings. What the Task Force did want to determine was that NRC had asked for and received all relevant information and had done what a manager with important nuclear safeguards responsibilities should do with it. Mr. Reamer refers to this approach as a "procedural review." From the written record it was impossible to make this determination, so the Task Force felt it had to talk to some of the attendees of the ERDA/CIA briefing of February 1976. Mr. Reamer recalls that Roger Mattson took this matter up with Chairman Rowden or Bryan Eagle and that Chairman Rowden -- perhaps after consulting the other Commissioners -- ultimately selected Mr. Eagle and Mr. Strauss to talk to the Task Force.

Mr. Eagle and Mr. Strauss met with the entire Task Force around a table. Mr. Reamer recalls that Mr. Eagle had a prepared statement with him. At the beginning of the session in language that had been thought out in advance, he verbally informed them of dates, etc. This material was included in the beginning of Document 102 of the Task Force Report which Mr. Reamer drafted. He does not remember being given any document by either Eagle or Strauss.

No Task Force member asked questions, such as "Is there any evidence of diversion," and whether there had been a

diversion from NUMEC was not really explored. The statement attributed to Mr. Strauss in Document 102 that since 1976 the Commission has not uttered the "no evidence" statement without qualification is almost a direct quote from Mr. Strauss. The Task Force did not ask what he meant by it. Mr. Reamer thought it meant that one could not arrive at a definitive statement on diversion -- consistent with the earlier Eagle statement that the ERDA/CIA briefings raised questions and did not provide conclusive answers -- and that public statements by the Commission had reflected this.

Messrs. Eagle and Strauss told the Task Force that the briefings raised questions and did not provide conclusive answers. Mr. Reamer interpreted what was said as follows: the briefings did not provide sweeping assurances that there had or had not been a diversion at NUMEC -- for example, one might conclude that there had been no diversion, but the information given at the briefing would not leave that conclusion free from all doubt; that this uncertainty about whether a diversion had occurred was not due simply to material accounting shortcomings at NUMEC; and that the speculation involved in the Apollo/NUMEC case went beyond that raised in connection with other facilities, e.g., Kerr-McGee, NFS, Erwin.

Mr. Reamer stated that he did not pick up on the currency of the issues, i.e., that the case might be still alive at

the FBI, from what was said to the Task Force. Further Strauss and Eagle were vague on precisely what cross-checks the agency undertook to verify the information given at the CIA/ERDA briefings.

He recalls that the Task Force had two meetings with the Commission after completion of its report. At the first one, the Report was presented at a closed session and Commissioners' questions and comments were received. At the second meeting, staff actions to implement the Task Force recommendations were discussed. Mr. Reamer attended both meetings and recalls no questions about Apollo/NUMEC. There may have been questions or discussion about "no evidence" but not related to Apollo/NUMEC; instead they would have involved the point that accounting methods prevented unqualified statements. Mr. Gossick probably attended both meetings. Mr. Reamer does not recall Commissioner Gilinsky mentioning anything about NUMEC or evidence of diversion at these meetings.

In mid-July, Mr. Reamer received a phone call from Mr. Gossick, who indicated he had not been able to get in touch with James Kelley, then Acting General Counsel. Mr. Gossick said he wanted to have Mr. Reamer's help in preparing for the congressional testimony on the Conran matter. Mr. Reamer indicated he was available. Mr. Reamer

and Bernard Snyder of the Office of Policy Evaluation wrote the first and all later drafts of the Gossick testimony. Hugh Thompson was also involved in preparing the testimony. Mr. Gossick told Messrs. Reamer and Snyder how he wanted to approach the testimony -- Conran background, safeguards background, implementation of Task Force recommendations, and Conran's reassignment. No mention was made of NUMEC in the drafts, because it simply did not fit into this structure. Its exclusion from the prepared testimony was not expressly dictated by Mr. Gossick except as noted below. Hugh Thompson of EDO's staff coordinated distribution of the draft testimony and worked over the comments that were received on the drafts.

Mr. Reamer tentatively recalls that at a meeting held during the drafting process the question of whether to include something about NUMEC came up and that the group assembled said no. He cannot recall the date or who attended the meeting. He seems to recall that the remarks and consensus were to the effect that it was not the type of thing the Subcommittee was interested in and that if they were interested they would ask for it. This was at one of two or three meetings that he attended in Mr. Gossick's office on the draft testimony.

Mr. Reamer does not know whether questions and answers or a Briefing Book were prepared for Mr. Gossick's consideration in preparation for his appearance before Congress. He suggested that this information could be obtained from Hugh Thompson or Mr. Gossick.

Mr. Reamer recalls that near the end of the drafting process he was in Mr. Gossick's office when Mr. Gossick got a phone call from Dr. Henry Myers of the Subcommittee staff. Dr. Myers apparently had a copy of the proposed testimony. Mr. Gossick, after talking to Dr. Myers, told Mr. Reamer and others present that Dr. Myers had stated the testimony would not fly, that something would have to be included about Mr. Gossick's conclusions on the adequacy of current safeguards. Accordingly, Mr. Reamer went back and retooled part of the testimony to treat this subject. Mr. Reamer recollects that Mr. Gossick did not at this time mention anything about NUMEC. Mr. Reamer observed that at the time when this phone call was made Dr. Myers already had seen Document 102 which discussed Apollo/NUMEC. Mr. Reamer believes that the testimony was distributed to the two sitting Commissioners prior to July 29.

As far as he knows, there was no rehashing of the testimony, a post-mortem, after Mr. Gossick's July 29 appearance on the Hill, but such could have occurred without his

knowledge. Mr. Reamer recalls no involvement in the drafting or review of the August 19, 1977 submission of written answers to Subcommittee questions.

Mr. Reamer knew during this general time frame about the 1968 distinction regarding the MUF release program, viz., that MUF data prior to 1968 was ERDA's responsibility to report and to explain. He is not sure when he learned this, but it was probably shortly before the MUF press release and his source was probably Norman Haller of OIE. Mr. Reamer did not take this to mean that the agency "had no position" or "deferred to ERDA" on the question of whether material had ever been stolen from Apollo/NUMEC. Rather, he took it to mean that ERDA would explain all MUF figures for pre-1968 and that ERDA was the agency that the public would look to for the explanation of the Apollo/NUMEC mid-1960's MUF. Mr. Reamer had no knowledge of Commissioner Gilinsky's concerns, such as the use of the term "conclusive evidence." He was aware that Mr. Gossick was to testify before the Dingell subcommittee in August, and submitted comments to Hugh Thompson on at least one draft of proposed testimony prepared elsewhere in NRC.

## REPORT OF INTERVIEW

Marcus A. Rowden was interviewed by William E. Ryan of the Office of Inspector and Auditor and James A. Fitzgerald of the Office of the General Counsel in his law offices at 2 p.m., January 25, 1978. Mr. Rowden was informed of the purpose of the inquiry and the fact that the summary of interview will be made available to the Congress.

Mr. Rowden joined the Atomic Energy Commission in February 1958 and ultimately became General Counsel of that organization. In January 1975, he became a Commissioner with the Nuclear Regulatory Commission and later served as Chairman from April 1976 to June 30, 1977.

At one time when at AEC he was counsel to the Division of Nuclear Materials Management. It is his recollection that he had this position during part of the time of the NUMEC inquiry in the 1960s. He recalls that he gave advice to the AEC personnel who were conducting the NUMEC investigation on the respective roles of the AEC and the FBI. The AEC had an understanding with the FBI that it was appropriate for the former to conduct an in-house investigation up to the point in time when a possibility of a violation of law was uncovered. Then the Commission was to refer it to the FBI. He also advised the AEC investigators in regard to informing interviewees of their legal rights.

Mr. Rowden does not recall any violation of law being reported to him. He also has no recollection of any discussion of the matter with the FBI. He believes that one of the senior people in AEC's Inspection Division contacted the FBI at the outset of the investigation. Nor does he recall whether he was involved when the matter came to a conclusion within the AEC. He became Solicitor about 1966 and had different responsibilities.

Mr. Rowden does not recall any policy of the AEC on a response to questions about diversions. Safeguards was an evolving item in the late 1960s and early 1970s. At the NRC he does not recall ever sitting down and formally adopting a policy on how the Commission should answer an inquiry about diversion. However, there was discussion among the Commissioners and staff on the inherent technical and other limitations as respects materials measurements and the need to bear that in mind in writing NRC statements where these limitations were a relevant factor.

This limitation became relevant in the wake of Kerr/McGee and Erwin events. He also recalls being asked a question by a reporter about minute quantities of material that may have left the Kerr/McGee facility.

In the context of what NRC was doing in the safeguards area, including a survey of all SSNM facilities, and the limitations on materials account-

ability which NRC believed had to be compensated for by physical security and materials control measures, categorical statements were not warranted. Kerr/McGee, Erwin, the survey, and perhaps NUMEC, may have impacted on this.

He does recall one instance involving a transportation EIS in which statements set forth in the draft were too categorical in his view and needed to be revised in light of the referenced uncertainties. Furthermore, results of the safeguards survey were coming in and the Commission had concluded that upgraded safeguards were in order as a matter of prudent regulation.

Mr. Rowden stated that he has read Document 102 to the Conran Task Force report which states that since the February 1976 briefings by the CIA and ERDA the Commission had not made "no evidence of diversion" statements without qualifications. The implication that some formal policy was adopted by the Commission and the further implication that this stemmed from the February 1976 briefings are not consistent with Mr. Rowden's recollection. As indicated earlier, there was no formal policy adopted, nor does he recall that there was any one triggering event (like the briefings) which led to circumspection in statements about diversion. Rather, he sees the briefings as but one event which added to the total context of the way he and the other Commissioners looked at and spoke to safeguards.

Regarding the CIA briefing in February 1976, he does not recall how the individual attendees were determined. They had been told that the matters to be discussed were sensitive and a consequent determination was made that only people with a substantive responsibility in the safeguards area should be present. He does not recall the Commission, as a body, making the determination on who should attend. It is most likely that Chairman Anders or the Chairman's office made the selection. He stressed that this was an affirmative determination of who should be asked to attend, not a negative choice of who would be excluded. There would also be a sensitivity to the fact that some people would have to travel from Maryland down to the Commissioners' Conference Room in Washington. This was a possible factor, although certainly not dominant. If substantive responsibility were the criteria, Lee Gossick would not be one of the people included in the briefings because of the way the Commission was then structured and the role of the Executive Director for Operations. Mr. Rowden explained that the Energy Reorganization Act created three offices, the Directors of which had statutory line responsibility for matters within the purview of the respective offices. Nuclear Material Safety and Safeguards was one of these statutory offices. EDO was not viewed as the NRC analogue to the AEC's General Manager.

The five Commissioners and six others attended the CIA briefing. The CIA briefer was a Mr. Duckett. Mr. Rowden would not discuss the substance of the briefing because of what he had been told was the classified nature of the briefing's content. He noted that the CIA memorandum which the interviewers showed him at the outset of this interview session had been equivocal about CIA objections (or lack thereof) to briefing attendees' discussing the briefing's substance with the investigating team.

He stated that he did not recall any specific level of classification being mentioned in the meeting. He did relate that the briefing dealt with circumstantial rather than direct evidence and lacked, as he recalled, a statement of CIA conclusions. "It involved circumstances that could lead one to conclude there was a possibility of diversion." The CIA briefer, Mr. Duckett, told them that some in his agency had come to the conclusion there was a possibility of diversion at NUMEC. This was the briefer's view, at least, but Mr. Rowden said he did not know how widely it was shared or if it was endorsed by the CIA as an agency. He does recall that the briefer went to some extent into the FBI's involvement. Mr. Rowden had not met Mr. Duckett prior to that briefing and Mr. Duckett's demeanor at the briefing left no impression on him. Mr. Duckett, as Mr. Rowden recalled, recited events and circumstances he thought were significant. These were the matters that led Mr. Duckett to conclude that a diversion could possibly have occurred.

Mr. Rowden recalls that the briefing was not limited to circumstances bearing an opportunity and motive for diversion. He recalls no summing up in conclusion by Mr. Duckett.

Mr. Rowden said that Mr. Duckett came with a file of papers and that he scanned them during the course of the briefing and may have read from them. He does not recall that the file was tendered by the briefer. Mr. Rowden's attention was directed by the interviewers to Document 102 of the Conran Task Force report which stated: "An information package was put on the table before the Commissioners and staff, but was not left. No request that it be left was made, and the NRC had inadequate secure document storage facilities for highly sensitive materials." He indicated that it would be unusual given the source of the documents, the CIA, for such documents to be left with the Commission. He cited to past experiences when the CIA had delivered sensitive documents for his review and the CIA representative had sat outside his office all the while he read them.

He did not attend the ERDA briefing in February 1976, but he does not remember the reason. He is aware that ERDA took a different view from the CIA. According to Mr. Rowden, the CIA briefing was based on circumstantial evidence and "I was of the belief that you could not conclude either way on whether there had been a diversion." What was called for

was bringing the briefing and its information to the attention of responsible Executive Branch authorities. Mr. Anders did thereafter contact White House personnel and a determination was made to reopen the FBI investigation. Mr. Rowden suspended judgment until the FBI investigation was completed. He does not know the result of the FBI investigation. Sometime after the CIA briefing but before the Task Force in April 1977, James Conran came to him and said he had been contacted by the FBI. Mr. Rowden told him to respond to the Bureau's questions fully and candidly; and if the agents did not seek information which Mr. Conran deemed significant, he should volunteer his information.

Mr. Rowden never discussed the substance of the briefings with Mr. Gossick. Mr. Rowden is sure that he discussed the briefing with one or more of the other Commissioners on occasion but does not remember in precisely what context. It may have been when they were considering Mr. Conran's allegations. However, he never discussed the substance of the briefing with Mr. Gossick. He does not recall that the Commission ever gave Kenneth Chapman or Carl Builder any instructions as a result of the briefings.

With one exception, he does not recall ever discussing the briefing or its substance in contacts with the Congress. In speeches or testimony, he never addressed Apollo/NUMEC or the question of evidence of diversion there. The one occasion when he mentioned the briefing was in the spring of 1977 when he and Roger Mattson visited Representative Morris Udall in a meeting attended also by Dr. Henry Myers of the Interior Committee's staff. There had been a delay in transmitting the Task Force report to Chairman Udall because it was undergoing a classification review. Ultimately the NSC said it was permissible to have the report itself unclassified and he went to Mr. Udall to deliver the report and explain the reasons for the delay. He advised Messrs. Udall and Myers of the CIA briefing, that there were those who held views, based on the circumstantial evidence, that there was a possibility of diversion; and that others disagreed. Mr. Rowden told them that he could not relate the substance of the classified briefing (such would have to be obtained from the Executive Branch); that other agencies (e.g., AEC, ERDA) had a view of the diversion question different from that of the briefing; and that he was in no position to make a judgment as to diversion based on that briefing. Another governmental agency was pursuing the matter. Irrespective of the foregoing, NRC safeguards were undergoing continuing upgrading as part of an overall long-range program.

He recalls one major staff briefing for the Commission on the proposed MUF release in the month before he left the agency. He does not recall going over any draft of the proposed release or focusing on the questions and answers attached to SECY-77-268. He was firm that NRC should only be treating the post-1968 period in the release and that ERDA should handle the prior years since that was a period pre-dating regulatory responsibility for the subject facilities. This was communicated to the staff.

Mr. Rowden characterized Mr. Gossick as very honest and responsible based on his dealings with him. Mr. Gossick may have seen statements that were made that there was no evidence of significant materials diversion and may have related them out of context on the misunderstanding that the Commission had actually come to a conclusion on the Apollo/NUMEC matter, whereas there had been no Commission position one way or the other.

Since the issue was raised by Representative Udall's letter in November 1977, when people were trying to reconstruct what had happened, Mr. Rowden has spoken about the matter to Dr. Myers, Jerome Nelson, Chairman Hendrie and Mr. Kennedy and Mr. Anders. He also spoke to Bryan Eagle to ascertain how the briefings were set up. He spoke to Mr. Gossick at the latter's request, after the matter came up in November. Chairman Hendrie or Mr. Kennedy had suggested to Mr. Gossick that Mr. Rowden be contacted. Mr. Gossick was trying to refresh his recollection and indicated that Dr. Hendrie was going to call Mr. Rowden, which he later did.

Mr. Rowden did not brief Mr. Smith on the NUMEC information when Mr. Smith took over as Director of NMSS because of the nature of the information, the facts that a significant intervening event had occurred - the FBI was investigating -- and the knowledge that the two remaining Commissioners knew of the briefings contents.

## REPORT OF INTERVIEW

Hugh L. Thompson, Jr., was interviewed at his office at the Nuclear Regulatory Commission, 1730 H Street, N.W., on January 23, 1978, by William Ryan and James Fitzgerald. Thompson advised that his present position was that of Technical Assistant to Commissioner Bradford and that he had occupied this position since November 1977 and that he had been employed by AEC/NRC since October 1972. Prior to joining Bradford's staff he had occupied the position of Technical Assistant to Lee Gossick beginning on July 11, 1977. Prior to that time he had been a Technical Assistant to Chairman Rowden beginning in March 1976. Thompson said that before this he had been a member of the Program Support Branch, Office of Nuclear Reactor Regulation.

Thompson stated that while on the staff of Chairman Rowden he had a discussion with John Austin or Bryan Eagle on safeguards issues and was made aware that a briefing of Commission personnel by ERDA and the CIA had been held in early 1976 although no details had been passed on to him.

Thompson said that in July 1977, along with Bernard Snyder and C.W. Reamer, he assisted in the preparation of Lee Gossick's testimony before the Udall Committee. The substance of the testimony dealt with safeguards issues and the reassignment of James Conran within NRC. The first draft of the testimony prepared by Messrs. Snyder and Reamer was distributed to all appropriate staff offices, the Office of General Counsel, Executive Legal Director, and Roger Mattson as Chairman of the Conran Task Force. Comments from these sources, said Thompson, were sent back to him. With the assistance of Bud Evans, Snyder and Reamer, Thompson said, the comments were addressed in the revised testimony.

Thompson recalled that Henry Myers of the Udall Committee had a draft of the Gossick testimony and that he, Myers, called Mr. Gossick and said that the testimony should address the question of the adequacy of current safeguards. Because of this, said Thompson, an insert for the last page of the testimony was prepared and was delivered during the actual testimony.

Thompson advised that he had read a copy of the transcript of the press briefing given upon the release of the MUF Report and the question of a CIA report came up at the briefing. Thompson said that on the basis of the answers given at the briefing, including the answer of Clifford V. Smith, Director, Office of Nuclear Reactor Regulation, one could not conclude whether or not there was a CIA report.

Thompson said that before the release of the MUF Report that he met Bob Burnett in the hallway outside of Lee Gossick's office. He thinks that Gerry Page may have been there. Thompson asked Burnett whether NRC could make the statement in the report to the effect that there was "no evidence of a theft or diversion of a significant amount of material,"

and whether this position was consistent with the position of ERDA. Burnett told Thompson that NRC's report related only to the post 1968 period as identified on the first page of the report and that this statement was identical with a statement in the ERDA report. He further stated that had been coordinated with ERDA. There was concern on ERDA's part that if the two agencies did not have the same statement concerning this matter, it might imply that ERDA was holding back information. Mr. Thompson got the impression that ERDA was concerned that if NRC qualified the statement to apply to only the post 1968 time frame and ERDA did not similarly qualify its statement, it would appear that NRC had information which ERDA either did not know or would not disclose. Further, Mr. Burnett pointed out that if additional changes were made that they would have to be cleared with ERDA.

Thompson was asked whether the first draft of the Gossick testimony for the Udall Committee referred to the inventory difference at NUMEC, Apollo and he did not recall. Thompson said that in revising the initial draft of testimony, was revised to give Conran some credit for the safeguards matters he had raised and to track the Task Force recommendations verbatim. Thompson again pointed out that after Henry Myers had reviewed the draft and called Mr. Gossick and stated that he wanted the testimony to cover the adequacy of current safeguards. Thompson recalled that both the early draft and the completed draft of the Gossick testimony went to the Commission for review and comment.

He said that some "Q and A's were prepared to assist Mr. Gossick in getting ready for the Udall hearing. They were done by Bud Evans and other people in NMSS and coordinated with Norm Haller of IE. C.W. Reamer also prepared background information, i.e., what had been said to Representative Udall in the past on the subject. Thompson gave the package to Gossick.

Thompson recalled that before the testimony of Gossick before the Udall Committee a large meeting was held with several people present to discuss the upcoming testimony. According to Thompson's recollection, the matter of Apollo "never came out."

Thompson said that he identified the "no evidence" statement contained in the MUF Release Report to Commissioner Kennedy's office and Commissioner Gilinsky's office. The reason for highlighting this sentence was that the two Commissioners were only persons around who attended the CIA briefing on Apollo. Kennedy's office signed off on the draft. Thompson could not recall that there was any problem raised by Gilinsky's office with the draft.

Thompson was asked whether he was present at the hearings before Congressman Udall or Congressman Dingell and he said that he did not recall being at either hearing. Thompson said he was not present at the August 2, 1977, briefing of the Commission on the MUF Release Report. He stated that he had reviewed the report for Lee Gossick.

On return from the Udall hearing, Gossick said to Thompson there was a batch of questions that would have to be answered. He expressed no concern about the way he had testified or handled questions at the hearing.

Thompson recalled that sometime after the press briefing on August 4, 1977, on the MUF release report and before Mr. Gossick's testimony before the Dingell Subcommittee he had a conversation with Lee Gossick. The conversation according to Thompson, concerned what Mr. Gossick's response would be to the question of whether or not there was a CIA report which dealt with theft or diversion. Thompson suggested that they ought to have an answer for the question in case it came up, since it had been asked at the press briefing. While Thompson does not recall Mr. Gossick's answer, he does recall being satisfied that Mr. Gossick's proposed answer was reasonable under the facts as he (Thompson) understood them.

Thompson said that he understood from what Bryan Eagle had told him concerning the briefing in early 1976 by the CIA that the briefer had brought some files with him and he assumed from this that there was a CIA report on the possible theft or diversion of material.

Sometime during this period, from mid July to mid August, Thompson recalls that the question of Apollo came up and Mr. Gossick had said that he was not in a position to say anything different than what had been said in previous public statements because he had not been at the CIA briefing.

Thompson stated that at Gossick's request he helped prepare the "Q and A's" that were submitted to the Udall Committee on August 19, 1977. It was his recollection that the draft answers to the questions were provided by Clifford Smith, Director, Office of Nuclear Material Safety and Safeguards, after coordinating some responses with IE.

Thompson was questioned about the "Q and A's" that were prepared for the Udall Committee and specifically Thompson was questioned about the answer to Question 12 which related to whether any material had been diverted in the past. Thompson said that he had difficulty getting the two offices to concur in some of the responses but ultimately both offices signed off on the prepared responses.

Thompson recalled that in dealing with the question concerning evidence of theft or diversion that the emphasis in preparing the response was directed at the problem involving the inventory discrepancy at NFS Erwin, Tennessee, since that plant was within NRC's regulatory responsibility. According to Thompson there was no statement about evidence of theft or diversion in the first draft of the responses but it was put in the final draft for completeness. It was his recollection that this was done either by the Office of Inspection and Enforcement or by himself. If he had put it in, he copied it out of the MUF release which he was aware of and thought was the Commission's position.

Thompson said that in preparing the "Q and A's" that were to be submitted to the Udall Committee that he had difficulty obtaining any comments from Commissioner Gilinsky's office. Thompson said that the Office of Congressional Affairs was pressuring him to get the package out and according to Thompson he told Carl Kammerer that the only thing holding up the release was lack of concurrence from Commissioner Gilinsky's office. Thompson said that he told Kammerer this on August 19, 1976, and that Kammerer told him he would go to Gilinsky's office and try to get things moving. Thompson said that about two hours later that Paul Goldberg cleared the package of "Q and A's" including the answer to Question 12 and the package was sent out the same day. It was Thompson's recollection that this was a Friday and that either the following Monday morning or some time later that day he received a call from Cookie Ong who told him that there was a bad problem in the Udall package and said that the statement in the answer to Question 12 concerning no evidence of theft or diversion was incorrect. Ong inquired of Thompson whether Commissioner Gilinsky's office had signed off on the answers and Thompson replied that they had and suggested that Ong contact Paul Goldberg.

Thompson said that Paul Goldberg called him and said that there was a problem with the answer to Question 12 and asked if the letter had gone out yet. Thompson told him that it had gone out. Still later, according to Thompson, Ong called him with suggested new language for the answer. Thompson supplied to the interviewers a copy of the language suggested by Ong and he recalled that copies of the language were telecopied to Bud Evans and Haller. Thompson recalled that Evans and Haller approved the language suggested by Ong but stated that they preferred no change in the language of the answer to Question 12 because it would highlight a problem area. Thompson said that he raised the issue with Gossick and Gossick told him that he, Gossick, and Commissioner Gilinsky would have to get together and decide on a course of action.

Thompson noted, that as he recalled, Commissioner Kennedy's office had signed off on the revised language and indicated that in the Commissioner's view the revised language was somewhat better.

Thompson said that the first draft of the "Q and A's" had also been sent to Chairman Hendrie's office and that of Commissioner Bradford but that those offices furnished no comments. Hendrie's office declined to comment because the questions related to testimony given prior to the Chairman's appointment.

Thompson said that after the problem with the language came up that he proposed alternative language limiting the answer to Question 12 to post 1968. Thompson said that he told Gossick that there were three choices. One was to use the language which had already been used. Another was to use the language submitted by Commissioner Gilinsky's office. The third was to use the language which he, Thompson, had prepared.

According to Thompson, Gossick later met with Commissioner Gilinsky on the three alternative answers and that when Gossick returned from the meeting he told Thompson that there was no problem since Commissioner Gilinsky did not know that the letter to Congressman Udall had already gone out.

Thompson advised that since receipt of the letter from Congressman Udall to Chairman Hendrie dated November 15, 1977, he had talked with Lee Gossick about the subject matter of that letter and that he had looked at Gossick's response to Chairman Hendrie. He also indicated that he had told Gossick of his general recollection was of the events, but not in the detail of this interview.

Thompson said that in early December of 1977 he received a telephone call from Paul Goldberg who recalled that in July 1977 at the time of the MUF report review that he had told Thompson that Commissioner Gilinsky had problems with the report. Thompson, however, has no recollection of the July call. He did not recall that Gilinsky had a problem on a sentence in the MUF release. Thompson said that if he had received such a call he would have passed the information on the Fred Crane who was responsible for preparing the MUF Release Report. Thompson saw no problem with the sentence prior to August 22, 1977, because he had specifically highlighted the sentence to the offices of the two Commissioners who attended the CIA briefing and had received no indication of any problems with that sentence from their offices.

REPORT OF INTERVIEW

George W. McCorkle was interviewed by William Ryan of the Office of Inspector and Auditor and James Fitzgerald of the Office of the General Counsel at 11 a.m., January 9, 1978. Mr. McCorkle was advised of the purpose of the inquiry, including the fact that this summary of interview would be made available to the Congress.

Mr. McCorkle is Chief of the Physical Security Licensing Branch, Division of Safeguards. He has occupied this position since it was established in 1975 and performed in a similar capacity since he came to the AEC in late December 1974.

In the spring of 1976, just prior to the departure of Chairman William Anders from the Commission, he received a short project from one of his supervisors. At approximately 5:30 or 6 p.m. on a working day he received a call from either Kenneth Chapman or Ralph G. Page. He was advised to stand by for a call from Bob Tharp (ERDA) and that something would have to be brought to the attention of each of the Commissioners the following morning. At that time he was told only that it involved a sensitive matter which could not be discussed on the telephone.

At approximately 7 p.m. Bob Tharp and Sam McDowell of ERDA arrived in his office. They worked together until 10 or 10:30 p.m. drawing up a document which Mr. McCorkle understands ERDA was going to send to the White House. The document dealt with safeguards. The reason for ERDA's coordination with the NRC on the letter was Mr. Tharp's desire to make sure that it contained an accurate representation of present safeguards implementation.

Mr. McCorkle recalls that Mr. Tharp brought with him a relatively brief "digest" (about six pages) on the NUMEC problem in the 1960's. Mr. McCorkle read this document, which he recalls as containing allegations that nuclear material had been diverted from the Apollo plant and the conclusion that there was no evidence that a diversion had occurred. He further related: "The digest stated that those allegations [redacted] had been made and an exhaustive investigation had been conducted by the CIA/FBI into them, and no evidence had been developed to support such allegations." Mr. McCorkle said he read this with interest as it was the first time he had heard any of this.

The document that was composed that night was handwritten. No secretaries were available. Mr. McCorkle does not recall whether he was given a copy of this handwritten draft letter. If he had been given a copy, he would have brought it back from his trip to the Commissioners, sealed

it, marked it for Mr. Page's attention and placed it in a safe. In any event, the next day he went alone to the Commissioners. He briefed Commissioners Kennedy and Rowden individually. Commissioner Rowden, who was then Acting Chairman, told him to brief Chairman Anders. He therefore went to the Anders office and the secretary reached Chairman Anders at the State Department. The Chairman said he would drop by and did so at noon. Mr. McCorkle then briefed him. Commissioners Gilinsky and Mason were not available for the briefing. Mr. McCorkle recalls that they were out of town. He never briefed them but assumes that Chairman Rowden did so. None of the Commissioners contacted had any problem with the letter ERDA intended to send to the White House.

In brief, McCorkle advised the Commissioners that his purpose was to inform them that a letter was going to the White House from Mr. Seamans and that ERDA wanted NRC aboard; that either from the investigation digest or from information provided orally by Tharp, there had been an allegation of a diversion of material to Israel; that this matter had been investigated and the investigation indicated no evidence to support such allegations; and that the letter set forth the transition in safeguards development over the years up to current safeguards requirements.

Other than the fact that the Commissioners expressed agreement on the content of the proposed letter, Mr. McCorkle has no recollection of any substantive comments from them. After the briefings he called Mr. Tharp and related that NRC had no problems with the letter as written. He never saw a copy of any letter ERDA actually sent, although he assumes that the NRC probably did receive a copy.

Since that time Mr. McCorkle has had no further connection with the NUMEC matter. He never mentioned any of this to Lee Gossick.

REPORT OF INTERVIEW

Robert A. Erickson, Chief, Test and Evaluation Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, was interviewed at his office in the Willste Building, Silver Spring, Maryland, on January 9, 1978, by William Ryan, OIA, and James Fitzgerald, OGC. Erickson advised that he had been in his present position for approximately two months. Prior to that time, he had occupied the position of Technical Assistant to the Assistant Director for Operations and Evaluation beginning in approximately October 1975.

Erickson advised that in the spring of 1976, either May or June, Ken Chapman asked him to contact ERDA and prepare a report on the status of safeguards. Chapman informed Erickson that Chairman Anders had had a conversation with the President and this had resulted in a request for a report. Erickson was asked if the report that ultimately was prepared was a letter to Lt. General Brent Scowcroft, Assistant to the President for National Security Affairs from Alfred D. Starbird and Kenneth R. Chapman, dated July 30, 1976. He replied that it was.

Erickson stated that Chapman advised him that concerns had been expressed by the White House about safeguards. The concern was how safeguards today compared with the 60's. Erickson further stated that the report was to provide an evolutionary picture of safeguards from that time till now. Erickson observed that we have a much better system now.

In preparing the report, Erickson worked at ERDA with Len Brenner, who worked in the Division of Safeguards and Security under Harvey Lyon, and also Barry Rich. He worked more closely with Rich than Brenner.

Erickson stated that since he had only joined NRC in 1975 he knew nothing about the 60's and the inventory difference at NUMEC, Apollo, Pennsylvania. He wanted to know if there was anything there that was important to Safeguards and asked for something that would provide him with a perspective.

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He was asked if he knew where the document originated, and he replied that he did not.

Erickson said he read through the document. It was just a collection of "tid bits" and it was very raw intelligence data. "It didn't say anything about people stealing material."

Erickson later received a copy of this same document from Ralph G. Page and put it in his safe. The document bothered him because of its raw, unfinished nature and because it was about a person and was in the nature of character assassination. Because of this, he shortly after destroyed the document.

After he destroyed the document, according to Erickson, he read an article by John Fialka in the Washington Star. What was in the article about the relationships was almost exactly what was contained in the document he destroyed. Erickson further described the document as comprising a half dozen pages. "It was not a professional typing job."

Erickson had described for him a document which had been shown Ralph G. Page during his visit to the CIA with Bob Tharp of ERDA. That document was described as a 2, 3, or 4-page document that had been freshly typed. Erickson advised that he does not think the document he saw was the same document. It was his opinion that it was an earlier document.

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Erickson said that when he received the document from Ralph G. Page he told Tom Thayer about the document. He gave the document to his secretary. She put it in a folder and put it in the safe. About a month after the July 30 letter to Scowcroft, he looked in his safe and noticed that the folder containing the document was labeled "NUMEC-ISRAEL." He considered that holding on to the document was too dangerous and it served no useful purpose, so he destroyed the document.

Erickson was first asked who gave him the document; he replied that he thought it came from Barry Rich. He recalled that when Rich let him read the document he said something to the effect, "This thing is dynamite."

Erickson said the document was sensitive to him because it talked about an individual and that it was like having somebody under surveillance. It was not an original document and it contained "no bottom line as to theft or diversion." Erickson advised, that having seen the document helped him know why the White House was concerned with the preparation of the report on safeguards--the fear of a possibility, rather than knowledge of a certainty, of diversion.

Erickson could not recall if the document had any date on it. It was his opinion that the document had "negative utility" for almost any purpose. The thrust of the paper was that if you found that Shapiro had done something, you could conceivably construct reasons and methods out of the paper's information.

Erickson stated that he did not discuss the document with Lee Gossick or the Commissioners. He feels Mr. Gossick's testimony is substantially correct and he knows of no evidence of criminal behavior.

## REPORT OF INTERVIEW

Paul Goldberg was interviewed in his office at 1717 H Street, N.W., Washington, D.C. on January 17, 1978 by William Ryan of the Office of Inspector and Auditor and James Fitzgerald of the Office of the General Counsel. He was advised of the purpose of the interview and the fact that the interview summary would be made available to the Congress.

Since June 6, 1977, Mr. Goldberg has been Management Intern to Commissioner Gilinsky. Prior to assuming his present position and commencing on September 27, 1976, he was employed in the Office of Nuclear Materials Safety and Safeguards. While at NMSS, he had come across only passing references to NUMEC. He knew of no policy in addressing the subject of the NUMEC MUF, but it was not within his purview anyway. He also knew of James Conran's allegations and read Mr. Conran's report while he was there, but only had occasion to read the Task Force report after joining Mr. Gilinsky's staff in June 1977. Previously, he had the impression that categorical statements of "no evidence" ought not to be made. He considers that the only persons who might be able to make categorical statements were those who attended the CIA briefing in February 1976 which he learned about in the Conran Task Force report and Document 102 thereof. Furthermore, various people had expressed their opinions to him about what evidence there was of diversion or the likelihood of diversion ever having occurred, e.g. James Conran.

He recalls that the Secretary sent to NRC staff a memo calling for an "action plan" to implement the recommendations of the Conran Task Force. It got Commission-level attention (but elicited no comments). He noted NMSS was charged with issuing conservative operating assumptions to staff and that the NMSS action plan agreed that absolute statements about diversion with regard to MUFs should be avoided. However, it really was not focused on NUMEC.

In June and July 1977 he saw documents related to the pending MUF release. These included an early draft of the MUF release and SECY-77-268 including supplements 268A, 268B, and 268C. He also saw a set of OPE memoranda relating to meetings with ERDA and the NSC regarding efforts to make the NRC and ERDA releases compatible. He does not recall that any of these documents dealt with NUMEC or "no evidence".

Mr. Goldberg mentioned a note from Secretary Chilk to Mr. Gossick dated June 14, 1977. Mr. Goldberg called up Mr. Ong and told him to make points 3(b) and (c) and stated that this led to SECY-77-268B. He said that 3(b) and (c) were intended to deal with "that phrase," that is, the "no evidence of diversion" statement which was based on the absence of positive evidence of diversion and only low MUF's. "What I wanted to say was that low MUF's were not in themselves evidence of no diversion; that they were not evidence of anything." High, low or zero MUFs cannot be anything more than indications. In any case, he felt NRC should not make statements of that sort, even leaving MUF's out of consideration.

He also indicated that he did not like the last part of the first paragraph on page 2 of the MUF release which read "to assure itself that no diversion has occurred." Mr. Goldberg expressed dissatisfaction with this phrase because it was logically impossible to prove the negative.

Mr. Goldberg did not express on the record his dissatisfaction regarding SECY-77-268B. However, he told Mr. Ong and Mr. Crane that he had reservations about the paragraph right up to the week before the release. He was told by the staff that changes considered necessary by the Commissioners could be made and considering that Commission approval was sought for the release, that they could be made following the August 2 briefing. But then staff said all that could be done was to issue an "errata" sheet.

Hugh Thompson had pointed out the "no evidence" statement at the top of page 2 of the release. Mr. Goldberg agreed that he, Goldberg, should talk to Mr. Gilinsky about it. He asked Mr. Thompson why he had pointed this out and Thompson said that Commissioner Gilinsky is privy to some knowledge that the rest of the Commission just did not have. Mr. Goldberg had not discussed the sentence with Mr. Gilinsky before he went to California on July 21, 1977. The Commissioner did not have a copy of it out there.

In the July 21-23 time frame Mr. Goldberg spoke with Mr. Gilinsky. He then told Mr. Crane that the Gilinsky office had problems with the paragraph at the top of page 2 of the release and with the "no evidence" statement. He spelled the problems out specifically for Mr. Crane one time and more generally on another occasion in the context of forwarding several comments. "I said that we had strong reservations about the wording and suggested also that they might include some expression of the idea that NRC's safeguards program, and the low MUFs, and the lack of positive evidence of diversion do not prove that significant amounts have not been stolen." You have to counterbalance the 'no evidence' statement in some fashion. I also suggested this to Commissioner Gilinsky." He also told Hugh Thompson and probably Cookie Ong the same thing. A couple of days later he spoke again to Mr. Gilinsky who said that Mr. Goldberg had better not spread that (the problem) too much because of security. In other words, he was cautioned to be discreet.

Mr. Goldberg focused on the July 26, 1977 Pedersen memo forwarding comments on the MUF release. He said that by that time he had specifically told Mr. Ong that he had a problem with "no evidence" and also the second part of the paragraph. Mr. Goldberg said that the absence of these comments from the Pedersen memo may have resulted either from a failure to communicate or a conscious choice by Mr. Ong. Mr. Goldberg noted their omission on July 26 when he got the memo, but since he had already given the comments to Fred Crane, he saw no need to put them in writing. Those comments of Mr. Gilinsky's which were expressed in the Pedersen memo were not adequately dealt with according to Mr. Goldberg. He did not deal directly with Mr. Gossick at this time.

Mr. Goldberg attended the August 2 briefing. He recalls Mr. Gilinsky making the point that the "no evidence" statement did not belong in the release, but he did not insist on the point in the open meeting. Mr. Gilinsky said the statement was appropriate for the period after 1968. Mr. Goldberg recalls that Mr. Burnett said that the document dealt with the post-1968 period. Mr. Goldberg stated that a Chilk memorandum dated August 4 stated that the change requested by Commissioner Gilinsky to the press release was made.

He does not recall Mr. Crane speaking at the meeting. However, he did have a conversation with Messrs. Crane, Ong, and Altman and Claudia Stetler at the elevators after this briefing. Mr. Goldberg told Crane that he was disappointed because he thought that changes could be made along the way. Mr. Crane said that he disagreed with the Goldberg/Gilinsky changes, that the sentence should not be taken out, and that it was accurate.

Mr. Goldberg concluded that it was out of his hands because the Commissioners were closeted with Burnett, Smith and Gossick, and the press release was going to be changed. Mr. Gilinsky had gotten agreement in the meeting that this was going to be done. Mr. Goldberg told Mr. Crane that he thought the statement was valid for the post-1968 period and offered "no conclusive evidence" as a possibility for an errata sheet. Other modifiers including "physical," "direct," "hard," and "positive" were mentioned.

Mr. Goldberg and Mr. Gilinsky felt that an errata sheet would just flag the problem and would not serve the purpose.

Mr. Goldberg said that the questions and answers sent to Rep. Udall on August 19, 1977 were circulated but as far as he can recall he did not focus on the "no evidence" phrase in the answer to Question 12 until it was called to his attention by Mr. Ong on August 22. At that time, he told Commissioner Gilinsky about the phrase and presented Mr. Ong's proposed correction which was to be sent to Representative Udall to replace the sentence in question (the letter was sent August 19). The correction was rapidfaxed to Hugh Thompson that day. Commissioner Gilinsky later told Mr. Goldberg that he had agreed with Mr. Gossick to let the matter drop as far as this specific letter was concerned and they had agreed to make appropriate corrections in all subsequent communications with Representative Udall. He also believes that Mr. Gossick's prepared testimony before the Udall and Dingell subcommittees was circulated.

Since August, Mr. Goldberg has not had any conversations with Mr. Gossick or the Staff on this matter.

## REPORT OF INTERVIEW

Benjamin Huberman was interviewed in his office in the Executive Office Building at 3:00 p.m. on January 31, 1978 by Jerome Nelson and James Fitzgerald of the Office of the General Counsel and William Ryan of the Office of the Inspector and Auditor. He was advised of the purpose of the interview and the fact that a summary of the interview would be made available to the Congress.

He came to the Nuclear Regulatory Commission in March of 1975 as Director of the Office of Policy Evaluation and departed in May 1977. He is now Assistant Director for National Security, International and Space Affairs, Office of Science and Technology Policy, and, jointly, Senior Advisor for Technical Affairs on the NSC staff. Before joining the NRC he was Deputy Director of the Office of Program Analysis Staff of the National Security Council for 2 years and with the Arms Control and Disarmament Agency for over 6 years. Prior to that, he was in the Navy, serving on Admiral Rickover's staff for 5 years.

He recalls that in 1975 the question of possible theft or diversion of nuclear material came up frequently in connection with GESMO, the Smiley siting study, and the work Henry Myers was doing on the Federal Guard Force proposal. He does not recall being aware of the NUMEC MUF's of the 1960's at that time. It was not until early in 1976, perhaps in connection with other incidents of the Erwin facility or in connection with the CIA briefing, that he first became aware of the NUMEC MUF data.

He recalls the briefings of February 1976 -- first the CIA's, and then ERDA's. Regarding the CIA briefing, he had been told it dealt with sensitive matters and that he was the only person from his office who would be allowed to attend. It was held in the Chairman's conference room. He thought that Bryan Eagle told him of the meeting about 2 days before it was held. He had no advance information and was surprised about the subject of the briefing when it began. Mr. Duckett from the CIA was there as well as the five Commissioners and Messrs. Strauss, Eagle, Chapman, and Builder. He does not remember John Davis being in attendance. He was very surprised to see that Mr. Gossick was not there. On various occasions he commented to two Chairmen, Anders and Rowden, on the management of the Commission with regard to Mr. Gossick. "It was atrocious. I criticized the five Commissioners for this without qualification. They treated him, Gossick, unconscionably. If he had been at the briefing, he would not have been so poorly informed. He was excluded from sessions such as this because, in Huberman's opinion, they treated him as a "second-class citizen" and could not resolve in their own mind, the role of the EDO.

He recalls no package of materials being offered by Mr. Duckett. If there was anything tendered, he believes he would have seen it. He, therefore, believes nothing was offered. Mr. Duckett might have said he had some materials with him. He does not recall any mention of inadequate storage facilities. Mr. Huberman recalled something to the effect that Helms had gone either to President Johnson or the FBI and that they had been turned off.

Mr. Huberman addressed the subject matter of the briefing. There were indications, but not proof as he recalls, that the NUMEC material had been diverted from the plant to Israel. He believes Mr. Duckett said that "there was strong circumstantial evidence that diversion had occurred but no proof."

Mr. Huberman recalled asking Mr. Duckett whether he had any physical proof that the NUMEC material went to Israel. The answer was "no."

The CIA or FBI or the Attorney General had gone to President Johnson with the information and was told to "lay off." This could have been for many reasons. As far as he knew, the Commission did not ask any questions on this. He was surprised that Mr. Duckett said this to the NRC. In Mr. Huberman's opinion, it should not have been stated. It demonstrated a great lack of judgment. Mr. Huberman mentioned this to Mr. Anders afterwards. He recalls that Mr. Duckett said the information was closely held, but does not recall whether any mention was made about a difference of views in the intelligence community. As far as he recalled, there was no wrap-up by either Mr. Duckett or the NRC, although the Commissioners could certainly have met privately after the meeting.

Mr. Huberman recalled that Mr. Duckett appeared somewhat ill at ease. Upon questioning, Huberman thought this impression was created because of certain mannerisms, such as continual smoking, but he was not sure on this. He has had the occasion to observe Mr. Duckett on previous occasions. Mr. Duckett was not particularly articulate on this occasion, as far as he could recall.

After the briefing he mentioned to one of the Commissioners his surprise at Mr. Duckett mentioning the political aspect to the NRC group and probably something was said about there being too many rumors or too much chitchat, too much dependence on chitchat. He never discussed the briefing with Mr. Gossick because of the security aspects. No one ever said do not discuss this with Mr. Gossick, but he thought that either Mr. Duckett or Mr. Anders said -- or should have said -- not to discuss it with anyone else in the Commission. He never had a substantive discussion of the matter with anyone as far as he could recall.

Huberman was asked if he had discussed this issue with Henry Myers, whom he had mentioned. He said he had not, even though he and Myers were old friends. He was asked whether there was any animosity between Myers and Gossick or any sign of vendetta. Huberman said Myers had never complained to him about Gossick, despite many opportunities to do so.

Mr. Huberman is not sure that any policy flowed from the briefing, but after it he personally was definitely more conscious of the insider threat potential in his own work. However, this was not the first time that he had come across the insider scenario. In a study he was involved in while at ACDA, Russ Wishow had told him about a study in which the diversion path they assumed had a tube to the plant manager's office for syphoning of plutonium nitrate in a chemical reprocessing plant.

He recalls no hedge placed on public statements. Either of two statements would be accurate -- (1) "We have no evidence that a theft or diversion has actually taken place," or (2) "We have circumstantial evidence that a theft or diversion might have taken place." E

Mr. Huberman again addressed Mr. Gossick's non-attendance at the briefings. He indicated that he, Huberman, had complained to at least some of the Commissioners about the cutting out of Mr. Gossick from important matters. Chairman Anders agreed to remedy this on particular occasions. He also raised the role of the EDO generally with the other Commissioners. He does not believe that despite many discussions on these subjects they ever resolved key questions such as whether the EDO was the Commission's man on the staff or the staff's man on the Commission. The Commissioners had a habit of dealing directly with Office Directors, especially Kenneth Chapman and Ben Rusche. While he did not recall talking to

the Commissioners about Mr. Gossick's omission from the CIA/ERDA briefings, Mr. Huberman considers this to be the most blatant instance of cutting out Mr. Gossick. He said he would feel this way even if nothing ever happened to focus attention on Mr. Gossick's absence from the briefings -- i.e. the Udall and Dingell testimony.

Mr. Huberman recalls that either Mr. Anders or Mr. Kennedy went to the White House after the briefing to tell General Scowcroft what they had heard, since the information had political as well as substantial aspects.

When he left NRC, Mr. Huberman did not fill in his successor Kenneth Pedersen on the briefings nor did it occur to him to do so. He believes that in any event the appropriate channel for passing on the information as new personnel came aboard would be from Chairman to Chairman, and that the CIA briefing should be obtained for key new personnel.

Paragraph 8 of Document 102 to the Conran Task Force Report was read to Mr. Huberman. He was asked what qualifications referred to in Document 102 to "no evidence" statements were made by the Commission after the briefing. He stated he was unaware of any qualifications but that it could have been something like "diversions were conceivable" or "diversions might have occurred." In his recollection, there was no conscious "welshing" on statements and no guidance or discussion about proper phrasing of such statements.

In his OSTP hat, Huberman sat in on some of the briefings at the White House on the MUF releases. His main concern was that both NRC and ERDA releases utilize the same numbers and recalls that this problem was remedied. He was unaware of any NSC blessing on a "no evidence" statement.

In recent months Mr. Huberman has had no substantive discussions with any of the attendees at the February 1976 briefings or with Mr. Gossick on the subject of Apollo/NUMEC. Mr. Huberman was asked whether he was aware of any previous explicit guidance to the staff of NRC on how they should address the question about theft or diversion and he said he did not recall such guidance, except insofar as it was implicit in Commission comments or guidance on such items as GESMO, MUF problems, and the Federal Guard Force Study.

## REPORT OF INTERVIEW

Long D. Y. "Cookie" Ong was interviewed by William Ryan of the Office of Inspector and Auditor and James Fitzgerald of the Office of the General Counsel in his office at 1717 H Street, N.W.; Washington, D.C., at 1:00 p.m. on January 23, 1978. Mr. Ong was told of the purpose of the interview and that the summary of the interview would be made available to the Congress.

Mr. Ong is a Policy Analyst with the Office of Policy Evaluation, a position he has occupied since November 7, 1976. Immediately prior to this he was a member of the Office of the Executive Director for Operations for 1 1/2 years as a mathematical statistician. He has been an employee of NRC/AEC since 1958. He was transferred from the General Manager to Regulatory staff in 1968. Since January 1968 he has been involved with safeguards and considers himself an expert on safeguards, especially MUF.

The AEC Office of Safeguards and Materials Management was established in 1967 under the General Manager. Later, in 1967 the Regulatory Staff had the Division of Nuclear Material Safeguards with a very small staff located at Headquarters and personnel in three safeguards districts. The duty of the division was to develop and implement all safeguards as is done today essentially by the Office of Nuclear Material Safety and Safeguards, NRR, OSD, and the Office of Inspection and Enforcement.

Mr. Ong was aware of the MUF experienced by the NUMEC facility back in the 1960's but knew of no external intelligence information on it until the time of the MUF release in 1977. The MUF occurred before any safeguards controls existed. The loss was attributed much to a failure to reconcile physical inventories for unmeasured discards, which tended to inflate the MUF over an extended period of time. To him a MUF means that one does not know the whereabouts of the material and therefore, there is a need of an investigation to look into it. He knew of the AEC survey under Mr. Doug George in 1966 into the NUMEC MUF. It involved mainly a reinventorying and examination of contractual obligations and the mixing of process lines. Mr. Ong finds it strange that people are excited about the NUMEC discrepancy of 1966 which occurred when there were no controls, when on the other hand, the Erwin facility experienced a big MUF in 1969 while under controls.

In his view a large MUF indicates the possibility of a diversion. He repeated that he had never heard of any intelligence such as CIA or FBI reports on NUMEC. All staff members he has contacted have had no knowledge of any outside information. If there was hard evidence of diversion at NUMEC, the AEC safeguards staff that was short-changed on manpower would have jumped at the justification for more manpower. Up to recently, he

held no opinion on whether there were diversions, but was always uneasy about both NUMEC and Erwin. He recalls that a 1970 investigation on Erwin was so intense that airborne surveillance instrumentation was used to scan the area surrounding the NFS plant for signs of high enriched uranium that might have been diverted.

He believes Commissioner Gilinsky's uneasiness has to do with highly sensitive intelligence information about NUMEC. Mr. Ong's uneasiness, however, is from a technical standpoint regarding materials control and accounting especially plant shut-down criteria and the nature of investigations that are carried out following large MUFs.

Commissioner Gilinsky had personal information which caused him to be very concerned about broad statements about no evidence of diversion. Mr. Ong said he did not know this absolutely. He was bothered that Mr. Gilinsky was concerned, but Paul Goldberg, the Commissioner's Assistant, could not explain what his concern was.

Mr. Ong got an impression there was something he did not know about from the questioning of Mr. Burnham, a reporter, at the press briefing on the MUF release. He asked a question of each panelist about a CIA "report."

In earlier times Mr. Ong related there generally speaking was a policy addressing the issue of diversion -- that NRC/AEC was not aware of any significant diversions. Staff was thinking of hard evidence, and did not include any information from outside intelligence. He cannot specifically recall any particular place where the statement was made. The Rosenbaum Report in 1974 may have had some such a statement. Mr. Ong got his impression of the policy from speech writing and writing staff papers. "We would usually say something to the effect that no diversion had been detected." Statements like this were never called into question, as far as he knows.

In preparation for the MUF release which occurred on August 4, 1977, Mr. Ong had occasion to attend a meeting in June 1977 at the NSC with representatives of ERDA and the NSC staff. He does not recall any discussion at that meeting of a "no evidence" statement, but NUMEC was mentioned in the general context of MUF. He also attended another meeting in June 1977 at ERDA in Germantown, Md. He was in the company of Fred Crane and William Altman of NMSS. ERDA representatives included Len Brenner. They went over ERDA's plans on MUF release. It was an ERDA task force meeting on how they were handling their release. There was no mention of either a "no evidence" statement or 1966 events at NUMEC. They talked about if there was a release, it should be on a Thursday, and that it was up to ERDA to discuss the pre-68 figures. Any pressure to release on August 4, 1977, was not from the Commissioners.

Addressing the sentence in NRC's MUF release at the top of page 2 to the effect that there is no evidence that there ever has been a diversion, Mr. Ong said he did not know how it got into the text of the release. Something similar had been in the Q and A's of SECY 77-268.

Mr. Ong had prepared a chronology of his actions from about July 21, 1977 through early August 1977. A copy of this paper in final form is attached to this summary. He vouched for its accuracy in terms of best recall and therefore was only asked supplemental questions by the interviewers. OPE sent in comments on the draft release on July 26, 1977. They included both OPE's and the Commissioners comments. Later he said that was his understanding that Mr. Gilinsky offered additional comments directly to the staff on or after July 26. He does not know the thrust of these comments. Commissioner Gilinsky had a very important comment that might require a change in the report. Mr. Goldberg thought Mr. Gilinsky might suggest a change to the release. Mr. Ong had an inkling of what might be the problem - that it had something to do with the page containing the "no evidence" paragraph. Indeed, he had discussed with William Altman his individual taste to change "no evidence" to "insufficient evidence" entirely on statistical grounds. The staff knew there was a comment coming but they did not appear to know what it was specifically.

For Mr. Ong, August 2, 1977, the briefing date, was the day of enlightenment. "Prior to that time, I didn't know what the problem was" specifically. At the big briefing, which had a large staff audience, Mr. Gilinsky wanted to voice his specific concern. Dr. Clifford Smith, backed up by Mr. Gossick, said any changes would be too late. Mr. Gilinsky said something like "Do you mean whatever I have to say is irrelevant?" He said he would discuss this further at a subsequent meeting with fewer attendees. At that point many of the attendees, Mr. Ong included, were asked to leave. Only those with a need to know remained. Mr. Kenneth Pederson, Director of OPE, remained. Mr. Pederson later told Mr. Ong that Commissioner Gilinsky wanted the modifier "conclusive" part in the "no evidence" statement. And that it had something to do with NUMEC. Mr. Ong was first aware of this desire within an hour before the briefing when Mr. Goldberg told him that they wanted this specific change.

Later, Mr. Ong asked Mr. Goldberg why he had not told him that the addition of a word to the release was all he wanted. Mr. Goldberg said that it was because it was so highly sensitive and that "no conclusive evidence" was not necessarily the best solution. As recently as a week ago, Mr. Goldberg told Mr. Ong that the reason they did not tell him of the change was because it had something to do with the sensitivity due to the Apollo/NUMEC connection but that, in retrospect, Mr. Ong was inadvertently not told specifically and should have been. According to

Mr. Ong, if Mr. Goldberg tried to convey anything specific to him he failed. Any comments he received he would have forwarded to the staff. He does not require a reason. Commissioners, of course, do not have to justify their comments to him.

At no time did Mr. Ong have any direct conversations with Mr. Gossick. On the MUF release, he spoke to Mr. Crane and Mr. Altman of NMSS. Later, when commenting on the "Q and A's" sent by Mr. Gossick to Mr. Udall on August 19, 1977, he only went through Hugh Thompson, an assistant to Mr. Gossick. However, on August 22, 1977, Mr. Ong observed that the answer to question 12 had a "no evidence" statement that had apparently not been in earlier drafts. In light of Mr. Gilinsky's previous concerns, Mr. Ong noted the statement to Hugh Thompson. He then went to Paul Goldberg and the Commissioner to note the answer that had been sent. They sat down and wrote out two alternative sentences, and Mr. Goldberg rapidfaxed them out to Mr. Thompson. Commissioner Kennedy concurred in the suggested change. Mr. Ong later urged Mr. Thompson to convey to Mr. Gossick that this was an important point being made by the Commissioners. Moreover, in Mr. Ong's opinion, it was never too late to make an important clarification. On or about August 26, Mr. Thompson said something to the effect that to change the answer then would focus on it and cause more problems than it would eliminate.

1. Thursday, July 21

The staff submitted a "Commissioner Action" paper (SECY-77-268C, CONFIDENTIAL, cover memorandum attached) with a statement of purpose, "To obtain Commission approval to release the report of inventory difference data to the public." The discussion section stated, "The date of release is scheduled for Thursday, August 4, 1977, subject to Commission approval of the proposed report (underlined for emphasis). Forwarding notation requested Commission comments by COB, Monday, July 25. It is important to note that Commissioner Gilinsky never approved the proposed report.

2. Friday, July 22

Fred Crane had been designated by Cliff Smith and Lee Gossick as the staff contact for SECY-77-268C. Fred, however, was on annual leave from July 21 through July 25. Bill Altman, who was acting for him, came to my office on July 22 to discuss the Commission Action paper that had been submitted the previous day. I noted to him that, in my opinion, the staff had not allowed the Commissioners much time--only four days--to comment on such a major and complex action item. It appeared that substantial changes had been made from the May 27, 1977 version (SECY-77-268). Moreover, Commissioner Gilinsky already was on travel to California and did not expect to return until August 1. I further noted, for example, that the first paragraph on page 2 of the current issue was a noticeable addition to the text. The last paragraph on page 2 of the May version had stated,

"It is important to view the contents of this document in their entirety and to avoid misleading interpretations based on the tables alone... Although inventory discrepancy analysis is a tool used by NRC and its licensees for indication of processing problems and/or possible theft of nuclear material, inventory discrepancies arise naturally in nuclear material processing and are not, in and of themselves, evidence of lost or stolen material. NRC and its licensees investigate significant inventory discrepancies... It is also important to recognize that a licensee's material accounting system, of which inventory discrepancy data comprises a small part, is in itself only one component of the total overlapping safeguards system used to protect, control, process, and account for nuclear material."

That statement remained essentially the same, viz.,

"It is important to understand the contents of this report as they relate to the NRC safeguards program. Inventory differences arise naturally when nuclear or non-nuclear material is processed (particularly when chemical operations are involved). These differences are not, in and of themselves, evidence of lost or stolen material. On the other hand, inventory difference data provide valuable information for the NRC safeguards program. Inventory difference analysis is one of the tools used by NRC and the licensed industry

to look for processing problems, for bookkeeping problems and for the possible theft of nuclear material. NRC and the licensees investigate significant inventory differences; and if necessary a licensee's operation may be shut down until an inventory difference is resolved. However, this is only one of many steps taken to safeguard SNM. A material accounting system, of which inventory difference analysis comprises a small part, is itself only one component of a comprehensive, multi-layered safeguards system used to protect, control, process, and account for nuclear material."

However, it was now supplemented at the top of page 2 with:

"The Nuclear Regulatory Commission has no evidence that any significant amount of strategic SNM has ever been stolen or diverted. However, because perfect measurement of nuclear material is impossible, There will always be uncertainty associated with accounting data, and accounting data alone cannot show with absolute certainty that theft has not occurred. Therefore, the NRC relies on a safeguards system that emphasizes stringent physical security and material control measures to gain greater assurance that material stays in authorized areas. It is this total integrated safeguards system, coupled with investigations of inventory differences and other safeguards events that the NRC uses to protect nuclear material and to assure itself that no theft of significant amounts of SNM has occurred."

As an aside, voicing strictly my individual opinion as statistician, I suggested changing "no evidence" to "insufficient evidence" in the first sentence. My point was that statisticians, in concluding that a MUF is not significant, commonly use a rigorous statement of assurance, e.g., "At the prescribed level of significance, there was insufficient evidence to reject the null hypothesis that MUF is zero. However, we are concluding that MUF is not significantly different from zero at a risk of accepting an alternative hypothesis." This is not unlike a coroner's inquest, following a reported death. In reaching a decision whether the deceased has been a victim of foul play, the inquest process runs the risk of concluding either that a crime had been committed, when none had; or that a crime had not been committed when one had. In a decision that no crime has occurred, the inquest is essentially concluding that there was insufficient evidence submitted to reject the null hypothesis of no foul play while accepting a chance of not recognizing a crime. My individual concern, however, was considered by Bill as substantive in a rigorously statistical sense, but counter-productive to the release's apparent basic objective to inform the public as clearly and simply as possible. Furthermore, the first sentence was already qualified to some extent with uncertainty considerations since the second sentence began with the word "However,". Bill pointed out that the meaning of the sentence was intended to be in the context of the paragraph preceding it and concerning the function and limitations of inventory differences, in perspective to the first two sentences of the proposed report, viz.,

"This is the Nuclear Regulatory Commission's (NRC) first periodic report of information concerning accounting for special nuclear material (SNM)\* in the licensed sector of the nuclear industry. The information presented here covers the operation of major licensed nuclear fuel manufacturers and research laboratories processing significant quantities of strategic SNM\* between January 1, 1968 and September 30, 1976." (Underlined for emphasis.)

### 3. Tuesday, July 26

A memorandum was sent from Ken Pedersen to Lee Gossick, enclosing comments available from Commissioner Kennedy, Commissioner Gilinsky and OPE (attached). (It was actually signed after COB, July 25, and I hand-delivered a copy to Tom Thayer (NMSS) after 7:00 p.m., July 25.) The first specific comment was provided by Commissioner Gilinsky's office, conveying that it was incorrect to imply that safeguards could "show with absolute certainty that theft has not occurred" (underlined for emphasis). I considered the sixth general comment, calling for a staff briefing of the Commissioners on August 2, especially important, since the staff paper explicitly stated that the release would be "subject to Commission approval of the proposed report."

### 4. Thursday, July 28

Fred Crane told me that the staff was addressing all comments forwarded by the OPE memo of July 26. Fred also said that they were addressing "add-on" comments that had been received directly from Commissioner Gilinsky's office since July 26. He did not elaborate on the substance of the comments. In all discussions with the staff that was preparing the release package, I emphasized the need to be prepared to accommodate other Commissioner comments that might arise up to and in the August 2 briefing. Much of our discussion centered on the first specific comment of the OPE memo, which the staff considered substantive. Both Crane and Altman believed the appropriate resolution would be the deletion of the word "absolute." Their overall position was that the contents of the proposed document should be viewed in the entirety of the proposed report instead of possibly misinterpreting isolated statements. They thought that the intent of uncertainty statements in the document was to avoid any mistaken belief that any safeguards system could be sure to detect the diversion or theft of a significant amount of SNM.

### 4. Friday, July 29

Fred Crane told me that Paul Goldberg had notified him that Commissioner Gilinsky might want certain changes made; however, Fred said that Paul was not specific what the problem might be--only that Commissioner Gilinsky might want to have a change made at the time of the August 2 meeting.

Paul Goldberg confirmed this to me but was not clear as to exactly what Commissioner Gilinsky's concerns were, and, in turn, what specific change(s) would be requested. What seemed abundantly clear was that Commissioner Gilinsky had a deep concern about certain statements in or in the vicinity of the first paragraph of the second page. Moreover, we could expect Commissioner Gilinsky to express his specific concern and request detailed changes at the August 2 briefing. In subsequent phone calls to the staff, I emphasized that they should be prepared to accommodate some important changes in wording of the report--apparently on page 2--to be requested by Commissioner Gilinsky on August 2. They said that changes were becoming more difficult to make "logistically" but that they would do their best. They never said that it would be impossible. I advised them that they and their management should identify the options available to make changes physically, i.e., the logistical options for the printing and issuance of errata sheets or the complete replacement of a page or pages.

5. Monday, August 1

I tried reaching Crane, Altman, Gerry Page, Tom Thayer and Bob Burnette to inquire what arrangements were being made to make any "last minute" changes that might arise in the briefing the next day. Claudia Stetler said that just about everyone who had anything to do with the release was out briefing someone, e.g., the Congress or State delegations. She also said that Bob Erickson was coordinating printing and distribution efforts. I then called Hugh McVeagh (Chief, Publications and Graphics Branch, DDC, ADM) to inquire whether any printing arrangements had been made by the staff to handle possible last minute changes that could arise the next day. He said no, but that he would schedule a standby printing crew for the evening of August 2. Bob Erickson returned my call around COB. I asked what thought had been given about making last minute changes that would likely be requested the next day. His reply was essentially that they would address that problem if and when it arose. I then called Hugh McVeagh to release his August 2 standby crew.

6. Tuesday, August 2

Shortly before the briefing, Paul Goldberg told me that Commissioner Gilinsky simply wanted "no evidence" changed to "no conclusive evidence" --at least as an alternative solution for satisfying his concern. I thought that the purpose of deleting the word "absolute" in the sentence that followed was to qualify the "no evidence" first sentence and the "no theft" fourth sentence. Nonetheless, since I had independently questioned the same words on the basis of rigorous, statistical hypothesis testing, I thought that it would be helpful clarification and a simple change that would be readily accommodated.

Early in the briefing, Commissioner Gilinsky said that he wished to comment on the content of the report. Cliff Smith and Lee Gossick replied that the report had already been printed, and that the release process was too far

along to make any changes at that time. Commissioner Gilinsky asked whether that meant that whatever he had to say would be irrelevant. The answer was positive. The staff said that all comments that had been received from the Commissioners and OPE had been accommodated. Commissioner Kennedy confirmed that all of his comments had been addressed satisfactorily. Ken Pedersen said that he had been told by his staff that all comments forwarded by the OPE memo of July 26 had been addressed. At that time I passed to Ken my copy of the report I had just marked up with "no evidence" changed to "no conclusive evidence." Commissioner Gilinsky then asked that this point be discussed in a meeting with fewer attendees shortly after the briefing. I did not attend that subsequent meeting but have since been informed that Commissioner Gilinsky voiced his "no conclusive evidence" concern then to Commissioner Kennedy and key staff--including Lee Gossick--who had a definite need-to-know. After the subsequent meeting, Ken Pedersen told me three things:

1. Commissioner Gilinsky's specific concern had some connection with Apollo. Ken, however, did not know what it was.
2. Cliff Smith and Lee Gossick had agreed to qualify the "no evidence" statement in the press release.
3. Commissioner Gilinsky, nevertheless, might not concur in the inventory difference report.

(In retrospect, it is apparent that Commissioner Gilinsky's concern, to a large degree, was related to his knowledge of intelligence information pertaining to the control and accounting of SNM at the NUMEC facility in Apollo, Pennsylvania prior to 1968. Apparently, he wanted to bring to the staff's attention shortcomings of broad categorical statements about no evidence of diversion, in light of other information.)

Later in the briefing, I called Bob Burnette and Fred Crane outside to ask them why they couldn't make what seemed to be such a simple change--amounting seemingly to one word. They said that Paul Goldberg had also informed them about the specific word change request just prior to the briefing. They furthermore said that if that point had been raised earlier, it would have been rejected for the same reason that Dr. James Schlesinger's request was for "no direct evidence." That was the first time that Dr. Schlesinger's "no direct evidence" point had been conveyed to me. I was completely surprised since I had argued earlier for "insufficient evidence" on entirely different grounds. Moreover, last July my request to accompany the staff in a meeting between NRC, ERDA and Dr. Schlesinger at the latter's office had been denied--in spite of a subsequent call by Ken Pedersen asking Cliff Smith to reconsider. The only word that we got back on that meeting from the staff was that in effect, we "didn't miss much." Neither my attendance nor whether Dr. Schlesinger voiced his "no direct evidence" point at that meeting is really important. What is important is that, in my opinion, no matter when such a point was

raised explicitly by such a prominent source as Dr. Schlesinger, it should have been brought to the attention of the Commissioners before August 2-- especially since the first specific comment of the OPE memorandum of July 26, which was provided by Commissioner Gilinsky's office, focused on that paragraph as being too strong.

Except for changing "significant evidence" to "direct evidence," the attached draft memorandum, which was written by me on November 21, was partially forwarded to the Commission by Bernie Snyder on December 9. It elaborates on the above and describes subsequent events that I believe are pertinent.

I wish to note the following:

- a. On the morning of Monday, August 22, the OPE copy of Lee Gossick's letter of August 19 was routed to me. I shortly spotted the "no evidence of diversion" statement and immediately called Hugh Thompson, who was assisting Lee Gossick in EDO. I noted to him that Commissioner Gilinsky had argued vigorously against that same type of broad statement less than three weeks ago. However, Hugh said that the letter had already been mailed.
- b. I immediately brought this matter to the attention of Paul Goldberg and Commissioner Gilinsky and helped the Commissioner draft two sentences to more clearly convey NRC's position pertaining to Question 12. Commissioner Gilinsky's office later that day "rapifaxed" the suggested clarification to Lee Gossick.
- c. The attachments to my draft memorandum of November 21 were not forwarded to the Commission on December 9. Two notations in the attachments are important:
  - (i) The staff worked the suggested clarification rapifaxed on August 22 into the answer to Question 12, identifying it in the margin as "V.G.'s replacement."
  - (ii) It was apparently brought to Lee Gossick's attention, and he considered it a "dead issue" on August 26, based on his discussion of the matter with Commissioner Gilinsky.
- d. Question 12 asked, "How much confidence do we have that materials have not been diverted in the past?...What confidence do we have that in light of lax perimeter security at Erwin that materials were not diverted in the past?" I and others who were on the regulatory safeguards staff in 1968 were deeply concerned about the apparent marginal ability of both the NUMEC uranium facility at Apollo, Pennsylvania and the Nuclear Fuel Services facility at Erwin, Tennessee to detect a significant theft or diversion, if one occurred. Of special concern was an extremely large NUF that occurred at NFS-Erwin in the late 1960's. Page 36 of the August release reports an inventory difference of 73.7 Kgs-U-235 (highly enriched) for fiscal year 1969. The originally

reported loss value was much higher. The inventory difference was adjusted down to 73.7 Kgs following an intensive AEC investigation in 1969 that was really inconclusive in my opinion. Our special concern was that the material was in an accessible form; was very highly enriched and, therefore, readily amenable to the manufacture of a nuclear device. Moreover, the MUF in effect covered a material balance period between 1957-1968, while most of the processing occurred in the last two or three years. Although the ending physical inventory was taken in December, 1968 (I was a member of the AEC regulatory staff's inspection team witnessing it and independently verifying its accuracy), the relatively new type of process which contributed to the reported positive MUF spanned two or three years. In my opinion, any diversion of highly enriched uranium in the late 1960's could have occurred at NFS-Erwin just as well as at NUMEC-Apollo--if at all--as far as the AEC safeguards system was concerned.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

July 26, 1977

MEMORANDUM FOR: Lee V. Gossick  
Executive Director for Operations

FROM: Ken Pedersen

SUBJECT: COMMISSIONER COMMENT ON THE RELEASE OF INVENTORY  
DIFFERENCE (MUF) DATA TO THE PUBLIC (SECY-77-268C)

Enclosed are Commissioner and OPE comments on the staff's plans to release the report of inventory difference information to the public.

Enclosure:  
As stated

cc: Commissioner Gilinsky  
Commissioner Kennedy  
James Kelley  
Samuel Chilk

CONTACT:  
Cookie Ong (OPE)  
634-1727

General Comments

1. It is understood that the staff considers the investigations at B&W Apollo/Leechburg and NFS-Erwin are satisfactorily completed; therefore, FY 1976 inventory differences for these facilities are included in the release.
2. It is noted that inventory differences will not be included in the unclassified digest of the B&W task force report to be released with the package.
3. It is understood that the staff has decided that the NRC should not adjust the B&W and NFS inventory differences; therefore, present footnotes indicating possible later adjustment (as a result of the task force's findings) should be deleted and replaced with a statement to the effect that the task force has determined that specific amounts of the inventory differences for affected facilities may be explained.
4. All five licensees who replied that they consider the data to be proprietary should be notified prior to the release date that their requests have been denied by NRC.
5. The Commissioners agree with the staff's planned release date, and they should be kept fully and promptly informed about how the release will be made in terms of the schedule of events planned for briefing those having a special interest in the public report, e.g., the Congress, governors of the nine states in which high interest facilities are located, ERDA, the National Security Council and the press. Close coordination with OPA, OCA, and OPE should be continued.
6. The staff should be prepared to brief the Commissioners on both the

status of the release package and the NRC task force report (SECY-77-386) on August 2.

Specific Comments

1. Page 2, paragraph 1, second and third sentences -- These sentences incorrectly imply that material accounting together with stringent physical security and material control measures do show with absolute certainty that theft has not occurred. Clarify.
2. Page 4, paragraph 2, first sentence. Change "definite" to "apparent".
3. Page 7, summary paragraph, last sentence. Bimonthly inventories are also required for uranium-233.
4. Page 7, last paragraph, second sentence. ERDA absorbed the AEC General Manager's Office, which is not necessarily the "predecessor" of ERDA.
5. Part 5, Glossary of Terms, Page 3, significant quantity of SSNM. Two kgs of uranium-233 would also constitute a significant quantity of SSNM.
6. Appendix A, last paragraph, last sentence, Delete "in absolute value".
7. Listing of FY 1976 Inventory Differences for highly enriched uranium. Change "Leechburg, VA" to "Leechburg, PA".

8. Enclosure 2, page 1, paragraph 1, first sentence. SSNM also includes uranium-233.
9. Enclosure 2, page 1, paragraph 3, third sentence. The Commissioners should be informed about any staff plans to release inventory difference information pertaining to low-enriched uranium.
10. Enclosure 2, page 2, paragraph 1, second sentence. Replace "an inventory by physical . . . hand" to "a physical inventory shows to be on hand at the end of a material balance period." Last sentence, change "based on measurements" to "subject to measurement errors."
11. Enclosure 3, page 3, paragraph 2, second sentence. Change "significant" to "strategic".



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

November 21, 1977

MEMORANDUM FOR: Chairman Hendrie  
Commissioner Gilinsky  
Commissioner Kennedy  
Commissioner Bradford

FROM: Ken Pedersen

SUBJECT: THIRD ANNUAL REPORT ON DOMESTIC SAFEGUARDS (SECY-77-585)

I recommend approval of the report, subject to the resolution of the following:

1. Clarify the second sentence of the second paragraph on the first page of the proposed joint ERDA/NRC report, viz.,

"Moreover, no evidence has been found leading to the conclusion that significant quantities of strategic SNM have been stolen, or that a black market exists for such materials."

The problem is with the meaning of the first half of that sentence. (The black market aspect could be readily incorporated in the sentence preceding it.)

In Lee Gossick's letter of August 19, 1977 to Congressman Udall (copy attached), a similar statement was made in the second sentence of his answer to the 12th question, viz.,

"Over the years, a number of large inventory differences have been investigated, and, in the course of these examinations, no evidence was found of a theft of diversion of a significant quantity of special nuclear material." H

In reviewing the proposed release of inventory difference information to the public last August, Commissioner Gilinsky expressed special concern about a similar statement in the text of the release, pertaining to no evidence of diversion. He wanted "no evidence" changed to "no conclusive evidence." Furthermore, I understand that at about the same time, Dr. Schlesinger was arguing for "no direct evidence." I am told that neither was accommodated at that time on the grounds that the release was already so far along that coordination for such a change with ERDA, NRC and NSC would be impractical. Moreover, it

CONTACT:  
Cookie Ong (OPE)  
634-1427

was felt that such a change might contribute to a misinterpretation that there was knowledge of either "inconclusive" or "indirect" evidence of diversion.

Shortly after Lee Cossick sent his letter to Congressman Udall, Commissioner Gilinsky, with the concurrence of Commissioner Kennedy (Chairman Hendrie deferred judgment on the matter to the two Commissioners who were here at the time of the release), suggested that he might wish to clarify his "no evidence of diversion" statement by replacing it with

"Since the regulatory staff assumed full responsibility for safeguarding SNM in the private sector in 1968, a number of large inventory differences have occurred. These have all been investigated, and the investigations have not supported the hypothesis that diversion has taken place."

The replacement was not made then, but the staff promised to make such a clarifying statement the first opportunity. This report, which is supposed to be delivered to President Carter by Dr. Schlesinger next week, would be a good place to do it. Our discussion with Gene Perchonok (NMSS) on Friday indicated that this point was inadvertently omitted and that the staff would want to make it in any case. Since the annual report is to be a joint effort, I agree with the NRC and ERDA staffs that an acceptable replacement would be

"No evidence has been found to indicate the existence of an imminent threat of theft or diversion of SNM, or that a black market exists for such materials. While a number of large inventory differences have occurred, these have all been investigated, and the investigations have not established that significant quantities of strategic SNM have been stolen."

2. Clarify the first sentence of the Conclusions by changing "threat levels" to "hypothetical threat levels" to avoid possible misinterpretation that NRC has determined actual threat levels.

I believe that it is important in any case to address these points in the Third Annual Report on Domestic Safeguards. Symptomatic of such a need, as I am told, is an apparent concern voiced by a member of the NMSS staff --Sidney Moglewer--in a memorandum of October 25, 1977 to Bob Burnette. I understand that he charged to some extent an NRC whitewash or coverup in regard to the inventory difference release made last August. He was reportedly concerned whether assurances of no diversion were straight-forward.

Enclosure:  
As stated

cc: Jerome Nelson  
Sam Chilk

NOTIFIED  
 ✓ TAREhm  
 ✓ HThompson  
 CA  
 SECY  
 Shapar  
 Smith  
 EDO-2336 & 2285A  
 EVolgenau  
 TMcTiernan

AUG 19 1977

The Honorable Morris K. Udall, Chairman  
 Subcommittee on Energy and the Environment  
 Committee on Interior and Insular Affairs  
 United States House of Representatives  
 Washington, D. C. 20515

Dear Mr. Chairman:

I am pleased to provide NRC's responses to the questions provided by your staff following the hearing held by your Subcommittee to address the safeguards concerns raised by Mr. James Conran. Also enclosed is our response to the additional question contained in your August 2, 1977, letter.

NRC is committed to a regulatory program that assures adequate safeguards for licensed nuclear facilities. As you know, our present program not only includes routine facility inspections with related enforcement sanctions, but also detailed site evaluations aimed at identifying potential weaknesses even where a facility meets existing license conditions. We intend to keep you fully advised as to the results of these ongoing evaluations.

I trust that the enclosed is responsive to your requests. I appreciate your continuing interest in achieving and assuring effective safeguards.

Sincerely,

(Signed) Lee V. Gossick

Lee V. Gossick  
 Executive Director  
 for Operations

Enclosure:  
 Response to Questions

*C. Vanner*

OFFICE	ACD	EDO	CA		
OPERATIONAL	HThompson:bsp	LVGossick	<i>[Signature]</i>		
DATE	8/1/77	8/1/77	8/1/77		

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RESPONSE TO QUESTIONS

Question 1: It is our understanding that teams operating under the auspices of the Division of Safeguards have performed field evaluations of the ability to protect materials at fuel facilities. Protection is supposed to be afforded against violent determined attacks by small well-armed groups. To what extent have these field evaluations found deficiencies since August 1976? Please enumerate some of these deficiencies.

Answer: The safeguards at all fuel facilities are intended to protect with high assurance, against a postulated threat comprised of a determined violent assault by several persons, with inside knowledge or assistance. The series of corrective actions imposed by the NRC on certain facilities in the Spring of 1977 brought all facilities to the above performance level. There were some variations noted in the ~~(confidence)~~ level at these facilities relative to their capabilities for meeting the external assault. As a result, the Commission directed corrective actions, including an increase in the number of guards, additional armament, and hardening or increased patrols of storage areas. Examples of other corrective actions since August 1976 include increased offsite communications capabilities and improved alarm station procedures.

*Assurance*

Question 2: Have your Test and Evaluation teams evaluated security at Babcock & Wilcox fuel facility at Apollo, Pa? If so, have you read reports of the team's evaluation? In the team's view could the security system provide protection against a determined violent assault by a small group of determined well-armed individuals who were aided by an insider?

Answer: As a result of the upgrades that occurred in the Spring of 1977 which were the results of previous site evaluations, the Babcock Wilcox facility at Apollo, Pennsylvania, is considered capable of protecting against the postulated threat identified in our answer to Question 1. This facility required upgrading to increase its capability to assure comparability to other facilities. Improvements included increase in the size of the guard force and additional armament. B&W Apollo is one of the facilities scheduled to be reexamined as part of our comprehensive evaluation program. Although the evaluation at this facility has not yet started, we expect these latest results to be available for Staff and Commission review later this year.

Question 11: How much confidence do we have that material accounting techniques will be able to detect diversion of significant quantities of nuclear materials?

Answer: The material accounting system records the quantity, location, and movement of nuclear material within a licensed facility. This system provides an alert when the inventory difference for a given inventory period exceeds preestablished limits. The material control system contains and controls the material in authorized and designated plant areas. The physical protection system provides mechanisms to detect and respond to unauthorized access and removal. When the accounting limits are exceeded for a given period, action is taken to determine the cause of the situation and to apply corrective measures.

A task force to examine the role of material control and accounting is underway and nearing completion. With regard to the detection capabilities provided by current requirements and practices, the preliminary conclusion of the task force is that, in general, 10 CFR Part 70 provisions relating to formal procedures, assignments of responsibilities, separation of duties, measurements, inventories and documentation, when considered in conjunction with the physical protection requirements of 10 CFR Part 73 for access and egress controls, provide extensive detection capabilities. We have reasonable confidence that theft or diversion of a significant quantity of strategic special nuclear material would be detected today.

Question 12: How much confidence do we have that materials have not been diverted in the past? For example, last year it was revealed that an honor system was in effect at Erwin, Tennessee, wherein employees were on their honor to check each other as they left the plant facilities. What confidence do we have that in light of lax perimeter security at Erwin that materials were not diverted in the past?

Answer: Licensees have been required to maintain accounting records for special nuclear material since the inception of the regulatory program for licensed operation. Over the years, a number of large inventory differences have been investigated and in the course of these examinations no evidence was found of a theft or diversion of a significant quantity of special nuclear material. In general, the large inventory differences were attributed to poor material measurements, unmeasured inventory, bookkeeping and reporting mistakes and operating errors.

*Since the Regulatory staff assumed full responsibility for safeguarding SNM in the private sector in 1953, a number of large inventory differences have occurred. These have all been investigated and the investigations have not supported the hypothesis that diversion has taken place.*

In the particular case cited for the plant at Erwin, Tennessee, a special NRC Task Force examined a large inventory difference involving an overage of material. The Task Force determined that the inventory difference was caused primarily by overstatement of liquid discharges. Neither this examination nor a separate investigation conducted by NRC of allegations made by a news reporter uncovered evidence of a theft or diversion of a significant quantity of special nuclear material.

The existence of the "honor system" was uncovered during the examination of the inventory difference described above. This was promptly corrected by the licensee. The screening of individuals for unauthorized SSNM prior to exiting a material handling area was but one of several detection measures used in the overall protection system at Erwin. Other surveillance and internal material control were also employed during that period.

Question 13: Can you assure us that materials at these plants cannot be diverted via the waste streams? Is there any significant staff disagreement with this conclusion?

Answer:

A conceivable mode of attempted diversion could be to illicitly obtain waste materials and clandestinely recover SNM for the waste. From a realistic and practical standpoint, waste materials have little or no attractiveness. Wastes are released because of the difficulty of recovering useful quantities of SNM, even with facilities built expressly for that purpose. In addition, a diverter would have to steal large quantities of waste even to obtain gram quantities of SNM.

Concealing attractive SNM material within a waste container was recognized long ago as a possible diversion path. As a result, procedures have been imposed which require:

1. two individuals to verify the nature of a waste container's contents just prior to sealing and tamper-safing the container.
2. two individuals to witness and verify the sealing and tamper-safing of each waste container.
3. non-destructive assay measurements of each sealed waste container which are capable of detecting both total SNM content and localized areas of high SNM concentration.
4. various other controls, such as tamper-safe seal checks (for being intact and for number verification), TV monitors, personnel access controls, etc.

Since the Regulatory staff assumed full responsibility for safeguarding SNM in the private sector in 1968, a number of large inventory differences have occurred. These have all been investigated and the investigations have not supported the hypothesis that diversion has taken place.

To: Bud Evans - NMSS

Norm Haller - IE

Fr: Hugh Thompson

The above sentences have been proposed as a replacement for the second sentence in the first paragraph ANSWER TO QUESTION 12.  
ANY COMMENTS?

Hugh

Hugh —

Gilinski's problem

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LVC  
8/16

## REPORT OF INTERVIEW

Mr. Pedersen was interviewed at 3:45 p.m. on January 30, 1978, by Mr. Nelson and Mr. Fitzgerald of OGC. He was informed of the purpose of the interview and the fact that a summary of the interview would be made available to the Congress.

Mr. Pedersen explained that he came to the AEC in July 1972. From the time the NRC was established in January 1975 until May 1975 he served as a special assistant to Chairman Anders with responsibility for staffing and organization. He then became Assistant Director of the Office of Policy Evaluation for Special Projects and has been Director of the Office of Policy Evaluation since June of 1977. Prior to assuming the position of Director he had no responsibility in the safeguards area and was not familiar with the specific issues surrounding the subject. He had taken over as Director of OPE from Mr. Benjamin Huberman, but had received no transition briefing from Mr. Huberman about the Apollo/NUMEC situation. He thus had no background in the matter and for that reason did not fully understand the significance of all that was said in the Commission meeting of August 2, 1977.

Mr. Pedersen recalls attending that meeting. Commissioners Gilinsky and Kennedy were present, as were a large number of NRC staff people. He recalls that he was seated at the table in front of the Commission as were Mr. Gossick, Mr. Smith, and Mr. Burnett. He believes that Mr. Volgenau and an OGC representative were also at the table. This meeting was to brief the Commissioners on the forthcoming release of MUF data - including the report to be issued and the public briefings which were scheduled. Mr. Pedersen explained that he had been involved in this project because OPE had played a coordinating role between the Commission and the Staff, collecting and coordinating Commissioner comments on the draft report and passing them on to the Staff.

After some general discussion of the report and staff plans for its release and related briefings, Mr. Pedersen recalls that Mr. Gilinsky asked if it were too late to make a change in the wording of the report. Mr. Pedersen remembers that someone from the Staff, probably Clifford Smith, told Mr. Gilinsky that it was too late because the draft had gone to the printer. Mr. Gilinsky asked whether he was being told that any attempt to make a change was therefore irrelevant. A Staff member stated that the Staff had already taken all Commissioner comments into account. Mr. Pedersen said that he believed that all Commissioner comments had been considered and said so at the meeting. Mr. Gilinsky said that all of his comments had not been considered and indicated that his specific concern was the "no evidence" sentence which appeared in the draft MUF report.

Mr. Pedersen then recalls that there was some discussion about this "no evidence" statement. He remembers that Mr. Smith and Mr. Gilinsky did

some talking about this statement, and further believes that Mr. Gossick also took part in this discussion. Mr. Pedersen recalls that Mr. Gilinsky said "we can't make that kind of categorical statement," or words to that effect. Mr. Pedersen could tell that Mr. Gilinsky was "uneasy" with the "no evidence" formulation.

Mr. Pedersen recalls that Mr. Smith and Mr. Gossick argued for retention of the "no evidence" language, stating that such language had been used before, that it applied only to the period from 1968, and that it had been coordinated with ERDA. They said that any change would involve stopping the presses and going back to ERDA. Mr. Pedersen recalls that Mr. Gossick took some part in this attempt to dissuade Mr. Gilinsky from seeking a change in the "no evidence" formulation.

Mr. Gilinsky indicated that he would prefer to discuss this before a smaller audience and not long thereafter it was decided to ask a number of Staff people to leave. Mr. Pedersen recalls that during the period in which Mr. Gilinsky was trying to voice his concern, Mr. Ong of his office came up to him at the table and explained to him that Mr. Gilinsky had been signaling some general dissatisfaction all week over the telephone from California to Paul Goldberg, but his precise objection had not been known to the OPE staff until about half an hour before the general briefing began. Mr. Pedersen recalls Mr. Ong saying that Mr. Gilinsky evidently wanted to insert something like the word "conclusive" before the word "evidence". Up until this time, Mr. Pedersen explained, the OPE Staff and, he believes, the Bethesda staff had only a "general notion" about Mr. Gilinsky's concern.

The meeting then continued in the Commissioner's conference room, but with a smaller group of staff in attendance. Mr. Pedersen recalls that among those remaining were Commissioners Kennedy and Gilinsky, Mr. Smith, Mr. Burnett, Mr. Gossick, and himself. He believes that Mr. Volgenau and an OGC representative were also present.

At this second portion of the Commission meeting, Mr. Gilinsky argued for changing the phrase to "no conclusive evidence" or words to that effect, explaining that based on information NRC had received, he did not feel that the Commission could make an unqualified statement like the "no evidence" formulation. Mr. Pedersen recalls that Mr. Gilinsky had a strong preference for words like "no conclusive evidence" and that Mr. Gilinsky said "we should not say no evidence" and that it "would be more accurate" to use the "no conclusive evidence" approach. Mr. Pedersen remembers that Mr. Smith, Mr. Burnett and Mr. Gossick discussed this question with Mr. Gilinsky, again arguing that the language had been used before, had been coordinated with ERDA, had gone to press, and covered only the period from 1968. Mr. Pedersen explained that this was the second time he heard a reference to "1968" and did not understand

the significance of that year. Mr. Pedersen further explained that at the time he assumed that Mr. Gilinsky's desire to use "no conclusive evidence" reflected the need to qualify the statement because of inherent accounting difficulties; because Mr. Pedersen was not aware of the Apollo/NUMEC events prior to 1968, he could not have known that Mr. Gilinsky may have been talking about the possibility of diversion from Apollo/NUMEC.

Mr. Pedersen recalls that the discussion about changing the "no evidence" sentence went "back and forth" and involved Mr. Gilinsky, Mr. Smith, Mr. Burnett, and Mr. Gossick. He recalls the discussion coming to an end with Mr. Gilinsky implying that he might not concur in release of the document. At the same time Mr. Pedersen states that at no time during the meeting did Mr. Gilinsky issue (or attempt to issue) instructions not to go forward; Mr. Gilinsky made no flat statements telling the Staff not to go ahead with the MUF report. Indeed, Mr. Pedersen believes that had there been such explicit instructions, they would have been obeyed by Mr. Smith and Mr. Gossick even absent a quorum. He can not imagine Mr. Smith and Mr. Gossick deliberately issuing the report if Mr. Gilinsky had told them not to.

Mr. Pedersen heard nothing more about the matter until the report came out. When the report finally came out -- with the "no evidence" sentence in it -- Mr. Pedersen assumed that Mr. Gilinsky had decided he could live with it.

Ultimately, Mr. Pedersen was left with the impression that "momentum" had carried the project forward. He explained that the Staff obviously wanted to go forward, that Mr. Gilinsky's comments had been only generally and vaguely understood shortly before the meeting, and that Staff was impatient with this attempt to make a last-minute change of one word. Finally, Mr. Pedersen explains that this came at a time when there was no quorum and the ultimate authority was Mr. Gossick. Therefore, in Mr. Pedersen's view, Mr. Gossick had to make a decision and in the absence of an express prohibition from the Commission level decided to go ahead.

He never discussed the matter with either Mr. Gilinsky or Mr. Gossick.

## REPORT OF INTERVIEW

Bernard Snyder was interviewed in his office by James Fitzgerald of the Office of the General Counsel at 8:45 a.m. on February 13, 1978. Dr. Snyder is presently Assistant Director for Policy Review in the Office of Policy Evaluation, a post he assumed in August 1977. Previously, he was senior policy analyst in that office commencing in September 1975. Dr. Snyder joined the Atomic Energy Commission in 1966.

Before coming to OPE, Dr. Snyder had nothing to do with the Commission's safeguards program, Apollo/NUMEC. He first became aware of speculation associated with a NUMEC MUF of the 1960's when he was engaged in preparation of a joint ERDA/NRC report on safeguards for the NSC. This was a special report transmitted in July 1976. He asked Mr. Huberman, the OPE Director, why this report was being prepared and Mr. Huberman responded that there was some question about whether material had been diverted from the NUMEC facility to Israel. Mr. Erickson of NMSS drafted the report and Dr. Snyder provided comments and support. Dr. Snyder believes that the report did not contain a statement of "no evidence" in it, but rather the limitations of material accounting methods, especially in older facilities was pointed out.

In April 1977, Dr. Snyder was assigned to the task force that was investigating James Conran's allegations. There was a subgroup within the task force that tried to get a better handle on whether there was any substance to Mr. Conran's claim that there was a diversion in the early 1960's at the NUMEC facility. Dr. Snyder, C. W. Reamer, Norman Haller and Mark Elliott were included in this subgroup. Since Mr. Conran had claimed that he had been stymied in this attempts to investigate the diversion question at ERDA, the subgroup determined to go to ERDA for information. Barry Rich of ERDA was identified as their contact for this purpose. They notified Mr. Rich that they wanted to talk about Apollo/NUMEC and provided him with a list of questions. Subsequently they had a long session with him which was written up as part of task force reference documents. Mr. Rich reviewed this write-up. Mr. Rich stated that the existence of any files on this matter was classified and that they contained no information of safeguards significance. He further stated that the CIA and FBI had conducted investigations into the matter and that the results of these investigations were in the ERDA files. Mr. Rich insisted that there was no broad single reference document at ERDA; rather that agency just had a collection of materials. The task force did not get access to these ERDA files nor did they ask for such access. The task force subgroup, having been told by Mr. Rich that the Commission had been briefed in 1976 about the matter, decided to find out about that briefing to determine what output, if any, stemmed from that briefing or briefings and how it was transmitted to the staff. They were particularly interested in whether anything was passed on to the staff which was relevant to the present-day safeguards program.

They drew up a list of questions and gave it to the Commission contact on this issue, Bryan Eagle. This led to the Eagle/Strauss briefing memorialized in Document 102, with the list of task force questions attached. Dr. Snyder did not attend this briefing as he was out of town when it was held. Therefore, he only knows what occurred from reading the document and from conversations with those who were in attendance.

He was shocked when he saw the statement in Document 102 attributed to Mr. Strauss that the Commission had been avoiding since the 1976 briefings making statements of "no evidence" without qualifications. Dr. Snyder had seen enough pieces of paper which came through OPE with that type of statement included to know that the Document 102 statement was inaccurate. Dr. Snyder believes that of the Commissioners, primarily Mr. Gilinsky was cautious about making unqualified "no evidence" statements. He explained that when Mr. Gilinsky personally saw staff documents with unqualified statements, or they were pointed out to him, he reacted by supplying comments or proposing changes. Many of these Gilinsky comments came back through OPE. Dr. Snyder indicated that it was his impression that these comments were not solely related to Apollo/NUMEC. Based upon his recollection of such comments Dr. Snyder thought that Mr. Gilinsky was primarily expressing his skepticism of the accuracy of the accounting system itself.

As a result of the task force exercise, Dr. Snyder did not discover new evidence of diversion. He said that the task force exercise did not change his opinion which was: "You can't make definitive statements because of the inaccuracy of the accounting systems." Dr. Snyder indicated that a statement "there was no evidence of diversion" is the sort of categorical statement that he would avoid. Based on generally available data, "You can't make a statement 'yes' or 'no' to the question of whether there ever has been a diversion." Dr. Snyder did state that the importance of any past diversion question was that today's safeguards must assume such diversion scenarios are possible and protection against successful diversion must be reasonably assured. Dr. Snyder said that the task force report, its recommendations, and the action plan developed by staff to implement the recommendations did not focus primarily on the NUMEC matter. The NUMEC matter was not a key issue. There was a recommendation of the task force that information such as Mr. Strauss was talking about in Document 102 concerning Commission qualification of "no evidence" statements be provided as guidance to the staff.

Around mid-July 1977, Dr. Snyder received a call from Kenneth Pedersen, Director of OPE, asking if he would be willing, at Mr. Gossick's request, to assist in preparing Mr. Gossick's testimony on the Conran matter for delivery before the Udall subcommittee. Dr. Snyder agreed

and as a result he and Mr. Reamer moved out to the EDO offices in Bethesda to collaborate on drafting the testimony. He recalls that at a pre-drafting meeting with Mr. Gossick they discussed what they would be writing about. Mr. Gossick gave them an outline of his ideas and the testimony which ultimately was submitted to the Congress reflects to a large extent what Mr. Gossick asked for. Dr. Snyder said that his contribution was mainly to the first draft of the testimony and that Hugh Thompson of Mr. Gossick's office reviewed comments and finished the job. He recalls that Mr. Reamer continued to be involved after he, Snyder, began to work on another project.

To the best of his recollection, Dr. Snyder raised two matters with Mr. Gossick, probably at their initial meeting on his proposed testimony. The first was that he had just read in the newspapers that ERDA had released thousands of pages of Apollo/NUMEC documents as a result of an FOIA request. Dr. Snyder had the article with him and asked, "What do we know of this?" He felt it was important, not from the viewpoint of drafting testimony but more generally that the staff should know what was in these documents. Mr. Gossick called Clifford Smith, Director of NMSS, on the spot. NMSS had not at that time seen the documents and ERDA had not notified them of the release. As a result, Mr. Smith sent people to ERDA who reviewed these documents and later word came back to Dr. Snyder that they contained nothing the NRC did not already know. Dr. Snyder received this information from Mr. Burnett of NMSS about a week later. The second matter he raised very briefly with Mr. Gossick, was whether he was going to say anything in his testimony about the Apollo matter. Mr. Gossick did not have this included in the list of things he wanted covered. Mr. Gossick answered that he was not at the briefing the Commission received from the CIA and ERDA and did not know much about the subject. Dr. Snyder believes that he, Snyder, said that it would be a good idea to know something about it as it was a key contention of Mr. Conran and Mr. Gossick was acting for the Commission in his testimony before the subcommittee. The question of "no evidence of diversion" was not specifically discussed. Dr. Snyder recalls that Mr. Gossick said that he did not think that it was really the subject of the Udall hearing. Dr. Snyder stressed that this second matter was mentioned only in a very brief conversation, almost casually, and that the matter was then dropped.

Later he went to the Udall hearing and he recalls that he was somewhat surprised at Mr. Gossick's answers to the Apollo-related questions. However, he felt that Mr. Gossick was a person who did not really know the area, had not been at the relevant briefing, and was not tuned to the details of the safeguards business. The message that Mr. Gossick tried to get across was that the subcommittee was talking to the wrong person. Dr. Snyder, however, does not feel that this got across to the subcommittee because of the tenor of the questions they were putting to Mr. Gossick. The Congressmen and staff appeared to him to be

frustrated on the Apollo matter and as a result their questions were extremely pointed at Mr. Gossick who was unable to handle them. Dr. Snyder recalls that he felt sorry for Mr. Gossick at this time. The other impression he got from the hearing was that the subcommittee appeared not to be directing questions to the right agencies. In particular, if they wanted information about Apollo in the 1960's they should have pressed ERDA which did not even testify at the hearing.

Dr. Snyder did not speak to Mr. Gossick about his testimony after it was delivered until some time in November when at Mr. Gossick request he aided Mr. Gossick in preparing an answer to the November 15 letter from Representatives Udall and Tsongas.

Dr. Snyder was asked by the interviewer whether he had any involvement in the questions and answers to Representative Udall which were dispatched on August 19, 1977. Dr. Snyder said that he did not review them before they went out and does not believe that anyone in OPE had any input into them. Dr. Snyder said that he had minimal involvement in the MUF release preparation. He did attend the dry run of the press conference at the National Guard Building. Apollo was not dwelt upon in this exercise. He does not recall what discussion, if any, occurred relevant to whether there was any evidence of diversion. He did not attend the actual press conference or the later Dingell subcommittee hearing.

In November, through Mr. Pedersen, Mr. Gossick requested Dr. Snyder's assistance in responding to the November 15 letter from Representatives Udall and Tsongas. Mr. Reamer received a similar request. Dr. Snyder brought to Mr. Gossick's office everything that was in the OPE files on Apollo/NUMEC. They discussed the best approach for answering the Congressmen. Mr. Gossick brought out a copy of his testimony before the Dingell subcommittee. Dr. Snyder said that one contribution to Mr. Gossick's response was the suggestion that a good format to use would be a memorandum from Mr. Gossick to Mr. Hendrie and a separate letter from Mr. Hendrie to the Congress. He and Mr. Reamer roughed out a draft Gossick memorandum and a draft Hendrie response. Dr. Snyder was asked by the interviewer whether he recalled any discussion by Mr. Gossick at this time about his prior testimony. Dr. Snyder said that Mr. Gossick expressed regret that he had not been more careful in answering the Apollo-related questions and that he had been surprised to get them. Mr. Gossick also told Dr. Snyder that he believed he was repeating the "party line", i.e., the Commission position as best he understood it. Dr. Snyder recalls no other statements by Mr. Gossick.

## REPORT OF INTERVIEW

Joseph M. Hendrie, Chairman, Nuclear Regulatory Commission, was interviewed in his office at 1717 H Street, N.W., on February 1, 1978, by Jerome Nelson and William Ryan. Hendrie advised that he had been Chairman since August 1977. Prior to coming to the NRC, Hendrie advised, he had been associated with the Brookhaven National Laboratory in New York beginning about August 1, 1974. Prior to that time Hendrie was for two years a member of the staff of AEC. During this time Hendrie was principally engaged in the licensing area, not safeguards. Before joining the AEC Hendrie was employed by Brookhaven.

Hendrie recalled that he came to Washington on July 11, 1977, and met with the President but that his nomination for the position of Chairman had been announced before that meeting. After meeting with the President, Hendrie spent a portion of the week in Washington familiarizing himself with NRC matters and meeting with appropriate members of the U.S. Senate.

Hendrie said that in his first weeks with the Commission he recalled a discussion with Lee Gossick about the upcoming release on MUF data. Gossick related to him the ongoing negotiation with the National Security Council and ERDA on the format of the report but there was no discussion of the substance of the report itself. Hendrie pointed out that there were substantial inventory difference numbers during the period for which NRC's report was responsible but people felt that they did not reflect a diversion of material.

Hendrie did not recall being at the August 2, 1977, briefing of the Commission on the MUF report. He understood that he was listed as being present at the meeting but could not recall the meeting. Hendrie explained that on August 3, 1977, he was confirmed by the Senate and returned to New York.

Hendrie was questioned about the November 15, 1977, letter from Congressman Udall and his reply on December 10, 1977. Hendrie replied that when he received the Udall letter he passed it on to Lee Gossick with a request that he respond to the matters raised in the letter which Gossick did by memorandum dated December 1, 1977.

Hendrie recalled talking to Gossick about this time concerning the accusations contained in the Udall letter and Gossick's position on the matter was nothing different in thrust than the points he made in his memorandum of December 1.

Hendrie said that he obtained transcripts of the testimony of Gossick before the Udall committee, and because Gossick had told him that he had also testified in the same fashion before the Dingell committee, he also obtained transcripts of that testimony.

Hendrie advised, as noted in his December 10, letter, that before receiving Gossick's memorandum of December 1, he discussed the matter with Gossick, Commissioners Kennedy and Gilinsky, former Chairman Rowden, Clifford Smith and Bill Reamer.

Hendrie said that in talking to Commissioner Gilinsky that he, Gilinsky, outlined the bottom line of the early 1976 briefings by the CIA. In substance, Gilinsky told him that there was sure a lot of circumstantial evidence of possible diversion at Apollo but there was not the type of direct evidence that would lead to an indictment and prosecution. According to Hendrie, it was Gilinsky's view that one should clearly be cautious in saying that nothing had been stolen. Hendrie said that he discussed with Gilinsky what we mean by "no evidence" and it was Gilinsky's view that in light of Apollo such a statement was incorrect. It was Gilinsky's position, according to Hendrie, that we should say that we have no direct evidence or no conclusive evidence.

According to Hendrie he talked with Commissioner Kennedy about the "no evidence" statement. Kennedy was of the opinion that evidence is that which proves something. The 1976 briefing by CIA, reported Kennedy, concerned circumstantial events, speculations and suspicions. It was Kennedy's position, according to Hendrie, that the proper statement was that we have no evidence of a theft or diversion of material.

[ Hendrie observed that Kennedy means proof while Gilinsky means indication. ]

In another discussion with Gilinsky, Hendrie said that Gilinsky was much more concerned with Gossick's testimony before the Dingell committee than before the Udall committee. Hendrie could not recall Gilinsky's exact words but recalled Gilinsky being of the view that Gossick's testimony before the Udall committee was possibly justified or understandable under the circumstances that Gossick was not briefed by the CIA, the fact that others who had been briefed had left the NRC, the Commission quorum had disappeared and there was an atmosphere of rushing to get agreement with ERDA to get the MUF report out. However, it was Gilinsky's view, according to Hendrie, that after the ad hoc meeting held after the August 2 briefing that it was improper for Gossick to go before the Dingell committee and make the statements that he did.

Hendrie advised that either Commissioners Kennedy or Gilinsky told him that it was agreed after the August 2 briefing of the Commission, that since Smith, Burnett, and Gossick had not had the 1976 briefing by the

CIA that Kennedy and Gilinsky should talk to them. As a result, Hendrie was informed, after the August 2 briefing was completed, Kennedy, Gilinsky, Smith, Burnett and Gossick went to a small adjoining office for a meeting. Hendrie said that Smith told him that the group stood in the office and that the meeting lasted about five minutes. Hendrie stated that Smith remembered hearing that the phrase "no hard evidence" should be used because there were suspicions and that one should be cautious about broad assurances when discussing the matter of theft or diversion.

Hendrie said that Gilinsky believed that in the August 2 ad hoc meeting that he had made it very clear that one should be very cautious and that one should not say that the Commission has an assurance or a basis for saying that there has never been a theft or diversion of material. The others Hendrie talked to, Kennedy, Gossick, and Smith, did not remember the meeting as a clear spelling out of these cautions, but as a rather disjointed and quite brief discussion that did not make much of an impression at the time.

Hendrie stated that he asked Gossick about his testimony before the Udall committee and the later briefing on August 2 and specifically why he went before the Dingell committee and gratuitously testified that the Commission had assurance that no material had ever been diverted or stolen. Hendrie said he asked Gossick why he felt compelled to so testify. Gossick told Hendrie that as a result of the August 2 briefing he did not remember any clear message to avoid saying that there was no evidence of theft or diversion and further that he did not know why he had testified in that way.

Hendrie said that he had a series of conversations with Gossick and Gilinsky. During one of these Gilinsky told him, Hendrie, that he would have to write a letter to Dingell to correct the impression that Gossick had given the committee on the Commission's position. Gilinsky and Hendrie discussed the language to be used in Hendrie's letter to Udall. Gilinsky, according to Hendrie, sees it as clear that he told Gossick not to say that there is no evidence of theft or diversion but Hendrie believes that it was not clear and based this on the different impressions persons had of the August 2 meeting.

Hendrie said that at the time he wrote his December 10 letter to Congressman Udall he did not know whether or not Commissioner Gilinsky had actually written to Congressman Dingell. Hendrie said that he thought of putting a footnote in his letter to Udall to the effect that Gilinsky was going to write Congressman Dingell but did not because it seemed inappropriate since Gilinsky might or might not write the letter.

Hendrie said that he had a conversation with former Chairman Rowden at about this time. According to Hendrie, Rowden is a "no conclusive evidence" man and believed that the sentence on page 2 of the MUF report about no evidence of theft or diversion is too categorical. It was Rowden's view, said Hendrie, that the statement should have reflected some modifier or there should have been a clear indication that the statement was applicable to post 1968 matters. Hendrie said that Rowden told him that he had had a discussion with Gossick but Hendrie could not recall what Rowden said the conversation with Gossick was about. It was Hendrie's impression that the discussion was sometime after the Udall letter was sent to him.

Hendrie recalled that Gossick told him that he had a conversation with Rowden about the MUF report just before the Commission ceased to constitute a quorum but Hendrie was unable to recall what the substance of the conversation was.

Hendrie recalled that in one of his conversations with Gossick he asked him why he had testified the way he did before the Dingell committee and Gossick said that he spoke too hastily and did not realize until now the difference between the shade of meaning between Ward's statement and the "no evidence" statement.

Hendrie said that Smith recalled a briefing of the Commission, Rowden, Kennedy and Gilinsky, in June on the draft MUF report by Burnett, Crane, Page and Smith. Hendrie recalled that Smith said that the briefing was concerned mostly with the differences in the NRC and ERDA figures but did not recall any discussion in that briefing that the phrase "no conclusive evidence" should be used. Hendrie said he had been told that on June 21 the final draft of the MUF report went forward without the no evidence statement but according to Hendrie, it was Smith and Burnett's recollection that the statement was later put in the report at the strong urging of ERDA. *1 correct*

Smith told Hendrie that at the August 2 briefing of the Commission that the briefers discussed the schedule for the release of the report and that Commissioner Gilinsky was disturbed about the "no evidence" statement. Hendrie said that Smith told him that when it was explained that the statement applied to only post 1968 that Gilinsky went along with the statement.

## REPORT OF INTERVIEW

Fredrick Crane, Test and Evaluation Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards was interviewed on January 12, 1978, at the OIA office, Landow Building, Bethesda, Maryland, by Jerome Nelson, William Ryan and James Fitzgerald. Crane advised that he was employed by NRC in August 1976.

According to Crane the matter of the inventory difference at NUMEC-Apollo came up in general discussions with other NRC staff within a few weeks after he was employed by NRC. This was not related to the Inventory Difference release, but derived primarily from informal discussions of newspaper articles.

In September 1976, he took over the job of preparing the MUF release package. One of the questions that came up was who (NRC or ERDA) would handle the pre-1968 licensee data, which happened to include the inventory difference at Apollo. ERDA kept the records for that period.

Crane said that in May 1977 the first draft of the MUF release package was prepared. It was his recollection that this draft contained no discussion of whether there was evidence of a theft or diversion of special nuclear material. About this time, ERDA had agreed to release the pre-1968 data. Sometime after the preparation of this draft, according to Crane, he prepared a "summary section" for the proposed report. This summary section did contain a statement about there being no evidence of theft or diversion. Crane did not recall where he first heard this statement. Crane recalled talking to Joe Fouchard about making that statement and being advised by him "that's what we say" and that it had been used in public statements before. Crane recalled that he had heard it in an ERDA briefing.

Crane said that there was a Commission briefing on the proposed MUF Report in June of 1977 and the main question at that time was how the NRC report compared with ERDA's since there were differences in the way ERDA and NRC planned to present their reports, partially because of differences in the way records were kept. Crane said Chairman Rowden directed NMSS to contact the National Security Council to describe NRC's release plans. ERDA had already briefed the NSC.

Crane said that he and others met with Huberman, J. Marcum, and Jessica Tuchman of the National Security Council. He recalled that someone from OMB and the President's Press Secretary's office were there. Crane was asked who else was present. He replied that "ERDA people" were there, including at least Len Brenner and Tom Issacs. He

also recalled that Page and Ong of NRC were there. They were told by the representatives of the NSC that the releases by NRC and ERDA "should be identical in format and tone." Crane recalled that the NSC briefing occurred in June of 1977 and that when he returned from the NSC meeting he prepared a Commission paper.

Crane was questioned about the use of the word "ever" on page 2 of the NRC MUF Report and he replied that it was his recollection that it was intended to cover the period after 1968, which was the period covered in the NRC Report. Crane stated that he would check the draft of the Report to see where the word "ever" came in.

Crane said that the first draft of the NRC MUF release report went to the Commission in May of 1977. The draft was accompanied by "Q and A's." Question 7 of the "Q and A's" touched upon the matter of whether there had ever been a theft or diversion of material because the staff felt that it was necessary to address the pre-1968 data because the question about pre-1968 would be coming up and that a lateral to ERDA would not completely divert the question. Crane recalled that later ERDA became very upset with having such a Q and A in NRC's package, when they received copies of the Q and A's in July, because they had responsibility for releasing the pre-1968 data.

Crane expressed the view that there was pressure from ERDA and NRC's report to have a tone similar to that of ERDA but he does not recall that there was specific reference to the "no evidence" question.

Referring again to the briefing of the Commission in June of 1977, Crane said that it was during the first week of June. During that briefing the Commissioners were concerned with how the NRC Report would compare with the ERDA Report and with any differences between the two reports. Crane again mentioned that the Commission asked him and others working on the report to go to the National Security Council with "the package," which was done about a week later. Crane was asked whether there was any discussion of the "no evidence" question with the Council and he did not remember it being discussed. Crane said that as a result of this meeting he made certain changes in the NRC Report and ERDA made several changes. Crane said that the Commission paper he prepared after this meeting was submitted on June 16, 1977. As a result of the meeting he changed the format of the NRC report and wrote an "overview." Crane was asked whether he received any comment from the Commission on his Commission paper and he replied that he did not recall any.

Subsequent to the NSC briefing the staff prepared the final draft of the release package and submitted it to the Commission on July 21. Crane recalled that he returned from leave on July 26, 1977. When he returned

from Leave comments had been received from the Office of Policy and Evaluation (OPE). Together with Bill Altman they went through several comments provided by OPE. During Crane's leave, Altman was on the phone several times with Ong as well as people in Inspection and Enforcement (IE).

Crane recalled that on or about July 27, 1977, he received a telephone call from Paul Goldberg of Commissioner Gilinsky's staff. Goldberg told Crane that the Commissioner might have changes that he wanted in the NRC MUF Release Report but that the Commissioner was out of town and he did not know what the changes were. Crane said that he pointed out to Goldberg that it was necessary to go to the printers in a short time.

Crane said by the time Commissioner Gilinsky returned that NRC would be briefing Governors, Congressmen and Senators, and a briefing for the Press was scheduled on August 4.

The following day, according to Crane he received another call from Goldberg and Goldberg advised him that Commissioner Gilinsky was reserving the right to make changes in the MUF Release Report. Crane stated that after talking with his supervisors it was decided there was no alternative but to go forward with the report. Crane was asked whether he had discussed this decision with Lee Gossick and he replied that he has "never talked to Gossick in his life except to say hello."

On August 1, 1977, in the morning a briefing on the report was given to Congressman Dingell's staff, according to Crane. Crane said that it was his information that Chairman Rowden had promised Congressman Dingell that he would receive the NRC Report 72 hours in advance of the release. Crane said to the Dingell staff that with reference to the "no evidence" statement that he had never been told of a CIA investigation. Crane felt that the "no evidence" statement was an honest statement and told the Dingell staff that the report covered "post 1968." Crane said that they briefed the staff of other Senators offices, possibly including Senator Glenn's and also Senator Baker's staff.

The afternoon of August 2, 1977, the Commission was briefed on the report. Crane said Dr. Smith made some introductory remarks and that he, Crane, then conducted the briefing. Crane recalled Commissioner Gilinsky, asking in effect "this is it?", "Don't I have any comments?", and "Is this the last word?". Crane said at this point Gossick turned to Pedersen and asked him whether all the Commissioner comments had been received and Pedersen replied that they had been received and included in the report.

Crane recalled that at this point Commissioner Gilinsky "leaned over" to Commissioner Kennedy and indicated to him a change he wanted. Crane said that Commissioner Gilinsky appeared very upset and there was discussion about whether there could be more time before the report was released. At this point, Gilinsky said he wanted to talk in a smaller group. Crane then finished the briefing. Crane did not recall any discussion at the briefing of the use of the phrase "no conclusive evidence." Crane recalled that Gossick commented that in light of Pedersen's statement that all Commissioner statements were taken care of. Shortly after the briefing Paul Goldberg told Crane what change Commissioner Gilinsky wanted, namely, no conclusive evidence rather than no evidence.

After the briefing, Crane recalled that Smith and Burnett met with Commissioners Kennedy and Gilinsky. Crane was not present. Crane recalled that Smith and Burnett came out of the room where the meeting was held and walked to the elevator area. Commissioners Kennedy and Gilinsky again called Smith and Burnett over to them and talked with them. Crane did not recall if Gossick was present. Following this Crane left the building with Smith and Burnett.

Crane said that on the way back to Silver Spring, Smith and Burnett told him what had been discussed at the meeting with Kennedy and Gilinsky and talked about Commissioner Gilinsky's concern about the "no evidence" statement in the report. Crane recalled that either Smith or Burnett felt that if there was evidence of a theft or diversion Commissioner Gilinsky would have to answer the questions regarding the nature of the evidence.

Crane stated that he believed the phrase "no conclusive evidence" could be ambiguous and that he had told Congressman Dingell's staff that he felt this way about a similar statement, namely, no direct evidence.

Crane was asked whether he had heard Gossick testify in the hearing held by Congressman Dingell and answered that he had. Crane pointed out that at the hearing the people from ERDA gave 99 percent of the testimony. He was not alarmed at anything Mr. Gossick said. As far as he knows, no evidence is a correct statement.

Crane stated that the staff had received no guidance on the "no evidence" issue either before the release of the MUF Report or since its release. Crane was asked whether he has discussed this matter with any member of Lee Gossick's staff and he replied that he had not.

## REPORT OF INTERVIEW

On Friday, February 3, 1978, William Ryan and Thomas J. McTiernan met with Thomas C. Thayer, Assistant Director for Operations and Evaluation, NMSS, and Thomas F. Carter, Jr., Chief, Contingency Planning Branch, NMSS, to secure whatever assistance they could furnish on obtaining documents dealing with the NRC treatment of the theft or diversion issue and to obtain their views on how NMSS treated Mr. Conran's reported continued pressing of the Apollo-NUMEC issue from a safeguards standpoint.

Mr. Carter brought copies of Gerry Page's statement to the California Legislature and the November 4, 1977, planning assumption document on intelligence information. He also agreed to forward some other material and check the files on the assumption document.

Mr. Carter recounted his continuing efforts dating back to 1975 to develop a working relationship with the intelligence community and to assemble data regarding known incidents of possible theft and diversion. He stated that he and his staff had analyzed Mr. Conran's data regarding incidents in detail. Most of the incidents have been discussed with ERDA personnel regarding completeness and authenticity of the data. Mr. Carter was questioned about Mr. Conran's statements before the Udall committee that there have been other successful diversions and he said he did not know what Mr. Conran could be referring to. He said that he was present at the hearing and when Mr. Conran was making those statements he recalled Mr. Gossick turning to him and Mr. Burnett and asking, in effect, what Conran can be talking about. Mr. Carter said he had his files on his lap and scanning through them, he and Mr. Burnett told Mr. Gossick that Mr. Conran must be referring to thefts involving pharmaceuticals.

Both Mr. Thayer and Mr. Carter recalled friendly conversations with Mr. Conran in late 1975 and early 1976 in which Mr. Conran kept alluding to elusive files and files not being available but he never specifically mentioned Apollo-NUMEC. They stated they repeatedly have sought to assure that the intelligence community is cooperating with NRC and they believe they have made considerable progress in this regard.

## REPORT OF INTERVIEW

On February 10, 1978, Mr. Joseph J. Fouchard, Office of Public Affairs (PA), U.S. Nuclear Regulatory Commission (NRC), was interviewed by John Anderson, Office of Inspector and Auditor (OIA), NRC, in the offices of OIA. Mr. Fouchard was advised of the nature of the inquiry OIA was conducting and was informed that OIA had four specific questions it wished to ask him relative to the inquiry.

- (1) Do you recall talking with Fred Crane or anyone else regarding the "no evidence" statement in the MUF release report circa July-August 1977? What was the exact release date?
- (2) What do you understand to be the policy of NRC from 1975 to date with respect to statements and positions on whether thefts or diversions have occurred?
- (3) What are the details of the MUF report press release?
- (4) Do you recall the discussion between Commissioner Kennedy and Mr. Gossick in the doorway of Gossick's office in July 1977 about what he (Gossick) could or should say to the Committee in light of what was said about Apollo at the CIA briefing in February 1976?

Following are Mr. Fouchard's responses to the above questions:

- (1) "Yes, the statement was issued on August 4, 1977, for use in the morning newspaper of August 5, 1977." Mr. Fouchard said he had had a number of conversations with Mr. Crane with respect to the statement that is in the MUF report. It was his recollection that he raised some question with respect to the appearance of the statement meaning "for all times," as opposed to a statement of whether there had been any diversion since NRC or since the AEC regulatory arm took over the responsibility for safeguards in 1968. He said that the same statement (that's in the MUF report) had been made previously by officials of the AEC. His concern, he said, for the statement, was the Apollo situation. He has no personal knowledge as to the results of the investigations by the AEC of the NUMEC incident back in the mid 1960's, but does know it was headed by Howard Brown, Assistant General Manager of the (AEC) Commission. He said, the NRC statement was consistent with statements made previously by the AEC. He said further that..."our practice has been, in the Office of Public Affairs to confine our statements with respect to diversion to the period for which the regulatory staff had responsibility and to refer any other questions to ERDA." He was concerned that to go beyond that period was "getting beyond our field of responsibility."

- (2) Mr. Fouchard said, in response to Question #2, that his office has been saying, as a matter of policy, that there is no evidence of theft or diversion of significant amounts of SNM, since our responsibility began in 1968. It has been the consistent policy of the Office of Public Affairs to discuss only the period of time when the NRC or its predecessor, the regulatory arm of the old AEC was responsible for safeguards. With respect to questions which preceded regulatory responsibility we have referred those questions to the Energy Research and Development Administration.

Mr. Fouchard said he did not know if this was the policy of the Commission because the Commissioners have never, to his knowledge, passed down any policy or guidance on this particular subject. He could only relate to the policy of the Office of Public Affairs. He stated specifically that after the CIA briefing of February 1976, "no policy guidance was given to PA on this matter" to his knowledge. He said he relies "upon information and guidance provided to us by the program divisions, in this case it would be either IE or Safeguards or both." He was asked if he ever got any direction from the Commission level. He said, "Oh, Yes indeed we do, but not on this subject to the best of my knowledge, but of course, I was not director at the time, but to the best of my knowledge no guidance was provided." He said that as far as he was aware the statement of "no evidence" of diversion since 1968 with respect to regulatory or licensed activities is an accurate one. Mr. Fouchard felt certain that had John Harris, former Director of PA, received any policy guidance on this subject from the Commission he would certainly have passed it on. He suggested OIA might want to interview Mr. Harris in this regard.

- (3) In response to the third question, Mr. Fouchard stated that the MUF report press release was developed by PA in conjunction with the Offices of Inspection and Enforcement and NMSS. A draft of it was transmitted to the Commission on July 28, 1977, in classified form (it is now unclassified). He said it contained a statement, on page 2 of the draft, which said "NRC investigations have disclosed no evidence that significant quantities of these materials have been stolen." At the meeting of the two Commissioners early in the week of August 4, 1977, Mr. Fouchard said that Commissioner Gilinsky raised some questions with respect to the breadth of the statement in the MUF report itself concerning no evidence of diversion. Mr. Fouchard said it was his impression that Mr. Gilinsky felt that the statement was too broad, that "it dealt with all time as opposed to the period covered in the report, which of course was 1968 forward." The Commissioner was told, according to Mr. Fouchard, that the report itself was already printed, "and I recall him

asking me with respect to the press release," was it "too late to make a change?" Mr. Fouchard answered "of course not it's still in draft." Mr. Fouchard stated that the press release was subsequently modified and it was modified at the table with all the participants listening to how it was modified. Mr. Fouchard was asked if Mr. Gossick was there, and he responded, "Yes, he was." The statement was changed to say, according to Mr. Fouchard, "NRC investigations of licensee inventory differences described in the report have disclosed no evidence that significant quantities of these materials have been stolen"...making it clear in the press release, and this was also subsequently made clear by Dr. Smith and Mr. Burnett at the press briefing, that the period we were talking about was the period 1968 forward."

- (4) Finally, Mr. Fouchard said in response to Question #4, that he did not recall precisely the details of the discussion, but to his recollection PA had a call one afternoon in July 1977, from John Fialka of the Washington Star. Fialka asked if the NRC had ever been briefed by the CIA on the Apollo/NUMEC matter. First, PA checked with the Secretariat, Fouchard said, but "they said they did not handle the briefing," so PA checked with Bryan Eagle and determined that there indeed had been such a briefing. Before answering Fialka, Fouchard said he decided to consult with Mr. Gossick, who at that time was the Commission, as it were, under delegation since "we had no quorum. Gossick and Mr. Kennedy were in Mr. Gossick's office together. When they emerged, I told them of the inquiry from Fialka; I told them that we (PA) had determined that there had been such a briefing, and that I thought that we should acknowledge it, and since it was a classified briefing, obviously, that was all we're going to say about it. Both Mr. Gossick and Mr. Kennedy agreed to that course of action." Fouchard believed that Gossick then asked Kennedy if there was anything he should know, or words to that effect. Fouchard said he was preoccupied at that time with handling of Fialka query, and does not recall precisely what Kennedy's response was, "but I do know that the question was raised." As best as he can recall, the Fialka inquiry, and the meeting between Gossick and Kennedy all occurred several days prior to the July 29, 1977, Congressional testimony of Gossick. Also, about this time, subsequent to the Fialka query, Fouchard said that Barbara Newman inquired as to who had been in attendance at the CIA briefing. Fouchard responded to Newman that the briefing was classified, and that he could not discuss the briefing nor who attended.

At the conclusion of the interview, Fouchard provided Anderson with a copy of a July 28, 1977 memorandum for Gilinsky and Kennedy, from PA through Gossick, subject: Press Briefing on MUF Release; and a

copy of a news release, No. 77-151, subject: NRC Issues Report on Nuclear Material Inventory Differences (MUF) at Licensed Commercial Nuclear Fuel Facilities. Copies of these two documents are attached to the OIA file copy, only, of this interview.



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

~~CONFIDENTIAL~~

July 28, 1977

*Unclassified*

MEMORANDUM FOR: Commissioner Gilinsky  
Commissioner Kennedy

FROM: Joseph J. Fouchard, Acting Director  
Office of Public Affairs

THRU: Executive Director for Operations *[Signature]*

SUBJECT: PRESS BRIEFING ON MUF RELEASE

The joint press briefing on release of NRC/ERDA reports on nuclear material inventory differences is planned for 2 p.m. Thursday, August 4, at the auditorium of the National Guard facility at 1 Massachusetts Avenue, N.W. Copies of the NRC and ERDA press package will be available to news media beginning at noon August 4. The release and report are embargoed for morning newspapers of August 5 (or 6 p.m. August 4 for radio and television). Indications are that there is considerable media interest.

The press briefing schedule follows:

1. Overview of National Security Council decision to release MUF information and ERDA programs by Alfred Starbird, Assistant Administrator for National Security, ERDA.
2. Discussion of ERDA report by Edward Giller, ERDA.
3. Overview of NRC safeguards program by Dr. Clifford Smith, NMSS.
4. Discussion of NRC report by Robert Burnett, Director of Safeguards.
5. Questions from the press.

Our press package will include the press release, a draft of which is enclosed; a summary of the report prepared by NMSS; and the full report.

*Unclassified*  
*J. Fouchard*

When separated from enclosures, handle this document

as

~~UNCLASSIFIED~~

(Insert proper classification)

~~CONFIDENTIAL~~

State Governors or their representatives will be briefed prior to the release next week as will appropriate Congressional Committees.

*fs*  
Joseph J. Fouchard  
Acting Director  
Office of Public Affairs

cc: Dr. Clifford Smith, NMSS  
Ernst Volgenau, I&E

OFFICE	PA	<i>EDG</i>				
SURNAME	JFOUCHARD:sc	<i>fs</i>				
DATE	7-28-77	<i>7/29/77</i>	<b>127</b>			

NRC ISSUES REPORT ON NUCLEAR MATERIAL INVENTORY DIFFERENCES  
(MUF) AT LICENSED COMMERCIAL NUCLEAR FUEL FACILITIES

*unclassified*

The Nuclear Regulatory Commission, in response to requests, has issued a report on inventory accounting differences at NRC-licensed facilities possessing high enriched uranium, plutonium, and uranium-233. These are strategic nuclear materials because, in sufficient quantities, they have the potential for being used to make explosives.

This is the first report of its kind and covers facilities licensed by the former Atomic Energy Commission between January 1, 1968, and January 19, 1975, and after that by the NRC. Subsequent reports will be issued periodically. This report covers the period from 1968 to September 30, 1976.

A similar report on government-owned facilities using these materials is being issued by the Energy Research and Development Administration. ERDA's report also covers facilities licensed by the former AEC before 1968. Facilities possessing low enriched uranium, primarily used for fuel in the current generation of power reactors, are not included. Such uranium is not a weapons-usable material.

The NRC-licensed facilities are owned and operated by private firms and are primarily involved in the production of fuel for government reactors and for research reactors.

Inventory differences also have been referred to as "material unaccounted for" or "MUF." These terms relate to the difference between the amount of material which bookkeeping entries indicate is present, and what a physical inventory

shows to be on hand at the end of an accounting period. Since the amount of material shown on the books and the amount on hand are subject to measurement error, the two figures are seldom identical, thus creating an inventory difference.

Several factors contribute to the differences, which may appear as losses or gains in material from one inventory to another. Some material at the time of an inventory is held up in process equipment; therefore, measurement fluctuations that result from the difficulty in measuring held-up material will be reflected as inventory differences. In addition, while the quality of measurement equipment has improved in recent years, even the most modern instruments cannot make totally accurate measurements. Other contributing factors include clerical bookkeeping errors, reporting mistakes, operator errors and difficulties in measuring scrap.

If an inventory difference appears excessive, the licensee is required to take investigative action. The licensee may be required to shut the plant down and conduct a thorough reinventory, including a cleanout of the entire system, to reconcile the difference.

11 NRC investigations have disclosed no evidence that significant quantities of these materials have been stolen.

The total inventory difference at licensed facilities from January 1968 to September 1976 for high enriched uranium was 543 kilograms. Two licensees accounted for 52 percent (280 kilograms) of the total. Special NRC investigations at the licensees' facilities -- owned by Babcock & Wilcox at Apollo and

Leechburg, Pennsylvania, and by Nuclear Fuel Services at Erwin, Tennessee -- revealed previously unidentified and undocumented process losses at Apollo and Leechburg and errors in accounting and uncertainties in measurement systems at all three facilities as major contributors to the differences.

For plutonium, the total inventory difference for the 1968 to 1976 period was 32.8 kilograms. Three facilities accounted for 70 percent of the difference. The facilities are at Leechburg, Pennsylvania, owned by Babcock & Wilcox; at Crescent, Oklahoma, owned by Kerr-McGee but now shut down; and at Erwin, Tennessee, owned by Nuclear Fuel Services, which is not currently processing plutonium. Measurement uncertainties, accounting errors and material held up in process were major contributors to the differences.

On a year-to-year basis, the figures show a downward trend in inventory differences for both high enriched uranium and plutonium, although the amount of material handled by the licensed facilities has been on the increase. This is attributed to improved measurement techniques and a strengthening of NRC regulations for controlling inventories in 1971 and 1974.

Inventories are only one mechanism used by the NRC and its licensees to protect against theft of nuclear materials. Licensees with significant quantities of strategic special nuclear materials are required to protect against theft or diversion through the material accounting system and by maintaining effective physical security and tight internal controls over materials.

This integrated safeguards system, coupled with investigations of inventory differences, provides a high degree of assurance against theft. Today's physical security system employs armed guards, multiple alarmed fences and sophisticated communications capabilities as the primary components against open theft. The internal control system includes personnel searches, a two-man rule (no person allowed in key areas alone) and sensitive detection equipment to protect against theft by insiders. Recent proposals would require employees not already cleared to have security clearances and would upgrade the criteria for training and qualifying guards.

The material accounting system, using physical measurements, statistical tests, and bimonthly inventories serves mainly to monitor the performance of the safeguards system as a whole.

Together, these systems are designed to alert company management and the NRC to processing problems and material losses and to help determine whether an inventory difference is the result of accounting errors or a measurement problem, or the result of a loss or theft of nuclear material.

Copies of the NRC report are available for inspection in the Commission's Public Document Room, 1717 H Street N.W., Washington, D.C. and at NRC offices in King of Prussia, Pennsylvania; Atlanta, Georgia; Glen Ellyn, Illinois; Arlington, Texas; and Walnut Creek California.

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# UNITED STATES NUCLEAR REGULATORY COMMISSION

OFFICE OF PUBLIC AFFAIRS  
WASHINGTON, D.C. 20555

No. 77-151  
Contact: Carl Gustin  
Tel. 301/492-7715

HOLD FOR RELEASE  
In Morning Newspapers  
Friday, August 5, 1977

## NRC ISSUES REPORT ON NUCLEAR MATERIAL INVENTORY DIFFERENCES (MUF) AT LICENSED COMMERCIAL NUCLEAR FUEL FACILITIES

The Nuclear Regulatory Commission, in response to requests, has issued a report on inventory accounting differences at NRC-licensed facilities possessing high enriched uranium, plutonium, and uranium-233. These are strategic nuclear materials because, in sufficient quantities, they have the potential for being used to make explosives.

This is the first report of its kind and covers facilities licensed by the former Atomic Energy Commission between January 1, 1968, and January 19, 1975, and after that by the NRC. Subsequent reports will be issued periodically. This report covers the period from 1968 to September 30, 1976.

A similar report on government-owned facilities using these materials is being issued by the Energy Research and Development Administration. ERDA's report also covers facilities licensed by the former AEC before 1968. Facilities possessing low enriched uranium, primarily used for fuel in the current generation of power reactors, are not included. Such uranium is not a weapons-usable material.

The NRC-licensed facilities for which data are being released are owned and operated by private firms and are primarily involved in the production of nuclear fuel for defense and research purposes.

Inventories are only one mechanism used by the NRC and its licensees to deter or detect theft of nuclear material. The NRC requires licensees possessing significant quantities of strategic nuclear material to protect against theft by maintaining effective physical security, internal control of material, and accounting systems. NRC investigations of licensee inventory differences described in the report have disclosed no evidence that significant quantities of these materials have been stolen.

Inventory differences also have been referred to as "material unaccounted for" or "MUF." These terms relate to the difference between the amount of material which bookkeeping entries indicate is present, and what a physical inventory shows to be on hand at the end of an accounting period. Since the amount of material shown on the books and the amount on hand are subject to measurement error, the two figures are seldom identical, thus creating an inventory difference.

Several factors contribute to the differences, which may appear as losses or gains in material from one inventory to another. Some material at the time of an inventory is held up in process equipment; therefore, measurement fluctuations that result from the difficulty in measuring held-up material will be reflected as inventory differences. Other factors include clerical bookkeeping errors, reporting mistakes, operator errors and difficulties in measuring scrap.

The report points out that inventory differences are not unique to the nuclear industry. A number of other industries in which the final product cannot be counted but rather require chemical or physical processing also experience inventory differences. Significant improvements have been made in measurement techniques in the nuclear industry, but it still is not possible for material balances to be closed perfectly.

If an inventory difference appears excessive, the licensee is required to take investigative action. The licensee may be required to shut the plant down and conduct a thorough reinventory, including a cleanout of the entire system, to reconcile the difference.

The total inventory difference at licensed facilities from January 1968 to September 1976 for high enriched uranium was 542 kilograms. Two licensees accounted for 56 percent, (306 kilograms) of the total. Special NRC investigations at the licensees' facilities -- owned by Babcock & Wilcox at Apollo and Leechburg, Pennsylvania, and by Nuclear Fuel Services at Erwin, Tennessee -- revealed previously unidentified and undocumented process losses at Apollo and Leechburg and errors in accounting and uncertainties in measurement systems at all three facilities as major contributors to the differences.

For plutonium, the total inventory difference for the 1968 to 1976 period was 32.8 kilograms. Four facilities accounted for 85 percent of the difference. The facilities are at Leechburg, Pennsylvania, owned by Babcock & Wilcox; at Crescent, Oklahoma, owned by Kerr-McGee but now shut down; and one each at Erwin, Tennessee, and West Valley, New York, owned by Nuclear Fuel Services, neither of which is currently

processing plutonium. Measurement uncertainties, accounting errors and material held up in process were major contributors to the differences.

On a year-to-year basis, the industry-wide figures show a downward trend in inventory differences for both high enriched uranium and plutonium, although the amount of material handled by the licensed facilities has been on the increase. This is attributed to improved measurement techniques and a strengthening of NRC regulations for controlling inventories in 1971 and 1974.

Inventories are only one mechanism used by the NRC and its licensees to protect against theft of nuclear materials. Licensees with significant quantities of strategic special nuclear materials are required to protect against theft or diversion through the material accounting system and by maintaining effective physical security and tight internal controls over materials.

This integrated safeguards system, coupled with investigations of inventory differences, provides a high degree of assurance against theft. Today's physical security system employs armed guards, multiple alarmed fences and sophisticated communications capabilities as the primary components against open theft. The internal control system includes personnel searches, a two-man rule (no person allowed in key areas alone) and sensitive detection equipment to protect against theft by insiders. Recent proposals would require employees not already cleared to have security clearances and would upgrade the criteria for training and qualifying guards.

The material accounting system, using physical measurements, statistical tests, and bimonthly inventories, serves mainly to monitor the performance of the safeguards system as a whole.

Together, these systems are designed to alert company management and the NRC to processing problems and material losses and to help determine whether an inventory difference is the result of accounting errors or a measurement problem, or the result of a loss or theft of nuclear material.

Copies of the NRC "Report on Strategic Special Nuclear Material Inventory Differences" are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at NRC offices in King of Prussia, Pennsylvania; Atlanta, Georgia; Glen Ellyn, Illinois; Arlington, Texas; and Walnut Creek, California. Copies will be available for purchase from the National Technical Information Service, Springfield, Virginia 22161, at a cost of \$4.50 each. The report is designated NUREG-0350, Vol. 1, No. 1.

## REPORT OF INTERVIEW

William Dircks was interviewed by Thomas McTiernan of the Office of Inspector and Auditor and James Fitzgerald of the Office of the General Counsel at 1:00 p.m. on February 1, 1978. He was advised of the purpose of the interview and informed that the summary of interview would be made available to the Congress.

Mr. Dircks is the Assistant Executive Director for Operations and has served in that capacity since April 1975. He related that he was present at a meeting shortly before Mr. Lee V. Gossick's appearance before the Udall subcommittee on July 29, 1977. Several individuals including Mr. Gossick, Roger Mattson, Norman Haller, C. W. Reamer, Bernard Snyder, and possibly Clifford Smith and Robert Burnett, had assembled to go over Mr. Gossick's draft testimony. The question of formulating or modifying a "no evidence of diversion" statement never arose. The NUMEC matter was only brushed upon--that Mr. Gossick might get a question on NUMEC because it was a matter James Conran was interested in. In essence what was said was: if you get into it, be careful how you get into it because NRC does not have all the facts on it. This caution may have come from Mr. Mattson who also may have said to stay clear of Apollo.

It was a very busy meeting and Mr. Dircks is not sure that Mr. Gossick picked this up. Mr. Gossick was busy taking a lot of notes. There was much noise in the room etc. During this meeting, he recalls that Mr. Gossick received a phone call from Dr. Myers indicating that he was not satisfied with a draft of the proposed testimony he had seen. After the meeting, C. W. Reamer and Bernard Snyder who had been the physical drafters of the testimony were told to add something more to the testimony.

Mr. Dircks stated that prior to the meeting mentioned above he had been asked by Mr. Gossick to call Dr. Myers regarding what type of questions the subcommittee might ask. He did so and the comments of Dr. Myers were related to Mr. Conran, not the NUMEC MUF.

Mr. Dircks had never focused on the "no evidence" statements until recently, since the Udall letter of November 15, 1977. In July of 1976, he wrote two letters to Congressmen which included "no evidence" type statements. He said he was under the general impression that the agency had always taken this line up to some line of demarcation around August 1977.

Mr. Dircks got the impression back in May or June 1977 that ERDA was going to handle pre-1968 figures in its MUF release. He noted that Mr. Conran had raised a number of issues which turned out to be quite legitimate. On the basis of what he now knows, when NRC gets into what happened before 1968, it has to be more cautious and one should not go out and say "no evidence." Mr. Dircks says he would not say "no evidence" prior to 1968.

He is unsure whether questions and answers were prepared for the Udall testimony and referred the interviewers to Messrs. Reamer and Snyder for the answer. As far as he knew, there were no postmortems after either the Udall or Dingell testimony, an analysis or regrets for the way the hearings went. Mr. Gossick just indicated that he felt it went alright.

When the Udall letter was received, Mr. Dircks and Thomas Rehm thought it would be an easy one to answer and advised Mr. Gossick that all he would have to say in explanation was that "no evidence" meant post-1968. (Mr. Gossick had not been to the CIA briefing, although Mr. Dircks feels that he should have been in attendance.) Mr. Gossick did not seem to like the idea and turned to Mr. Reamer and Mr. Snyder to help put together the response. Mr. Gossick said that he told Representative Udall the same thing that he told Representative Dingell. Mr. Dircks still thinks that a fair reading of the Udall testimony shows that Mr. Gossick was talking to the post-1968 time frame. In his view, the Udall testimony appeared to pose less of a problem when compared to the Dingell testimony wherein Mr. Gossick stated that the Commission had made a judgment that there was no evidence of a diversion. That highlighted the issue and forced its resolution.

Mr. Dircks was not at the briefing on August 2, 1977, and had no discussions with Mr. Gossick about what transpired at the briefing. He knows nothing about the questions and answers addressed to Representative Udall dated August 19, 1977.

He said that he did not know why Mr. Gossick was excluded from the 1976 briefings. This was a sore point, but at that time the Commissioners were unsure of the role of the Executive Director for Operations.

Mr. Chapman, Director of NMSS, was playing a very dominant role, almost in a rivalry with Mr. Gossick, and the Commission was dealing directly with him and some other office directors on many issues that should have been referred to Mr. Gossick. As far as he knows, Mr. Gossick never complained about being excluded from the 1976 briefing. It was not Mr. Gossick's style to complain and he knows of no further conversations on this subject.

Since the November 1977 Udall letter, Mr. Dircks has not discussed the substantive aspects of his recollections of the matter with any of the Commissioners. On one occasion while Mr. Gossick was on vacation over the holidays, Chairman Hendrie said he was going to meet with Representative Udall and asked him to tell Mr. Gossick there was no need to cut short his vacation in order to attend the meeting.

## SUMMARY OF INTERVIEW

Commissioner Richard Kennedy was interviewed in his office at 1717 H Street N.W., Washington, D.C. at 9:30 a.m., January 26, 1978, by William Ryan of the Office of Inspector and Auditor and James Fitzgerald of the Office of the General Counsel. Jerome Nelson, the General Counsel, arrived late and participated in the latter part of the interview. Commissioner Kennedy had been previously advised of the purpose of the interview. He was informed that the summary of interview would be made available to the Congress.

He was appointed as NRC Commissioner effective on January 19, 1975, when the agency was established. Mr. Kennedy stated that safeguards loomed large in the Commission's view early on and that there was very intense interest in safeguards from the outset of the Commission by both Commissioners and the staff. The staff involved in safeguards was very small, however, since most of the Atomic Energy Commission's safeguards personnel were on the General Manager's side which became ERDA. Therefore, a major effort had to be devoted to recruiting and building an effective staff.

In 1975, the Commission was concerned with the implications of Materials Unaccounted For (MUF). Mr. Kennedy observed that so long as MUF exists one cannot discount the possibility of a loss or diversion of material. One needs, therefore, to devise a system, creating the best system possible of material accounting and control and physical security--so that if discrepancies occur a reasonable explanation for the discrepancies can be identified.

Mr. Kennedy cited several specific examples of actions taken in 1975 which illustrated Commission concern in the safeguards area. For example, in April 1975, the Commission issued proposed Amendments to Part 75 of its regulations requiring advance notice of shipments of special nuclear material. Other rule changes also were proposed in that period. On February 2, 1976, the National Resource Defense Council (NRDC) filed a petition for emergency safeguards actions. Mr. Kennedy repeated that there definitely was an NRC focus on safeguards in the first year of NRC's existence.

Commissioner Kennedy said that concerns had been expressed and they needed examination. It is an established fact that NRC was trying to improve safeguards, i.e., trying to get the best possible safeguards program which would take into account all paths of possible diversion. Therefore, according to Mr. Kennedy, the NRC had people visiting facilities and examining MUFs for explanations and causes.

James Conran's suggestions had an influence in this context. At that time, Mr. Conran had not spoken to him, although he had met with some

other Commissioners. Mr. Kennedy understood generally what those suggestions for improvement were. The question of NUMEC arose as a past instance of a large MUF. At the same time, NUMEC was still exhibiting MUFs, and these MUFs were being looked into.

The Commissioner recalls that sometime in February 1976, he attended two briefings. The first given by the CIA and the second given by ERDA. He does not recall what led NRC to have briefings on 1965-1966 events or who was responsible for setting the briefings up. He assumes it was Chairman Anders. The attendees were as set forth in Document 102 of the Conran Task Force Report.

At the CIA briefing he does not recall that any classification level was announced. However, if none was stated, it was clearly implied that it was of the very highest classification--top secret or secret--and involved compartmented material which is very restricted. He believes the people who attended were cleared in advance by the briefing agency.

Commissioner Kennedy recounted his general impressions of the briefing. From past experience he knew that the CIA representative, Mr. Duckett, was a very good briefer. But the February briefing was not up to Mr. Duckett's standards. It was not an organized, polished presentation. It was rambling and disjointed and moved through a variety of circumstances. "Throughout the briefing, I had the distinct impression that I was getting hypotheses, a series of hypotheses, one building on another. I kept looking for the links that would put them together, which would give more than the aura of suspicion where I would say, 'Aha, this really takes us somewhere.' I did not find this." He stated that he came away with the impression that the briefing was about suspicions without conclusions.

He recalls someone asking Mr. Duckett if the CIA or the intelligence community had stated a conclusion. His recollection is that the answer was "no," that some people believed the circumstances or seeming inter-relationships and possible but not clear connections between events and activities pointed to a high likelihood of diversion, but others concluded that this was not so. There were mixed views and no ultimate conclusions. They were also told that the FBI had looked into the NUMEC situation and had concluded there were no grounds to prosecute.

The briefing included mention of the President of NUMEC, Mr. Shapiro,

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He does not know Mr. Duckett's own view of the case.

Mr. Kennedy indicated he had searched his memory regarding files allegedly brought by Mr. Duckett to the briefing. He does recall a small file folder on the table, the contents of which were used by Mr. Duckett. It contained a mixture of papers. His impression was that it was the briefer's personal memory tickling file. It was not a formal file. If it was, it would have been more organized and thicker. He recalls only a file folder with approximately a half-inch mixture of papers. Near the end of the briefing, Mr. Kennedy recalls Mr. Duckett saying something to the effect: "What I have just said is reflected in these papers. There is nothing here I haven't told you about. Feel free to look at them." No one took him up on this offer. He does not recall any offer to leave the documents or anyone from NRC saying that the Commission had no place to keep them. In fact, however, we did not have the kind of vault which is required to keep this type of material (highly classified with compartmented intelligence classifications). According to Mr. Kennedy, it would have been somewhat surprising if NRC had had such a vault since it is a domestic regulatory agency. At the beginning it was not expected that NRC would have involvement in international intelligence. Also, the extent of NRC's role in exports was not entirely clear at the inception of the agency.

A few days later there was a briefing by Harvey Lyons of ERDA. NRC was told that the NUMEC matter had been investigated in great depth and the extent of AEC/ERDA investigations was described. ERDA's concerns went in large part to checking out the efficiency of safeguards built on material accounting under the old theory that nuclear materials would be guarded like gold. The value of the material was so high that it would be protected from an economic standpoint, and backed up by the heavy penalties of the Atomic Energy Act. From the ERDA briefing, it appeared that the AEC had done a thorough-going technical and accounting analysis of the MUF. They employed outside accounting firms to assist them. NRC was told that the FBI had declined to investigate further because they had seen no evidence of a crime. While his recollection is a bit vague, Mr. Kennedy did not realize at that time that there were two different FBI referrals. In addition, the ERDA briefer said that the GAO had concluded the same as the AEC. He now understands that later when the CIA was pursuing its review, the FBI was again involved for a short time and developed nothing for prosecution. ERDA made a

clear statement that while they could not say that a diversion did not occur, there was no evidence that a diversion had occurred. Mr. Kennedy believes this is what the Commission was saying--as long as MUF is there and cannot be resolved, then one can never prove the negative, i.e., that diversion did not occur. Mr. Kennedy recalls having heard casual statements in 1975 that "diversion has never occurred" or "there never has been a diversion." In light of the briefings and a clear understanding of what MUF is, such a statement would be misleading. He would be disturbed about this. The Commission, after the briefings, believed it was important not to make categorical statements of that kind. Consequently, NRC simply said that it had no evidence that diversions had occurred.

One of the purposes of having these briefings was to find out if anything that would bear on our safeguards responsibilities existed in the NUMEC information. Mr. Kennedy stated that he learned two lessons from the briefings: (1) there was a need for continued effort to improve material control and accounting systems and in the transportation field. However, this was not a surprise since NRC observed this in present facilities. It was clear from the ERDA briefing that the system employed in 1965-1966 was rudimentary. But since 1968 when the Regulatory Staff had assumed safeguards responsibility for licensed facilities, a major effort to upgrade safeguards had taken place; (2) the relationship of management to safeguards, including the possibility of collusion (insider influence) had to be thought about. This possibility had to be taken into account. The hypothesis was that diversion could happen through insider action. At one or both of the briefings it was his recollection that there was a closing discussion of lessons learned.

About a day after the CIA briefing, Mr. Kennedy went to General Scowcroft at the NSC. He told Mr. Scowcroft that NRC had received the briefing, that at the time of the events there were differing views and that the highest government officials had been informed in 1966, and that it had now surfaced again through the briefing. Mr. Kennedy felt that it might be something they were interested in and that it was appropriate to apprise them. If the briefing was being given to NRC it was probably being given to others and a prior President had been informed. It was also known that the Administration was doing a nuclear policy review, the "Fri Report." The Commissioner tried to give General Scowcroft his impression of the briefing--that it raised questions but no answers. General Scowcroft uttered his thanks and said he would look into it. Later he advised Mr. Kennedy that indeed they did go into it and satisfied themselves. Mr. Kennedy himself had gone to the NSC because he had known and worked with Scowcroft. The other Commissioners knew he was doing so and Chairman Anders suggested it. He did not know at the time but later learned that Mr. Anders had also contacted the White House. The matter apparently had again been raised at the NSC staff and recently according to a newspaper report Mr. Jody Powell stated that this administration has also looked at the matter and the incident is closed.

Afterwards Mr. Kennedy recalls discussing the briefing with the other Commissioners and believes they discussed it with Mr. Kenneth Chapman. Mr. Kennedy did not make any speeches or deliver any testimony on NUMEC or evidence of a diversion although he is aware of statements by others. Mr. Lee V. Gossick was not present at the CIA briefing, and he never told Mr. Gossick of his impressions of the briefing. If he were to have done so, he would have consulted with the Chairman.

There was no question that the information was sensitive and highly classified. Therefore, he recalls Mr. Anders stating that it was restricted to need to know in the most strict sense. In Mr. Kennedy's view this explains the attendance at the meeting. Mr. Gossick, in the most strict sense, did not have a need to know because he was the manager of the staff but did not involve himself in direct substance. He does not know whether anyone told Mr. Gossick of the reason for his exclusion. The EDO's role is broader now than in 1976.

Mr. Kennedy has no recollection of a briefing by George McCorkle in April 1976 or an ERDA letter to the White House.

On August 2, 1977, the two sitting Commissioners received a briefing from the staff on the MUF release. Messrs. Gossick, Smith, Burnett and a large group were present. Mr. Kennedy does not recall whether Mr. Gossick did any talking but several people did talk. He thinks Mr. Gossick was present at all times during the briefing. However, it is not unusual for people to get up and leave during a long briefing such as this one. It was to give an outline of: (a) content of the release; (b) the questions and answers prepared; (c) a review of the ERDA release and the ERDA/NRC coordination; and (d) a schedule of events. Staff was not seeking guidance but would accept it.

Mr. Kennedy stated that Commissioner Gilinsky wanted to be certain that no categorical statements were included that no theft or diversion had ever occurred. Also, there was discussion of what NRC's statements should embrace. Everyone concluded that it should address the period from 1968 since that was when the Regulatory Staff, NRC's predecessor, got safeguards responsibilities in the licensed sector.

He does not remember a discussion of changing any wording in the release at that briefing. Mr. Gilinsky did ask that this be discussed later privately. The Commissioners asked Messrs. Gossick, Smith and Burnett to go across the hall to Mr. Gossick's convenience offices after the briefing.

A three to five minute session took place in these spaces, most probably in the inner office, with everyone standing. Mr. Kennedy does not believe Mr. Gossick was there the entire time. Mr. Kennedy said, "I

have a recollection that he (Gossick) may have been absent longer than he was present. I am absolutely confident, no question in my mind, that for some significant portion of this short meeting, Mr. Gossick was not there." There seemed to be "traffic" which is why he thought it may have been the front office. However, he concludes that it must have been the back room because of the subject matter and the desire to speak privately.

Commissioner Gilinsky expressed concern about being categorical. Gilinsky and Kennedy agreed that the staff should know of the briefings which raised questions which warranted caution about stating that no diversion had ever occurred. There was discussion about the use of modifiers proposed by Mr. Gilinsky to "evidence" to make sure NRC was not making a categorical statement, such as "conclusive," "direct," "hard." Mr. Kennedy expressed the view that if NRC says "no conclusive evidence" that it could be taken as meaning that the NRC knows of "inconclusive evidence" of diversion; the same for the other modifiers. He said that NRC should not imply that a diversion had occurred, and that it should not mislead in any direction--neither that diversion did not occur nor that it had occurred. He also expressed the thought that one cannot prove the negative. Mr. Kennedy said that he thought Mr. Gilinsky understood the point he was making but was concerned that the impression that no diversion had ever occurred not be conveyed. There had been previous discussions that one cannot prove the negative. Mr. Gossick would have been in attendance at some of these. This was the only guidance they gave on the use of the "no evidence" phrase. He remembers no other guidance. His recollection is they were not told that they must say any particular thing.

To the best of his recollection beyond a general statement that a briefing has taken place and raised questions they did not mention anything of the detailed substance of the briefing. It is possible that in response to something Mr. Gilinsky may have said about something referred to in the briefing, he may have said, "But that is not evidence."

There was no further attempt to brief Mr. Gossick or the others, though he and Mr. Gilinsky agreed that additional staff should be briefed. Since they had been through the large effort of putting together the MUF data release package, they had all the guidance they needed.

Mr. Kennedy also answered questions on a variety of topics as follows:

- Under the delegation of authority in effect in July and August 1977, Mr. Gossick typically sought Commissioner guidance but he had the responsibility.

- He generally felt NRC should confine its questions and answers to 1968-Present.
- The questions and answers dispatched to Representative Udall on August 19, 1977 were reviewed and approved by both Commissioners. He has no recollection of Mr. Gilinsky differing on them. If he had, Mr. Kennedy believes he would have sought out Mr. Kennedy and they would have sat down and resolved their differences.
- He does not recall any criticism of the answer to question 12 in the August 19 package.
- He does not know how Mr. Gossick arrived at the "no evidence" statement but he may have read it in the MUF release page proofs.
- In response to a question whether it was NRC policy to avoid questions on pre-1968 data, he stated that there was not any such policy but that it was common sense to not answer questions you don't have the answers to. He stated that such questions should be referred to other agencies.
- He does not recall discussion of the word "ever" in the MUF release.
- He is unaware of the NSC confirming the "no evidence of diversion" statement but the NSC reviewed this MUF release package. It was a rational move to consult with the organization.
- Commissioner Kennedy must have been consulted as a general proposition by Mr. Gossick concerning his prepared testimony before the Udall and Dingell subcommittees. He has no specific recollection of this now, however. Nor does he recall any mention of NUMEC with Mr. Gossick before his testimony on July 29, and August 8, 1977.
- If he were asked right now about evidence of diversion, he would say something like, "I have no conclusive evidence of any diversion; that does not suggest that I have any evidence. There are surmises, rumors and speculations that there have been diversions."

Finally, Mr. Kennedy said that since November, he has briefly discussed the matter with Mr. Gossick who inquired whether he was aware of some documents where the "no evidence" statement appeared. Mr. Gossick indicated that he was aware of some but not all of them before he testified, and he thought he was expressing the Commission's view. Mr. Kennedy does not remember Mr. Gossick ever saying he wished he phrased his

testimony differently. In retrospect, given the way some have apparently understood Mr. Gossick's statement, Mr. Kennedy would not be surprised if this were the case. However, Mr. Kennedy does not believe there is any difference in what Mr. Gossick said and what others feel the statement would mean with qualifiers. He talked with Chairman Hendrie, while the Chairman was preparing his December response to Representative Udall. He expressed his view of things as he recalled them and they were incorporated into the letter. He has also spoken to Marcus Rowden, Benjamin Huberman, Bryan Eagle, Jerome Nelson, Robert Burnett, Clifford Smith, General Scowcroft, and Peter Strauss.

He accepts without question that Mr. Gossick would not lie to the Congress.

## REPORT OF INTERVIEW

Lee V. Gossick, Executive Director for Operations, Nuclear Regulatory Commission, was interviewed in his office in the Maryland National Bank Building, Bethesda, Maryland, on February 8 and 9, 1977, by Jerome Nelson and James A. Fitzgerald, Office of the General Counsel, and Thomas J. McTiernan and William E. Ryan, Office of Inspector and Auditor. Mr. Gossick was accompanied on both occasions by Howard K. Shapar, Executive Legal Director, Nuclear Regulatory Commission. Mr. Gossick was advised of the nature and purpose of the interview and in addition was advised of his constitutional rights since the interviews concerned allegations of possible criminal conduct by him, namely the giving of false testimony under oath. Mr. Gossick said that he understood his rights under the constitution and that he wished to be interviewed.

Mr. Gossick said that he retired from military service on January 31, 1973, and became employed immediately thereafter by the Atomic Energy Commission in the position of Assistant Director of Regulation. Upon the formation of the Nuclear Regulatory Commission in January 1975, according to Gossick, he became the first Executive Director for Operations (EDO).

Gossick was questioned about his understanding in 1975 of the relationship between his position as EDO and other offices of the Nuclear Regulatory Commission. Gossick said that there was much discussion of this in the early days of the Commission. Gossick said that there was a meeting in January 1975 at Airlie House, attended by the Commissioners designate, at which his role was discussed. The general gist of the discussions was that he would be responsible for the day-to-day operations of the Commission and that would include the coordination of policy options developed by the staff. Gossick stated that for the first year or so there was a feeling on the part of some Commissioners that they should deal directly with the office heads and in fact there was a strong tendency for the Commissioners to deal directly with the office directors. The incumbents of those offices read the language of the Energy Reorganization Act of 1974 as giving them the authority to routinely deal directly with the Commissioners, and this included the Director of the Office of Nuclear Material Safety and Safeguards. According to Gossick, Kenneth Chapman, the Director of that office, felt strongly about this and considered that Gossick's position was not like the former General Manager's position in the Atomic Energy Commission, and that he, Chapman, was to deal directly with the Commissioners. Gossick stated that he brought up this question, involving the position of his office, several times with the Commissioners. Gossick said the situation remained essentially unchanged during the tenure of Chairman Anders but that when Chairman Rowden succeeded Anders, Rowden tried to get the question settled. Gossick advised that it was not settled until new NRC manuals for NRR and the EDO were approved and published. Gossick pointed out that the EDO chapter was approved by the Commission on April 27, 1977, and issued on May 13, 1977. The chapter, in effect, now provides that the office

directors will report to the EDO but that they still have the right to communicate directly with the Commission when they consider it necessary in carrying out their responsibilities.

Gossick was asked about his involvement in safeguards matters. Gossick said that while with the Atomic Energy Commission he had some involvement with safeguards issues and that when he joined NRC there were many things going on in the safeguards area. Gossick said that he was unable to be directly involved in all these issues but that Chapman kept him generally informed. Matters involving safeguards policy came across his desk and were involved in papers that were discussed with him.

Gossick was asked whether his office originated any matters involving safeguards issues. He replied that it did not but there was a mass of things that he was involved with and his job was to coordinate them with other parts of NRC.

Gossick recalled that while he was with the Atomic Energy Commission the problem of safeguards had no organizational recognition. However, according to Gossick, during the last days of that Commission a safeguards policy office was set up to pull the problem together. This did not involve the physical security of reactors but did involve other security considerations.

Gossick was asked whether during this time he became involved with the problem of MUF or inventory differences. He replied that he did not become personally involved but knew that there were people who were working with the problem.

Gossick was asked when he first heard of the MUF problem at the NUMEC plant, Apollo, Pennsylvania. He said that he first heard about it sometime after joining the AEC, and became aware that the matter had been the subject of inquiry by the JCAE. He believes he first heard about the Apollo NUMEC MUF in late 1973 or 1974.

Gossick said he first heard of an employee by the name of James Conran in the time period of spring 1976. He recalled that Chapman had told him that Conran was going around to the offices of the Commissioners and that he had a problem having to do with safeguards. According to Gossick, he attended a meeting in early 1976 with Chairman Anders and Chapman to discuss Conran and his problems.

Gossick was asked when he first heard of the special briefings that were given the Commission in February 1976 by the CIA and ERDA on the problems at NUMEC Apollo. He replied that the first he learned that there had been briefings was in the summer of 1976. It was Gossick's recollection that Chapman told him that briefings had taken place, or that John Davis

had told him about the briefings. Gossick placed the time of this information after his meeting with Anders and after the concerns of Conran came out but he was not absolutely sure of this. Gossick said that when he reviewed reference 102 of the attachments to the Conran Task Force Report, he became aware of some of the particulars of the briefings for the first time. Until this time, he had not been aware of these particulars, but the document gave him details relating to who, what, and where. Gossick observed that with respect to the substance of the briefings, the information was about what he had understood from conversations with Chapman and John Davis, and generally consistent with the press accounts that he had read.

Gossick was asked what his understanding was with regard to NUMEC Apollo, and he stated that he understood that there had been a reported MUF at the plant and there was speculation, and questions about whether it was a process loss or whether someone had made off with it. According to Gossick, his understanding was that the information was not conclusive and no determination had been made as to what actually happened.

Gossick was asked if he was familiar with the problem of releasing MUF data to the public and he replied that he was. Gossick explained that during the last days of the Atomic Energy Commission in 1974 a Freedom of Information Request was received from a reporter by the name of Burnham. As a result of this request, meetings were held by the AEC, Germantown, Maryland. At one time a decision was made to release the information but later the decision was reversed and it was decided not to release the information. This problem, said Gossick, was inherited by the Nuclear Regulatory Commission. Gossick stated that he was not directly responsible for the release of the MUF information but that it was handled by the staff. Gossick recalled papers going back and forth and meetings about the release of information. Gossick could not specifically recall the number of meetings on this subject. According to Gossick, the MUF information to be released was to be six months old or older.

Gossick was asked about the circumstances leading up to his testimony before the Udall Committee on July 29, 1977. Gossick explained that on July 1, 1977, the Commission lost a quorum by the expiration of Chairman Rowden's term of office. During the latter part of June, a large number of decisions was made on pending items and a great volume of paper was generated by the Commission and much of it flowed across his desk. When the Commission went out of business, according to Gossick, he was in the position of representing the Commission at six upcoming Congressional hearings. At the same time, Gossick said, other Congressional hearings were coming up on various subjects. At this time, said Gossick, he received a letter from Congressman Udall requesting that he testify on the open letter that Jim Conran had sent to the Commission. Accordingly, said Gossick, he asked the Office of Policy Evaluation and the Office of the General Counsel to make persons available to help prepare the testimony. Gossick said that Bill Reamer and Bernie Snyder were made available.

Gossick said that he outlined for them the general nature of the testimony and that Reamer and Synder drafted the testimony and prepared backup books.

Gossick said that his prepared testimony addressed the allegations made in the Conran letter plus the reason why Conran had been transferred within NRC. Gossick stated that the Apollo question was not specifically addressed in the prepared testimony.

Gossick was asked whether or not, prior to his testimony before the Udall committee he recalled Roger Mattson suggesting to him that he read reference 102. He answered that he did not recall this but added that he had already read reference 102 anyway when it was sent down to the Commissioners for release to Henry Myers.

Gossick was questioned about his testimony before the Udall committee. Gossick said that the testimony covered a wide range of matters but the matter of Apollo came up early. Gossick recalled that Chairman Udall indicated that the Apollo matter bothered him, and he asked the four witnesses, Thomas B. Cochran, Maurice Eisenstein, Conran, and Gossick, how he could get to the bottom of the Apollo matter. According to Gossick, Cochran suggested that the committee should go to the FBI, the CIA, the JCAE, and the GAO as those agencies may have investigated the matter. Gossick said that when he was asked the question, he said that he thought Cochran had given a good answer.

Gossick was questioned about his answer to Congressman Tsongas' question about the theft of nuclear material, specifically Gossick's statement, "We have investigated every incident that has come to our attention or has been alleged to us with regard to the theft or diversion of material. I can say that we have no evidence that significant--and I use the word 'significant' because there have been cases where small, minute quantities have been taken off the premises of a plant--but I say we have no evidence that a significant amount of special nuclear material has been stolen."

Gossick replied that he was talking about what NRC had investigated and what had been investigated by the Regulatory organization of the AEC back to 1968 when regulatory controls were established, but that it was not his intent to exclude events prior to 1968. Gossick added that he had heard and seen the "no evidence" statements many times and knew that this was the view of the staff. Gossick stated that he was aware that the Commission had made or approved similar statements, and that he understood that the statement reflected the Commission's position. Gossick noted that in making that statement he was not talking about Rocky Flats, Oak Ridge, or other facilities under the AEC's General Manager's or ERDA's program responsibilities, but only with regard to all licensed facilities. Gossick stated that when he used the word "we" in the "we have no evidence" answer that he meant the Nuclear Regulatory Commission that existed up to July 1 of 1977, that he was not aware of any change in position as of the time he testified; and that when he used the

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word "evidence" it related to licensed facilities going all the way back. Gossick said that the word evidence to him means more than suspicion, doubt, rumor, or speculation. Gossick noted that he was not speaking on behalf of the entire Federal Government or other agencies such as ERDA or CIA.

Gossick was asked whether he was present at the briefing that was given the two sitting Commissioners on August 2, 1977, on the MUF release package. Gossick said that he was and observed the week before the briefing had been a time filled with much activity. Gossick said that the staff was trying to keep all the activities on track and schedule. As he recalls, Commissioner Gilinsky was out of town during this week. Gossick said that the purpose of the upcoming briefing was to review all the ongoing and planned activities and to answer any questions the Commissioners had. Gossick said that at the briefing the Commissioners were advised that the release document had already been printed and that the document had already been given to Congressman Dingell's staff, and briefings had begun on August 2 for the Congressional committees and to appropriate state governors. At the August 2 briefing, Commissioner Gilinsky expressed a concern about the statement on page 2 of the report that there was no evidence that material had ever been diverted.

Gossick said that a day or two before the briefing Gilinsky had phoned him and asked about the status of the report. Gossick told him that the report was at the printers. Gilinsky indicated he thought an ERRATA sheet should be issued with the printed report. Gilinsky, according to Gossick, was concerned about the no evidence statement on page 2 of the report and wanted the word "conclusive" inserted before the word evidence. Gossick said that he pointed out that a briefing of the Commission was scheduled for August 2 and suggested that the matter could be discussed at that time and that Gilinsky apparently agreed.

At the August 2 briefing, Smith, Burnett, and members of their staff were present and the no evidence statement came up. Gossick said that he gathered from what went on that Gilinsky's concern was taken care of when it was agreed to modify the draft press release for August 5 to make it clear that the report related only to the period after 1968. Gossick was asked whether he recalled that there was discussion at the briefing that the report related only to the 1968-1976 time period, and he did not specifically recall this.

Gossick, in reconstructing the August 2 meeting said that at first there was a large group of people in the room but that toward the end of the conversation a number of people left the room. Gossick recalled that Gilinsky thought that the no evidence statement was too strong and that it should be confined to the time period 1968 and after, which was the period of NRC's responsibility for answering queries about the MUF information.

Gossick stated that at the August 2 meeting it was pointed out to the Commissioners that the final draft of the report had been sent to them on July 21, 1977, and that the Commissioner's comments on the draft had been collected by OPE and given to the staff. It was further noted that the Commissioners had been provided for their review questions and answers to be used by Dr. Smith and Mr. Burnett at the August 4 press briefing, and that no comments had been received.

Gossick was asked if he recalled the number of people at the meeting after being reduced in size. He did not, but believed that the people at this portion of the meeting included at least himself, Burnett, Smith, and Pederson in addition to Commissioners Gilinsky and Kennedy. He stated his recollection of this part of the briefing was hazy.

Gossick was asked whether he recalled Commissioner Gilinsky saying that unless a change was made in the report, that he would not concur in it, and he did not recall this. Gossick said that the final decision was to leave the report alone and modify the press release to reflect that the report referred to 1968 and after.

Gossick was questioned further about the telephone call he had received from Gilinsky prior to the August 2 briefing. His best recollection was that the call was on August 1 and Gilinsky was interested in "where we were in the MUF release." According to Gossick, Commissioner Gilinsky had seen the draft and inquired if there were "Q and A's" and he, Gossick, answered that they had all been sent down and that comments on the draft report had been received from OPE. According to Gossick, Gilinsky brought up the matter of the no evidence statement and said that it was a stronger statement than he felt could be made. Gossick said that he told Gilinsky that the report was already being printed, and had incorporated comments and changes that had been provided to the staff by OPE, and that his, Gilinsky's, office had bought off on and that a meeting was set for August 2 to discuss the status of the MUF release activities. At this, according to Gossick, Commissioner Gilinsky expressed surprise that the report was already being printed but seemed to agree to let the matter stand until the August 2 meeting.

Gossick was asked about the date of the phone call; specifically was it before or after his testimony before the Udall committee. He said that he couldn't be sure, but did not think it was before the July 29 hearing. Gossick said that even if the call had been received before the Udall testimony he would have answered the question in essentially the same way.

Gossick said that he was present at all times during the meeting in the Commissioner's conference room on August 2. He recalled that a question about the no evidence statement came up, and he was not sure if any discussion on the use of the word "conclusive" came up. Gossick could

not recall if there was any discussion on the use of an ERRATA sheet but did recall that the conclusion was that the press release would take care of the problem. Gossick recalled that there was some conversation about where ERDA stood on the question and the fact that there had been meetings with the National Security Council and Schlesinger at which Smith or Page were present. During these meetings one of issues was whether or not there should be any change to ERDA's statement that there was no evidence of theft or diversion, but that ERDA refused to modify the statement. Gossick recalled that this matter was elaborated upon by either Smith or Burnett to the effect that any modification in the NRC statement would have to be cleared with ERDA since it would be like suggesting that we had something new in the way of information.

Gossick said the business about the pre- and post-1968 data had come up in previous discussions within NRC and that ERDA would handle questions regarding pre-1968 data. Gossick said that it was clear to him that the NRC MUF report covered the period from 1968 and forward. Gossick could not recall if the statement about no evidence of theft or diversion was in the May draft of the MUF report.

Gossick was asked about his acquaintance with Generals Starbird and Giller of ERDA. Gossick said he did not know Starbird well and that he did not know him as a friend like he did Ken Chapman. Gossick said that he had known Giller for a number of years and that Giller had recruited him for the AEC, but that he did not have much contact with him since Giller worked mostly with Ken Chapman and Carl Builder. Gossick said that prior to the Dingell hearings on August 8 he had not discussed the NUMEC matter in any detail with either Starbird or Giller and neither of them had asked him to use the no evidence statement in his testimony.

Gossick was asked if he knew why he was not included in the 1976 briefings by the CIA and ERDA. He just knew that he was not invited and did not discuss his not being at the briefings with anyone until after his testimony before the Udall committee. He recalled that before he testified on July 29 he had discussed the matter of the briefing with Commissioner Kennedy and former Chairman Rowden and that there had been a discussion of the briefing on August 2 with Gilinsky, Kennedy, Gossick, Smith, and Burnett present. Gossick said that prior to these discussions it was his reaction that the briefings involved something that the Commission had concluded it was not necessary for him to know, and he did not attempt to find out.

Gossick was asked about the statement in reference 102 of the Conran Task Force in which Peter Strauss is attributed with the statement that after the 1976 CIA/ERDA briefing the "no evidence" statement was not made by the Commission without modification. Gossick recalled talking to John Davis after seeing reference 102 and asking him what had happened at the briefings. Davis told him what he got out of the briefings was essentially as characterized by reference 102. Eagle told him essentially

the same thing. Gossick recalled that these discussions were before his testimony before the Udall committee. He said he was under the impression that the Commission briefings by the CIA and ERDA contained nothing firm one way or the other.

Gossick said that when he read item number eight (Strauss statement) in the 102 document that he said to himself that it did not sound right. Gossick said that he asked around to see if he had missed some message or that a signal had been given to change such statements, but that he could not find any.

Gossick was asked when he first saw reference 102 and he replied that the document was formally given to him on July 18, 1977, when it was being forwarded to the Commissioners for their approval to release it to Henry Myers. It was Gossick's recollection that he had seen the document a week or ten days before this. Gossick said that the Strauss statement in reference 102 was no signal to him to make a different statement and that the statement was not correct since the Commission had continued to make or approve the "no evidence" statements the same as in the past.

Gossick said that after seeing reference 102 but prior to the Udall hearing he had talked to John Davis and Bryan Eagle about the 1976 briefings because they were the only staff people who had attended the briefings who were still around. Gossick said that he also talked to Commissioner Kennedy about the briefings. Gossick said that what was on his mind was the sensitive nature of the briefings. In his conversation with Commissioner Kennedy, which Gossick recalled occurred in his, Gossick's, office, he asked Kennedy what he should say if the question of the briefing came up. Gossick said he told Kennedy that he planned to say that the Commission had been briefed by the Executive Branch, without specifying what had been said, and that the Commission was aware of what the Executive Branch had to tell them. Commissioner Kennedy did not volunteer any facts to him but said that if the Udall committee wanted the information they should ask the Executive Branch for it.

Gossick said that when he asked John Davis about the 1976 briefings that he did not remember much of what had gone on and could not remember whether there were two briefings or one. In his conversations with Eagle, according to Gossick, he was clear that there were two separate briefings but he added nothing in terms of substance or facts.

Gossick was questioned further about the meeting with the Commissioners on August 2, 1976. He recalled Commissioner Gilinsky brought up the subject of MUF and particularly pluses and minuses. Gilinsky's point was that we have big MUFs, and we say we have no diversions but that even with a zero MUF it does not necessarily follow that we have no diversion and that this tied into why we should be more careful with statements about material accounting that we give to the public.

Gossick said that he wonders now if the above statement by Gilinsky was supposed to be a flag to him or if it was tied in with the statement on page 2 of the MUF report. Gossick said that if the two Commissioners had said to change the statement that it would have been done, but that it was unclear as to what Gilinsky's concerns were, and he did not insist on a change. Gossick said that when the period of the report was limited to the period after 1968 this seemed to alleviate Gilinsky's concern. According to Gossick, he did not know how he could explain an errata sheet that changed the statement to "no conclusive evidence" because the question would be if that was true now why wasn't it true all along, and he wasn't aware of any "evidence" in the sense in which he understood the term.

Gossick advised that when the August 2 meeting broke up, either Gilinsky or Kennedy signaled him to get Smith and Burnett, which he did. Gossick, Smith, and Burnett then went across the hall to a small suite of offices accompanied by Commissioners Kennedy and Gilinsky. According to Gossick, the group met in the outer office and no one else was present at the time. Gossick said that he anticipated what was to be discussed, since one of the Commissioners had told him Smith and Burnett should be told about the CIA and ERDA briefings prior to their participation in the August 4 press briefing.

Gossick said the group met just inside the door. It was Gossick's recollection that something happened to interrupt or distract him from the conversation. He recalled that he was in the room during the conversation which lasted from five to ten minutes and everyone stood. Gossick recalled that Smith, Burnett, and Commissioner Gilinsky stood near the door but he cannot remember what Gilinsky said, nor did he remember Commissioner Kennedy saying anything.

Gossick said that right after the meeting he talked with Smith and Burnett about what had been said and got the general impression that the CIA briefing only dealt with the suspicion that there had been a diversion and that the briefer may have indicated that some in CIA thought that a diversion had taken place, but that this was not the agency view, and that it was not conclusive that a diversion had occurred. According to Gossick, what Smith and Burnett told him was nothing more than what he understood from reference 102 and discussing with Davis and Eagle.

Gossick was asked whether or not during the meeting in the small office, he was pulled out of the room at any time. He replied that he thinks that he may have been, or that there was some interruption such as a phone call, because he cannot remember what was said. It was Gossick's opinion that if he had stood there and listened to what was said, that

he would have a clear impression of what had gone on. Gossick was asked if he recalled being at the meeting when the meeting broke up and he said that he thought that he was.

Gossick said that when the small meeting was over he left and returned to Bethesda. According to Gossick he at no time related what was said in the meeting to his prior testimony before the Udall committee. When he later received the transcript of his testimony before that committee he reviewed it just to clean up the grammar and did not believe that there was any need to correct any matter of substance.

Gossick was asked whether between August 2 and August 8, the date of his testimony before the Dingell committee, he discussed what had gone on at the small meeting with anyone and he replied that he did not recall discussing it. Gossick said that there was much going on and he was working on his testimony before the Dingell committee. Gossick advised that in his prepared testimony he did not address the no evidence statement.

Gossick was questioned about his testimony before the Dingell committee on August 8. Gossick said the panel of witnesses consisted of Fri, Starbird, and Giller of ERDA and himself. Gossick said that Fri had to leave early so he was the first to present his statement. The testimony concerned the general nature of the MUF problem.

Gossick was asked about his answer to a question by Mr. Ward that the Commission had given assurance that they did not believe that significant quantities have ever been diverted or stolen, and his reply that that was correct. Gossick said that at the time he did not have in mind just the NUREG document, but did have in mind a general understanding of past Commission and staff statements on this question. Gossick said that he did not have any limited time period in mind, like only after 1968. Gossick advised of course that he was talking about significant quantities of material because there had been alleged thefts of small amounts of material such as in the Silkwood case, or a case where someone threw fuel pellets over the fence. Gossick said that today that he would answer the question in the same way if he can use the word evidence as he interprets it. Gossick said that looking at the testimony today, however, he could have responded differently in order to avoid the kind of misunderstanding that in fact resulted. Gossick said that today he would either limit the answer to the information the Commission had with reference to the time period covered in the NUREG document, or, if he didn't so limit the period he would use "no conclusive evidence" or "no hard evidence" in view of the yet unresolved questions still surrounding the Apollo NUMEC matter. Gossick explained that he now realizes that he did not have to go any further than this in answering the question. Gossick emphasized, however, that at the time he testified that it was



his understanding that it was the Commission's view that there was no evidence of theft or diversion. Gossick said that to him evidence is not just suspicion and that he still believes that there is no evidence (as he understands the word "evidence") that there has in fact been a theft or diversion, of significant quantities of material. B

Gossick was asked why he thought that this was the Commission's view. He said it was his general understanding based on statements made or approved by the Commission, although at the time of the July 29 hearing he probably could not have pointed to specific documents. Gossick advised that he understood that that was the Commission's view.

Gossick said that he did not discuss his testimony before the Dingell committee with anyone until the November 15, 1977, letter was received from Congressman Udall. Gossick said that the first time he saw a copy of that letter was when it was handed to him one evening by Ed Fay.

Gossick was questioned about his testimony before the Dingell committee in which in answer to a question by Mr. Ward, he said as follows:

"I can only say, Mr. Ward, that the statement of the Commission that they had no evidence that indicated any diversion had taken place was made in full knowledge of the briefing that they had received. So while I personally was not briefed on that matter, the Commission did make, and has reaffirmed the judgment that, in their view, there has been no evidence to indicate that any evidence to indicate that any diversion has taken place."

Gossick stated that when he said that the Commission had reaffirmed that judgment he had in mind the statement in the NUREG document but he realizes that this was probably too broad a statement since that document only goes back to 1968. However, Gossick said, that when he made that statement he also had in mind the other statements of the same meaning that had been made or approved by the Commission, and which did not limit themselves to 1968 and after.

Gossick was asked what he meant by the word Commission in his testimony. He stated that what he had in mind was the collegial body, or the whole NRC organization. Gossick said he meant more than the staff, but not the positions or views of individual Commissioners. Gossick explained that at the time there was no quorum and that he did not consider that he was the Commission but he considered that this was the view of the last Commission as it existed before it went out of existence at the end of June. Gossick said that he was not referring to the individual views of Commissioners Kennedy or Gilinsky. Gossick said that he knew that Commissioner Gilinsky had concerns but did not know precisely what they were, and did not know whether they might stem from other sources.

of information available to Commissioner Gilinsky. Gossick said that in order to obviate any possible misunderstanding, he should have said that apparently Commissioner Gilinsky had a problem but he did not know what it was, but that this did not occur to him. Gossick said that he was not attributing this position to the two Commissioners and himself but rather was referring to the collegial body before it went out of business.

Gossick said that while testifying before the Dingell committee that neither the year 1968 or Commissioner Gilinsky's concerns were in his mind and does not know why they were not. According to Gossick, what he should have said was that not having been at the briefing, he personally could not give that assurance in answer to Mr. Ward's question, but that his understanding of the Commission's view was as stated in the earlier answer.

Gossick observed that he believes evidence is something, "I can use to prove a point" and that it is something that "proves or tends or prove that something happened." Gossick said that in his opinion evidence is more than suspicion, speculation, or the suggestion that something happened. According to Gossick evidence is not the opinion of one CIA man but he noted that if it was the view of the entire agency that he would look upon the matter differently. Gossick said he had not heard that this was the case prior to his testimony before the Dingell committee.

Gossick said that probably during the week of November 27, 1977, after the Udall letter had been received and after he prepared a draft of his memorandum to Chairman Hendrie in response to the letter, Commissioner Gilinsky called him in. Gilinsky was apparently concerned not about his testimony before the Udall committee but before the Dingell committee. Gilinsky told Gossick that at the little meeting on August 2 he had told Burnett that the CIA believed that a diversion had in fact occurred. Gossick told Gilinsky that it was the first time he had heard this. After meeting with Gilinsky, Gossick said he talked with Smith, Burnett, and Commissioner Kennedy about what had gone on the little meeting. Burnett did not recall that Gilinsky had said this and neither did Smith. Commissioner Kennedy said that there were some people in the CIA who thought that a diversion had occurred but that this was not an agency view.

Gossick said that on December 12, 1977, Commissioner Gilinsky called him, and asked him to come downtown. Gossick did so and Gilinsky showed him the letter he had written to Congressman Dingell and asked him to read it. Gossick recalled telling Gilinsky that he was sorry that there has been a problem over this but that he did not recall Gilinsky telling him that it was the CIA's conclusion that there had been a diversion and that if he did the other persons at the meeting would have remembered it. Gilinsky replied, as Gossick recalls that he did not mean to say

that it was the agency's conclusion, but there were some people in the agency who believed a diversion had occurred and that the briefer may have said that it was his personal view, not the agency position.

~~Gossick was asked whether he considered that his testimony before the Dingell committee could be misleading or not and he answered that it could be if you take the word evidence to mean less than he did.~~  
Gossick said that if the word is taken to mean speculation or rumor the testimony could create a misunderstanding.

Gossick noted that Commissioners Gilinsky and Kennedy had been advised of his testimony before the Udall committee in Carl Kammerer's memorandum of August 1, 1977, plus the transcript of the testimony sent to them later, and that no question was raised about his testimony until December.

Gossick was asked whether there was anything in the action plan prepared as a result of the recommendations of the Conran Task Force that impacted on the testimony which he had given and he replied that the action plan recommendation and the staff response did not suggest any qualification in the no evidence statement except to point out the inherent uncertainties in measurement.

Gossick was questioned concerning the delegation of operating authority to him by the Commission. Gossick said that there were several drafts prepared and that letters with the final version were sent to several members of Congress and a Federal Register notice of the delegation was issued. Gossick said that before Chairman Rowden left that he met with the three Commissioners and they discussed the delegation and that Gossick would continue to consult with the remaining Commissioners. Gossick was asked whether he had attempted to get a briefing from the Commissioners on pending matters and he said that he had not because he felt that he was already sufficiently involved in the major things that were currently going on.

Gossick said that he set up different categories of matters. According to Gossick, one category involved matters that could wait for the new Commission; another involved matters that could not wait and which required him to seek counsel and advice of the Commissioners. Gossick said that there was no instance of a confrontation with the Commissioners.

Gossick recalled that in June 1977 Burnham of the New York Times had received information in a brown envelop about the inspection history at Apollo. Gossick said that he anticipated that Burnham would write something about it and after discussing it with Chairman Rowden it was decided to alert Congressman Udall. Gossick recalled that on or about

June 24 he and others went to see Chairman Udall, Henry Myers and several Congressmen and there was a candid discussion about the MUFs and the problem at Apollo. Gossick said that they told Udall about the Executive Branch briefing. Gossick recalled that he told Udall that he, Gossick, was not familiar with the details but that the committee should ask the Executive Branch if they wished the briefing. At this time, Mr. Gossick recalled that Chairman Rowden said that the NRC had made contact with the Executive Branch concerning the CIA briefing. Gossick understood that this was done so as to be sure that the new President (Ford) was informed about the content of the briefing. Mr. Gossick explained that these facts had no impact upon his testimony because he knew from document 102 that the briefing had been "inconclusive."

Gossick was asked about the "Q and A's" that were sent to the Udall committee on August 19, 1977. Gossick said that they were prepared by the staff and that Hugh Thompson had been responsible for coordinating the preparation. According to Gossick, packages were sent to the Commissioners and to OPE and clearances were received from them with some changes. After this, said Gossick, he signed the letter to Udall and sent the package out. On the following Monday, Hugh Thompson told him that there was a problem and that Commissioner Gilinsky wanted to modify an answer and had proposed rewording the answer to question 12 to relate only to after 1968. Gossick said that this was all right with IE and NMSS, and Commissioner Kennedy had no problem and he would discuss it with Commissioner Gilinsky. Gossick said that he saw Gilinsky and told him that there was no problem about the change but that the letter had already been sent based on the approvals and changes that had to be provided by OPE. Gilinsky just let the matter drop and did not pursue it further.

Gossick said that he understood from Ken Pederson that at the next opportunity for the Commission we would revise the statement to construction it to post-1968. According to Gossick, the next opportunity came up in the Joint Report on Safeguards that was issued toward the end of December 1977 and the statement on theft and diversion was modified to cover only the period of the report.

Mr. Gossick was asked whether he had seen a DIA publication devoted, in part, to nuclear proliferation matters. He replied that he had seen it but did not give it great weight because it did not mention Apollo NUMEC and because he understood that it did not represent the intelligence community viewpoint.

## REPORT OF INTERVIEW

Carl Builder was interviewed at the Office of Inspector and Auditor on January 18, 1978, by Thomas J. McTiernan, William Ryan, and James Fitzgerald. Mr. Builder stated that he is presently with The Rand Corporation and, since September 1977, has held the position as Director, Theater Conflict Research. Prior to that, he was Director, Strategic Systems, beginning in September 1976. Until August 1976, and beginning in July 1975, he was Director, Division of Safeguards, Office of Nuclear Safety and Safeguards, Nuclear Regulatory Commission.

Builder stated that while with the NRC, a part of his responsibility was to see that the regulations for material accountability (or MUF) were adequate. About one month after being employed by NRC, he became aware of a past problem which had occurred at the NUMEC plant in Apollo, Pennsylvania, in 1966. According to Builder, there were "rumors and allegations" about a significant loss of material at Apollo, variously attributed to a diversion of material to Israel, or that it had been "buried," or that it had been sold on the black market. Builder said that these rumors were not based upon anything written, to his knowledge, but rather conversations. These rumors did not focus on the specific events at Apollo, but they were frequently associated with the large Apollo MUF. Builder recalled that the conversations he referred to were most likely with Gerry Page and Larry Wirfs. He did not specifically recall talking with Ken Chapman about the rumors.

Builder said that early in the spring of 1976, briefings were given to a limited number of people by ERDA and the CIA. The ERDA briefings had to do with the topic of crude nuclear explosives. Builder did not recall that the ERDA briefings were related to the CIA briefing. He recalled a subsequent ERDA briefing on the subject of MUF given by his ERDA counterpart, a retired Navy Admiral, Harvey Lyon. The CIA briefing was specifically concerned with the problem which had occurred at NUMEC. That briefing was held in the Chairman's conference room.

Builder pointed out that prior to the briefing, several concerns had been voiced about the construction of crude nuclear explosives. The information was sensitive; and it was limited to seven people within NRC, the five Commissioners, plus himself, and Ken Chapman. These seven people had a direct responsibility for the adequacy of nuclear safeguards. There had been a series of meetings on this subject in 1975.

He was advised of a briefing to be given by Carl Duckett in 1976, as he recalled, in a telephone call from one of the Commissioners' secretaries. Builder recalled that all of the Commissioners were present at the briefing; at least he could not recall any of them being absent. Present in

addition were Ken Chapman and himself. Builder did not recall anyone else being present. Builder said that he was not advised in advance of the topic of the briefing, but that he guessed it might be about NUMEC Apollo.

Builder recalled the CIA briefing was given by Duckett alone and that Duckett was not accompanied by anyone else from CIA. Builder did not recall an announcement of the classification level of the briefing, but observed that it might have been "top secret and sensitive."

Builder stated that he was reluctant to go into the details of the briefing. He described the briefing as mainly concerning "Duckett's theories" of what happened to material at NUMEC. Builder said that, because of his position, he had a specific concern for what might have happened to material at NUMEC. Consequently he listened for something in the nature of "hard evidence"; but all he heard were theories, circumstantial evidence, and much "color."

Builder stated that he came out of the briefing with an impression of having heard a colorful yarn about colorful people. Builder did not believe that Carl Duckett had evidence with which to take legal action. It was Builder's recollection that it was not the kind of evidence, by itself, on which to base rule changes. Builder said he came away from the briefing "entertained", but most of what he heard was old allegations.

Builder estimated that the briefing took one hour or less. Builder said that Lee Gossick was not present. After the briefing, said Builder, he never discussed the substance of the briefing with anyone until this interview. He had the impression that the Commissioners had very little further interest in the matter. According to Builder, "We had heard enough."

Builder was asked about a memorandum he had written concerning allegations about missing material at NUMEC Apollo. Builder said he had written no such memorandum. Sometime after leaving NRC, Builder said that he

received a telephone call from Mark Elliott, who was then a member of the Conran Task Force. Elliott wanted to know why no action had been taken on the Conran allegations about Apollo. Builder said, he explained to Elliott that he had determined not to take any action on the allegations. However, he pointed out that this was apparently not just his, Builder's, judgment alone. Builder noted that the Commission had received a briefing on the Apollo incident and also had not seen fit to take any action on the Conran allegations. Builder said that in the course of his conversation with Elliott, he mentioned that the Commission had been briefed on the subject, but did not reveal who had briefed. Elliott then wrote the memorandum for the Task Force, describing his conversation with Builder.

Builder recalled that he had more than one telephone conversation with Elliott on this subject. In one conversation, Elliott told him that a request under the Freedom of Information Act had been received for the memorandum. According to Builder, he told Elliott that he thought it would be a great mistake for NRC to release the document, but Elliott told him that the decision had been made to release it. Builder advised that this disturbed him very much and for a time considered whether he had a "cause for action" against those who had released the document. Builder pointed out that the Elliott memorandum had only mentioned there had been a meeting, but had not gone into the details or source of the briefing. Builder said that as a result of the release of the document, he had several calls from the "media" about it, but in answer to their questions, he went no further than the contents of the memorandum.

Builder stated that it is his view there is no evidence of a theft or diversion of significant amounts of material based upon all the information in the possession of NRC. However, it cannot be said that there is no possibility that a theft or diversion has occurred. |

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Builder was asked whether he discussed his view with Lee Gossick and he said that he never discussed it with him. Builder said that this view was consistent with the policy of NRC both before and after the CIA briefing and the CIA briefing did not change it. "The Commission's policy did not change one iota." Builder said no word was heard from the Commission on the matter and that this remains his view today. Builder said he had never discussed his view with any Commissioner or anyone outside the Office of Nuclear Material Safety and Safeguards.

Builder said that the events of NUMEC were known before Conran and Duckett mentioned them because he was forced to ask himself the question: If the allegations about diversion were true, were there actions that he should be taking to prevent a reoccurrence? He volunteered that "If I had to bet whether any significant amount of nuclear material had ever

been stolen, I would bet that it had not. However, you cannot regulate on a bet." It was Builder's belief that even if the allegations were true, the security provisions at NUMEC in 1966 were far different than those called for today. It was Builder's opinion that, even in light of these differences, a theft or diversion was improbable in 1966.

Builder, in reference to the 1976 CIA briefing, stated that Duckett was very quiet in manner and he could not recall that Duckett had a number of documents. It was Builder's impression that when the briefing was over the Commission was not interested in pursuing the matter any further. There was no summing-up session by Duckett or the Commission, to his knowledge.

Builder had no knowledge of a trip by Gerry Page to the CIA in the April 1976 time frame. He said Page may have done so, however, and he might not have known about it because he was involved with a task force of his own at the time in another city.

Builder was asked whether he had heard that Chairman Anders had gone to the White House after the briefing and he advised that he did not know this. Builder was asked, because of reports in the press, whether he recalled President Johnson's name coming up during the CIA briefing. He recalled that it did, but it was in the form of some irrelevant allegation that Johnson did not want someone told about Apollo, but the source of Duckett's information on this was not clear. According to Builder, Duckett seemed to be having trouble with his own agency. Builder recalled that it was not so much that Duckett was being curtailed, but rather Duckett seemed to be the advocate for theories which were not supported by his agency.

Builder was asked about Lee Gossick's testimony before the Udall Committee to the effect that there was no evidence of theft or diversion of significant quantities of material. He said he had no quarrel with the testimony. Builder stated that the problem is you cannot prove the negative corollary of the Gossick testimony because you cannot prove a negative. One cannot say that NRC has evidence that Shapiro took the material and Builder was on the alert to see if the CIA had any evidence. On Mr. Gossick's testimony, Builder said he probably would have added to what Mr. Gossick said, "However, we cannot prove to you that nothing has ever been taken." Builder would be more comfortable if this was added, but there was no policy to make such an addition. One could say "there is evidence that material could have been stolen," but this would have been subject to strong challenge, and he, Builder, would have challenged this statement.

When asked about the Dingell testimony, Builder said he came away from the CIA briefing with the impression that the Commission would have reaffirmed the position that there was no evidence of theft or diversion.

Builder said he thought that by taking no action, the Commission had reaffirmed that position. Builder recalled after the briefing that similar statements had been made a number of times and not questioned by the Commission. According to Builder, if the Commission does question such statements, it is only since he left NRC. Builder concluded by saying if the Commission now opposes that position, it has taken them a long time to incubate that position.

Builder pointed out that while he was with the NRC, Lee Gossick's principal duties involved administration and running the staff. Builder recalled that Gossick frequently excused himself when substantive matters were to be discussed. Builder said the fact that Gossick was excluded from the CIA briefing was more because he was not involved with very sensitive information about bomb making, rather than because the briefing was about Apollo.

## REPORT OF INTERVIEW

Dr. Edward A. Mason, Vice-President for Research, Standard Oil Company (Indiana) was interviewed on February 9, 1978, by John Anderson, NRC/OIA and Peter Crane, NRC/OGC. The interview took place in Dr. Mason's office in Naperville, Illinois, and lasted for approximately 2-1/2 hours. Dr. Mason was an NRC Commissioner from January 19, 1975, until January 15, 1977. He started working for Standard Oil on January 17, 1977.

Dr. Mason was advised that the purpose of the visit was to ask him questions relative to an ongoing inquiry into certain Congressional allegations that the NRC Executive Director for Operations, Mr. Lee V. Gossick, had misrepresented facts before two House Subcommittees in July and August 1977.

Dr. Mason was told that the Chairman of NRC, Joseph M. Hendrie, had directed OIA and OGC to conduct an inquiry into this matter.

As background, Dr. Mason was advised that Mr. Gossick had testified before the Subcommittee on Energy and the Environment of the House Committee on Interior and Insular Affairs on July 29, 1977, and before the Subcommittee on Energy and Power, House Committee on Interstate and Foreign Commerce, on August 8, 1977. The thrust of those remarks of Mr. Gossick that are now being challenged is as follows: that the Commission has no evidence that significant quantities of SNM have ever been stolen or diverted, and that the Commission takes this position after having been briefed by ERDA and the CIA in February 1976, regarding allegations related to inventory discrepancies at the Apollo/NUMEC facility in the 1960s.

The interviewers advised Dr. Mason that they had "Q" clearances, and in order to pursue this matter thoroughly, had a "need to know" what actually occurred and was said at the 1976 briefings. Dr. Mason was given the name and phone number of the CIA contact to call if he wished to verify the interviewers' "need to know" in this matter. Dr. Mason said that that would not be necessary, since he knew both interviewers personally and was aware of the ongoing inquiry, having previously been contacted by Mr. McTiernan, OIA Director.

Dr. Mason was informed that the results of his interview would, after a classification review, be provided to the Congress and might well be printed in the Congressional Record. The interviewers thought it desirable for Dr. Mason to read and make any necessary correction in a preliminary draft prior to final submittal.

The interviewers advised Dr. Mason that James Conran had stated that he had told Dr. Mason all he knew about Apollo/NUMEC on December 15, 1975. This included the assertion that there was an intelligence estimate to the effect that material had been stolen from NUMEC. Conran said that he told Dr. Mason the name of the country to which the material was alleged to have been diverted, and discussed with him the officers of NUMEC.

Dr. Mason confirmed that he first became aware of Conran's concerns in December 1975. Dr. Mason, Conran, and James Hard, Dr. Mason's technical assistant, met at Dr. Mason's house for several hours. (Conran, Hard, and Mason had become acquainted when all three were associated with the AEC's Advisory Committee on Reactor Safeguards, and Conran apparently trusted them both.) Conran, at the meeting at Mason's house, was carrying around a briefcase full of classified material, but he demonstrated to Dr. Mason that he had "covered himself" legally. Dr. Mason nevertheless thought this unwise, and cautioned him against being careless--for example, leaving it on a bus. Dr. Mason agreed with Conran that it was important to learn from past experience with regard to safeguards, and to use information on past problems to "raise the consciousness" of NRC personnel working in the area.

Dr. Mason said that Conran told him that to facilitate the performance of his then current work assignment, Seymour Smiley had helped Conran get access to documents at ERDA, where in the course of combing the files, he came across leads that caused him to inquire about Apollo. On one occasion, Conran indicated that he was permitted to see a classified document by the secretary of an ERDA official who had previously given permission by telephone to Conran to see the document. The document referred to a CIA/FBI NUMEC investigation. According to Conran, the official, who was away from his desk when Conran arrived, returned to his office, where Conran was reading the document, and snatched it out of his hands, telling Conran that he was not permitted to see the document. Conran thus became convinced that there was something there and that there was a strong likelihood that special nuclear material had been stolen from NUMEC and that a cover-up was underway.

Conran, according to Dr. Mason, was a hardworking individual, although so convinced of the rightness of his own point of view and his interpretation of facts that he could not accept the possibility of any other interpretation. Conran was concerned that his own role in informing Dr. Mason be kept as confidential as possible, out of fear for his future career.

Dr. Mason had for some years heard rumors regarding the loss of material from Apollo, most of which he considered jokes in bad taste, to the effect that Zalman Shapiro had personally taken the material to Israel. He recalled jokes about Zal Shapiro's right arm having been lengthened by all that lifting, about the high quality of the suitcases he bought, and so on. He had given them no credence at the time. Following the meeting with Conran, however, Dr. Mason went to Chairman Anders and told him of Conran's allegations, advising him that he thought that the NRC should investigate Conran's story and that a briefing of the Commission was desirable. Dr. Mason recalled stressing to Chairman Anders that it was a deplorable situation that ERDA security was so lax that Conran could read these documents but the Commissioners couldn't; therefore, a briefing was necessary. Dr. Mason believes he might also have discussed Conran's allegations with Commissioner Gilinsky.

Subsequently, Dr. Mason heard from Conran that he had been called in by Ken Chapman and asked about his concerns. Dr. Mason did not know whether Anders had spoken directly to Chapman or had mentioned the matter to Lee Gossick, but he thought it "unlikely" that Gossick had been informed, since the "Secret Seven" (the five Commissioners, Chapman, and Carl Builder) had already been established to limit access to just such information.

Dr. Mason reviewed the background of the creation of the "Secret Seven." Commissioner Gilinsky, he said, had some months earlier become concerned that NRC was not getting from ERDA all the safeguards information it needed, and accordingly set up a contract, hiring Carson Mark as a consultant. ERDA in turn became concerned over Gilinsky's action and decided to compromise: the five Commissioners plus Chapman and Builder were to have full access to the ERDA files. Dr. Mason repeatedly said to Gilinsky that the group was too small for effective use of any ERDA information in NRC safeguards developments. In particular, he felt that Lee Gossick should be included. Dr. Mason was told, however, that Gossick did not have a need to know, and that Gilinsky had made a deal for NRC with ERDA. Dr. Mason said at the time that he thought this was a mistake that could one day get the Commission into trouble. The term "Secret Seven" was Dr. Mason's, coined to indicate his lack of enthusiasm for the concept.

Dr. Mason recalled that Chairman Anders had requested the CIA briefing. He stated that he expressed to Gilinsky and Anders the view that Lee Gossick should be invited, but according to the terms of the "Secret Seven" agreement, Gossick was excluded.

Dr. Mason did not recall the name of the CIA briefer. To his surprise, Dr. Mason observed more than just the "Secret Seven" and the CIA briefer in the room. At the time, he wondered at that, but assumed the additional

personnel were from the CIA. He recalled that special White House permission was required to have the briefing in the first place; thus he was puzzled at finding more attendees at the briefing than just the "Secret Seven" and the briefer. He believed all five Commissioners were there, but could not recall for sure.

Dr. Mason described the briefer as "somewhat agitated, tense, certainly not comfortable," but added, "maybe he was just a four-pack-a-day smoker." Dr. Mason got the impression that he would rather not be giving the briefing. Dr. Mason did not recall the specific classification level given to the meeting, but he got the impression, from the strength of the CIA admonitions, that it was "at least Top Secret." (Dr. Mason stressed the difficulty of recalling the exact words spoken more than 2 years earlier, but emphasized that this appeared to be the most sensitive briefing he had ever attended.) The CIA briefer stressed as forcefully as possible how sensitive the information was, [REDACTED]

[REDACTED] and how essential it was that the information not be passed on, inside or outside NRC. The briefer said that a breach of secrecy could endanger American intelligence agents. Dr. Mason said the agency was concerned that its "cover not be blown."

Dr. Mason assumed that the briefer was speaking for CIA, rather than for himself, and recalled no disclaimer or mention of differences of opinion within CIA or among agencies in the intelligence community.

The CIA briefer said, Dr. Mason recalled, that enriched uranium material had turned up missing at NUMEC; that they could not prove that the material had been stolen or diverted; but that their best hypothesis was that a diversion to Israel had taken place. [REDACTED]

[REDACTED] Dr. Mason did not recall the mentioning of Israelis working at NUMEC, although there might have been mention of Israeli visitors to the facility. Dr. Mason did not recollect any discussion of how NUMEC paid the million-dollar fine for the Apollo MUF; any mention of suitcases, loans, or secure communications devices (such as a scrambler telephone); or any reference to Shapiro's relatives. When asked whether there was anything by way of a "fingerprint" (i.e., spectrographic analysis) linking Apollo material with anything that was in Israel, Dr. Mason emphatically answered that there was no such reference. That, he said, was precisely the sort of hard evidence that he was expecting to hear, and nothing of the kind was presented. Dr. Mason recalled, in response to a question, that there might have been reference to an FBI investigation, but if so, he

remembered no details. Dr. Mason recalled that the briefer indicated that the CIA did not consider the investigation closed, but that this was being treated as a "back-burner" matter.

Dr. Mason stressed that all the information provided by the CIA briefer relating to possible diversion from Apollo/NUMEC was circumstantial: for example, that Israel was known to be developing a missile capable of carrying a nuclear warhead, and that the CIA, therefore, inferred that there must be nuclear warheads to arm the missiles.

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Dr. Mason recalled that it seemed to him that the CIA had a "weak case" and that "they were stretching." When he asked whether the Government intended to prosecute, he was told that they did not have enough evidence. Dr. Mason said, "The whole thing was so James Bond-ish. They had woven such a loose web. I thought at the time that it was perhaps a good idea that this information was not public, because Zalman Shapiro might have a right to sue for slander. It made me realize what a tough job the CIA has, having to draw hard conclusions from tenuous evidence." While he thought that the CIA had made out a "flimsy case" for believing a diversion to Israel had taken place, he found it "sobering" to realize that there were those in CIA who thought it likely it had happened. In response to a question, Dr. Mason said that he thought the CIA briefer believed what he was saying, although he was not sure that the briefer told everything he knew on the subject. Dr. Mason did not recall anyone offering documentary material; if such material had been offered, he believed he would have asked when he could read it.

Dr. Mason recalled the briefing as leaving a "whimsical" impression, as far as he was concerned: "the information was so soft you couldn't do anything with it." He emphasized that the CIA briefer did not represent that a theft was known to have occurred, only that this seemed to be the most probable explanation. Dr. Mason stressed that there was no "bottom line," summary, or wrap-up of any kind, either by the briefer or the Commissioners.

In response to a question, Dr. Mason stated that there was no provision made for the Commissioners to brief their successors on the information they had learned from the CIA. It was his impression that as the individuals with the information left the agency, the institutional memory of what had been learned would fade away.

Dr. Mason recalled no lengthy discussion of the briefing by the Commissioners and other NRC personnel after the briefer left. He believed that the Commissioners may have remained in the room for at most a few minutes after the briefing ended.

Dr. Mason was asked whether he personally agreed with the briefer's assessment that the most likely explanation of the Apollo/NUMEC MUF was theft and diversion to Israel. He replied that he would not compound the CIA's circumstantial assertions by repeating them. Dr. Mason said that while he was not personally persuaded that such a theft/diversion had taken place, the CIA briefing did suggest to him that it might have happened.

Dr. Mason commented that he had visited Apollo/NUMEC some years ago and found it a "dirty, sloppy plant, with dirt and other loose matter hanging from the ceilings." It did not strike him as surprising that they might have lost what he remembered as on the order of a hundred pounds (which in volume would be only about two liters of uranium metal) of material over the years. Dr. Mason noted that he was probably additionally "conditioned" to this view by his having heard that the waste pile at the facility had been dug up and some uranium found in it.

Dr. Mason discussed in some detail the question of whether the Commission's policy with respect to the possibility of theft having taken place changed as a result of the briefing. He emphasized that before the briefing, there was no set policy on the question, nor was there any significant discussion afterwards on the issue of theft or diversion of material. The policy did not change because there had never been a policy, although he believed that the Commissioners generally were more circumspect after the briefing in any references to possible thefts of special nuclear material in the past. Dr. Mason commented that he thought that the information received in the briefing had been a "factor" in the Commission's insisting on the upgrading of safeguards requirements.

As for himself, Dr. Mason knew that small amounts of special nuclear material had been removed from nuclear facilities. The Karen Silkwood case was one example, and he had heard from friends in the weapons program that the Oak Ridge lie detectors had uncovered instances in which workers took a gram or so of material home to show their families and then returned it. Thus he was himself cautious always to speak in terms of "significant quantities" of material, in the period before the CIA briefing. When asked what he meant by "significant," he commented that 100 pounds of material was significant, but several grams was not. After the briefing he became more sensitive to the issue, and would review other Commissioners' speeches to make sure that no overly broad statements were made. He emphasized that although he personally was not persuaded

on the basis of the CIA briefing that a theft and diversion to Israel had in fact occurred, he considered it significant in itself that one agency thought that such a diversion had probably occurred.

Dr. Mason recalled hearing a speech, either by Robert Seamans or Robert Fri of ERDA, in which the speaker stated that no significant amount of nuclear material had ever been stolen. After the speech, which he believed may have been given in Rio de Janeiro in September 1976, he asked either Seamans or Fri, "Would you regard 100 pounds as a large amount?" When the answer was in the affirmative, Dr. Mason suggested that he inquire further. Dr. Mason does not recall whether he advised this person to consult with his own agency staff or with CIA.

[ With respect to actual guidance going to the NRC staff as a result of the briefing, however, Dr. Mason believed that all the Commissioners were of the view that no direct account of the information could be provided owing to the extremely severe admonition from CIA that secrecy was essential. Dr. Mason found this extremely frustrating. By way of background, he explained that he had been having a running disagreement with the safeguards people of NRC over what he called the "Bonnie-and-Clyde" syndrome--the notion that the most likely scenario for a theft and diversion of nuclear material was an assault on a facility by heavily armed terrorists, allied with competent metallurgists and engineers capable of building an explosive device. As an engineer, Dr. Mason was much more inclined to be concerned about losses through the "back door," such as by recovery of material from the waste system or its sequestration in small increments over a period of time. The safeguards people at that time had a conviction that no one person could be a threat, because of the security clearance system. Dr. Mason was not persuaded that the clearance system was an absolute safeguard against the possibility of an unreliable employee.

Dr. Mason felt that it was essential that the substance of the CIA briefing be communicated to the staff, but considered his hands to be tied. The majority of the Commission was willing only to inform the staff that it must "assume" that material can be obtained through diversion. Dr. Mason, on the other hand, told the Commission that it must insist that Ken Chapman tell his staff that material can be and perhaps has been diverted, and that the point was not at all academic. Dr. Mason did recall the Commission meeting with Chapman and Builder to impress them with the importance of stressing to the safeguards staff that it must be "assumed" that material can be stolen. Because of the CIA warnings, they were not to suggest that a theft might actually have occurred. Dr. Mason

believed that Commissioner Gilinsky agreed with him that it was essential that at least a few of the safeguards people below Chapman and Builder know the substance of the information NRC was obtaining from ERDA regarding experience with the weapons program and other relevant matters. Dr. Mason believed that overall, the briefing may have been more instrumental in raising the safeguards awareness of those Commissioners who had not been as concerned as he about the possibility of theft from wastes containing weapons--grade material.

Dr. Mason said that he would have liked to have told the staff a "fairly story"--a hypothetical situation that would allow them to read between the lines and get the message provided by CIA. He did not do so, however, again because of the urgency of CIA's warnings. He did not brief Lee Gossick, and to the best of his knowledge, neither did the other Commissioners.

Dr. Mason recalled that after the briefing, he would sometimes allude to what had been learned from the CIA, although in an extremely veiled way. This came up in the context of the safeguards staff's view that no one person could be a threat. Dr. Mason was thinking of Shapiro, who he felt must have held a clearance from Admiral Rickover simply to be the president of a company processing uranium for naval fuel. Dr. Mason would therefore, for example, ask the safeguards officials if there were known to be persons with Q clearances who had taken material. (He never received a definite response to this question, nor did he know if the matter was ever explored.) This was part of his desire to get these answers into the open. In hindsight, he thinks that perhaps he should have gone public with the information, but he felt that his responsibility under the terms of the CIA briefing precluded such action.

Dr. Mason said that after the briefing, he talked "very, very shallowly" with Jim Hard about what had been said. He felt that because Hard had heard Conran's allegations and knew that the CIA had come to brief the Commission, Hard should be told that Conran might not be as "flaky" in his views as he might earlier have seemed. Dr. Mason believed he may have told Hard what CIA's best guess was, and discussed with him the problem of communicating the message to the safeguards staff, but he would not have revealed the highly sensitive information. He noted that Hard was used as a "pulse-taker," with Anders' knowledge, to keep in touch with Conran and his views and problems. He noted that Conran was distraught, and believed himself to have been "Siberianized" by his superiors. Dr. Mason had agreed to Conran's request for help in getting a job with the ACRS, but he could not recommend him on the terms Conran wished, which was to have a free hand to pursue the same safeguards concerns.

Dr. Mason could remember no specific discussion of Apollo/NUMEC with ERDA officials. There were, however, several ERDA briefings relating to nuclear weapons design and safeguards for nuclear weapons-grade material. He recalled that there also was at least one in which a National Security Council order on releasing MUF information was discussed. There had been an FOIA request for such information, and the Congress had begun to take an interest in the MUF issue. He recalled that in general, ERDA briefers stuck closely to established facts.

In response to a question, Dr. Mason said he did not recall any conversation with Peter Strauss in which Strauss cautioned him against an overly broad statement on the subject of theft and diversion. He says that this could well have taken place, but thinks it unlikely, as he used to look for just such statements in other Commissioners' speeches, and had corrected either Seamans or Fri on this point, as previously noted.

With regard to his October 11, 1976, speech in Honolulu, Dr. Mason said that it was important that the speech be read in context. He was discussing plutonium, at a nuclear power fuel cycle conference, trying to advise people in the Pacific Basin about possible changes in policies and attitudes in the United States. He noted that the complete paragraph in which he referred to theft is as follows.

Given the tendency of some to stress the difficulties inherent in safeguarding the nuclear industry, it is important we keep the matter in perspective. Although plutonium for military purposes has been produced for over 30 years - in the United States and abroad - we know of no instance where anybody has attempted to steal significant quantities of material nor do we have information suggesting any group may be planning to do so. Furthermore, the physical properties of plutonium normally recovered from fuel irradiated in light water reactors provide substantial deterrents against illicit use. Reactor grade plutonium - especially that which would be present in a recycle economy - requires shielding if radiation injuries are not to be incurred. These and other properties of reactor grade plutonium should be taken into account in considering the likelihood that LWR plutonium will form an attractive target for terrorist groups. We should recognize the differences between such material and that produced in production reactors and in some research reactors with respect to both safety and explosive device capability (for example, the material used by India in the nuclear device it exploded in 1974 came from a natural uranium fueled, heavy water moderated, research reactor - not from a power reactor). It may well be that we can develop safeguards systems which could take more advantage of the differences which exist in the properties, behavior, and enrichments of the various uranium and plutonium isotopes which may be present in reactor feed and discharge fuel.

Dr. Mason said that the reason for choosing the word "material" was simply that he was having to use the word "plutonium" in virtually every sentence and was looking for a suitable variant in that context. In making that statement in the speech, he was expressing one of his "pet peeves"--that the domestic nuclear power industry has been discredited by MUFs that have occurred not of plutonium in civilian nuclear power facilities, but of enriched uranium in facilities associated with the naval program. His reference to "significant quantities" was intended to distinguish the Silkwood case and the Oak Ridge cases mentioned above.

Dr. Mason was advised by the interviewers that Conran had recently said that in August 1975, Dr. Mason had given a speech at MIT in which he said that "there was no evidence of diversion or theft of a large quantity of material." [Subsequently, Conran indicated that the speech he had in mind was not delivered at MIT, but at the U.S. Utility Meeting on Safeguards in Washington, D.C., on August 26, 1975.]

At the interview, Dr. Mason indicated that he was at a disadvantage, as neither he nor the interviewers had a copy of the alleged speech at hand. Moreover, he recalled no speech at MIT in August 1975. Subsequent to the interview, one of the interviewers advised him by telephone that the Washington, D.C., speech included the following.

In assessing the safeguards threat, we must recognize that significant amounts of special nuclear materials do exist outside of the domestic commercial nuclear power sector. In this Nation alone there are military reactors, fabrication facilities, and weapons. There are also foreign civilian and military facilities which produce significant amounts of special nuclear materials and are equally susceptible of sabotage. Since the activities of terrorists may transcend national borders, the theft of special nuclear materials in one nation can pose a menace to all.

Having shown factors which I believe illustrate the need for an effective safeguards system, let me attempt to place the problem in its proper perspective. History does not indicate any attempt to either steal special nuclear materials or sabotage the nuclear part of a power plant. In fact, terrorists have not shown much interest in using explosives; the largest explosive ever so used was 1-1/2 - 2 tons employed to destroy a building at the University of Wisconsin a few years ago. Nor have terrorists ever used such materials as nerve gases and poison. A terrorist group so inclined could use a number of poisons which are more easily obtainable, cheaper, and equally effective.

Nevertheless, I would be extremely distressed were we to diminish our safeguards efforts based on this perspective. Present concerns cannot be dismissed as hysteria. The absence heretofore of any successful terrorist acts involving special nuclear materials or nuclear facilities does not in itself demonstrate the effectiveness of a safeguards system. Until a few months ago there had never been a sabotage attempt against even the nonnuclear portion of a plant, but two recent episodes in France involving terrorists illustrate the necessity of properly protecting nuclear facilities from sabotage. As I have already mentioned, the health and psychological effects of a significant breach of a safeguards system could have a serious impact on the entire commercial nuclear industry and the nation's supply of nuclear-generated electricity. Taking this risk, combining it with the recognition of the difficulty in assessing a credible threat, and mixing in the increase of world-wide terrorist activity leads me to conclude that we must take such threats seriously and that the development and implementation of effective safeguards measures are justified.

Dr. Mason indicated that the context of that part of the speech was to give some perspective to the public discussion going on at the time concerning the possibility of theft of special nuclear materials from civilian nuclear power facilities for the purpose of acts of terrorism in the United States. Dr. Mason noted that the date of the speech was some months before the meeting with Conran and the CIA briefing.

Dr. Mason was asked to examine the April 2, 1976, letter from Chairman Anders to George Murphy and the answers to questions 22b and 23. He commented that the reply was a "pretty flat statement" and "pretty strong," noting how soon this was after the CIA briefing, but said that he recalled no conscious effort to mislead. He suggested that this statement appeared to be more in the context of the Commission's being greatly concerned about its own actions since its inception, than about responsibility for actions taken in the past by its predecessors. Dr. Mason said he did not now know whether the Commissioners assumed that the questions were directed solely to NRC actions and experience. Dr. Mason commented that in NRC's first year, Chairman Anders sent the other Commissioners all proposed responses to the Congress, but gradually ceased to do this. Dr. Mason commented that it would be "interesting" to see whether the record indicates that he had concurred in the letter. He noted again that it was surprising that the response came so soon after the briefing, and could not think of an explanation.

Dr. Mason was asked to read over Lee Gossick's disputed testimony. He commented that Congressman Tsongas was making Conran's charges stronger than they were; Conran had not said that "there have been nuclear materials successfully stolen," but rather that there were "serious indications that a successful diversion...might have occurred..." Dr. Mason commented that it appeared that Mr. Gossick did not know Conran's specific charges, and observed that Mr. Gossick's reply to Mr. Tsongas (in his first Committee appearance) was "perhaps not carefully enough couched, since Lee's not a lawyer." He suggested, "I think by using the word 'we' he was talking about actions taken by NRC, or perhaps even during the period of time since he joined AEC." The context, Dr. Mason said, seemed to suggest that he was talking about matters originating in recent years.

Dr. Mason commented, as he read the transcribed portion of Mr. Gossick's testimony, "He's trying to tell them, 'I don't know.' He may have known there was a CIA briefing, but as far as I know he didn't know the contents. I would guess that having been brought up in the military tradition, when you've been excluded from a meeting, you don't ask your boss, 'What happened at the meeting?' Lee is an extremely honest guy. His only deficiency would be that he didn't know, not that he covered up or would be devious about something." Dr. Mason said he knew of no instance while he was on the Commission in which Mr. Gossick had not been honest with the Commission or the Congress.

Dr. Mason commented that by the time he testified on August 8, Mr. Gossick certainly knew that the Commission had been briefed by CIA. He commented that Mr. Gossick did not appear completely knowledgeable in this situation, but added that it was unreasonable to expect any one person -- even the EDO -- to know everything that went on in an agency of 2500 people, especially when he was subject to being excluded from important meetings. Dr. Mason stated that he had no information to suggest that Mr. Gossick's statements were not "an honest representation of Mr. Gossick's information and circumstances."

REPORT OF INTERVIEW

Carl Duckett was interviewed in his office in Rosslyn, Virginia, at 9:30 a.m., February 14, 1978, by William Ryan of the Office of Inspector and Auditor and James Fitzgerald of the Office of the General Counsel. He was informed of the purpose of the interview and the fact that a summary of interview would be made available to the Congress.

Mr. Duckett is presently a private consultant to government and industry. Before his retirement from the Federal service 18 months ago, he was Deputy Director for Science and Technology in the Central Intelligence Agency, a post he held for about 10 years.

The interviewers asked Mr. Duckett how he came to brief the NRC on Apollo/NUMEC in February 1976. Mr. Duckett advised that he did not now recall the precise date when it occurred, but he received a call from Commissioner Richard Kennedy who asked if he could come down and brief the Commission about possible diversion of nuclear materials to Israel. He assented and did not clear the matter with anyone at CIA, since this was unnecessary in light of his position at the CIA. He brought with him to the NRC notes made for him by his staff. He did not bring a report or any formal document nor does he believe he left any document with the Commission. He did not ask in advance who would be in attendance. He personally knew Mr. Anders and Mr. Kennedy since he had dealt with them in their previous positions. While these were the only attendees he knew, he recalls that the attendees were a select group.

Mr. Duckett said that his session with the NRC lasted an hour to an hour and a half, and that he did not now have all the dates and figures readily accessible, but would try to generally cover what information he presented to the NRC. His purpose was to give the NRC facts and judgments regarding the possibility that NUMEC might have been the source of U-235 for Israel. He advised he had been involved since 1964 with the subject, about one year after he joined the agency.

He explained to the Commission that a fair amount of information had been accumulated: that Mr. Shapiro, the President of NUMEC, had frequent contact with Israeli officials;

[REDACTED]

Mr. Duckett also discussed with the NRC that the chief investigator for the AEC inspection into the 1960's NUMEC MUF was hired by NUMEC during the investigation. This man was supposedly very good at materials accounting and therefore it would make sense for a plant like NUMEC to want him. Nevertheless, his employment at that time was a suspicious event. He also mentioned that NUMEC had gone through the exercise of digging up some buried material looking for the MUF material and that this fell far short of the unaccounted for amounts.

[REDACTED]

He addressed the concern about MUF starting in the late 1950's. He said that the substantial variance between accounting records at NUMEC and the material on hand in itself proves nothing. However, he does not buy the view that all the MUF material can be stuck in hundreds of miles of pipe. If it were, the plants would be going critical. At the time he spoke to the Commission he felt there was an undue amount of MUF at NUMEC.

He told the NRC that while he was not legally qualified to make a legal judgment about Mr. Shapiro's guilt or innocence, he felt there was very clear circumstantial evidence that the NUMEC material went to Israel. This was his judgment. He was asked by the interviewers if he had stated an Agency viewpoint to the Commission. He did not recall doing so but commented that the attendees could justifiably assume that what he said represented the Agency's views. "This would have been self evident."

Mr. Duckett was trying to give the Commission facts. The message he tried to get across was not to convince anyone of anything; only to convey his concern that nuclear material may have gotten to Israel.

[REDACTED]

This conclusion was not limited however to only NUMEC

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information. They had other information such as a type of bombing practice done with A-4 aircraft that would not have made sense unless it was to deliver a nuclear bomb.

By the time of the NRC briefing the question of whether U-235 had been diverted from NUMEC was academic for the CIA because plutonium from the Dimona reactor was believed to be available. Therefore, from the CIA's intelligence point of view the diversion did not matter. The last inspection of Dimona was in 1969. In his view it was less than an adequate investigation to determine whether plutonium was there. Afterwards Israel refused to permit inspections. [REDACTED]

Mr. Duckett raised the question of whether the U.S. had intentionally allowed material to go to Israel. He said that if any such scheme was under consideration, he would have known about it and he never heard so much as a rumor about this. He, therefore, does not believe there is any substance to this allegation. In support of this view, he related that CIA had drafted a National Intelligence Estimate on Israel's nuclear capability in 1968. [REDACTED]

[REDACTED] He showed it to Mr. Helms. Helms told him not to publish it and he would take it up with President Johnson. Mr. Helms later related that he had spoken to the President, that the President was concerned, and that he had said "Don't tell anyone else, even Dean Rusk and Robert McNamara."

Mr. Duckett was asked about the reactions of NRC officials who were present at his briefing. He said that Mr. Anders was very concerned and felt that already too many people had been exposed to the information. After the briefing Mr. Duckett went to Mr. Kennedy's office. Mr. Kennedy wanted to talk about more frequent interchange of information between the NRC and the CIA. Mr. Anders came in and wanted to apologize for having so many people present. He said he did not realize how sensitive the information was and if he had he would have restricted the attendance even more. Mr. Anders said that, in the future, he should deal only with Mr. Kennedy and him, and that in light of the sensitive nature of the information he was going to go to the White House. During this session, Mr. Duckett recalls that one Commissioner, probably Mr. Mason, commented with mock jocularly "My God, I almost went to work for Zal Shapiro. I came close to taking a job with him." By the end of the meeting it was a pretty somber group. Mr. Duckett does not recall that the staff actively participated in the briefing. He pointed out that it was not a formal briefing. It was more of a discussion for the whole session.

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He said he probably did not announce a classification level. He does recall that Mr. Kennedy or Mr. Anders in an opening statement said that the matters were sensitive. He is sure he inserted "sensitive" half a dozen times during the session in discussing particular items.

Mr. Duckett did not place any restrictions on the use or dissemination of the information he had given to the NRC. He said it would not be routine to say this each time he met with people.

Mr. Duckett believes that the best record on the entire matter is in the files of Congress. There was extensive testimony taken before the JCAE. Hearings were held and he was told there is a very complete record.

George Murphy of the JCAE staff had personally visited NUMEC and informed that controls were so lax that he could have walked off with pockets full of pellets. In a conversation one week ago, Mr. Udall said that he had requested the files from Sen. Inouye and had not yet received them. Recently Mr. Helms has spoken to Sen. Glenn and Mr. Myers, and apparently has a very limited recollection of the matter. He understands that George Murphy also has only limited recall. Mr. Duckett believes that Senator Henry Jackson was probably involved in the relevant time period.

The interviewers read relevant portions of Mr. Gossick's testimony before the Udall and Dingell subcommittees to Mr. Duckett and asked him for his reaction to it. Mr. Duckett responded that it depended on what meanings are attached to the word "evidence". He might use the word differently than an attorney. He did not attempt to give the Commission "evidence" but to relate the story as best he knew it. He would not label the information he gave to the NRC as "evidence". He believes Mr. Gossick was very quick to use less than ideal words to describe the situation. Mr. Duckett would have articulated it differently, saying something to the effect "there is no direct evidence ... but some information causes concern." Based on his experience in an organization like the CIA which holds information closely, Mr. Duckett believes that it is unlikely that in the period of over eighteen months since he spoke to the NRC, information about his briefing would not have gotten around the NRC to Mr. Gossick.

Mr. Duckett expressed a deep concern for the recent release by the CIA under the FOIA of a document dealing with this subject. He provided the interviewers with a copy of the released document.

2/16/78

REPORT OF INTERVIEWS WITH  
VICTOR GILINSKY  
JANUARY 10, 1978 and FEBRUARY 2, 1978

Commissioner Victor Gilinsky was interviewed in his office at 1717 H Street, N.W., Washington, D.C., on January 10, 1978 and February 2, 1978 by Jerome Nelson and James Fitzgerald of the Office of the General Counsel and William Ryan of the Office of the Inspector and Auditor. On February 2, 1978, Thomas McTiernan of OIA also participated in the interview. The following is a compilation from these two interviews, each of which covered the entire range of subject matter. Mr. Gilinsky was advised of the purpose of the interviews and the fact that a combined summary of the interviews would be made available to the Congress. The interviews followed a question-and-answer format. For the most part the questions have been omitted.

Mr. Gilinsky does not recall any formal consideration of the Apollo/NUMEC MUF of the 1960's before 1976. However, the question of nuclear inventory discrepancies and their explanation occupied the Commission from the outset in 1975. In response to a request for nuclear inventory information from Senator Ribicoff the Commission prepared a letter with a table of significant inventory discrepancies as an attachment. This was sent to Mr. Kissinger in March 1975 for a decision on whether the release was consistent with national

security considerations. On NSC advice the letter was never sent. The final version did however contain an interesting modification on the question of evidence of diversion. Chairman Anders rewrote a sentence that started with "We are confident that there has not been illegal diversion of significant quantities of strategic nuclear materials" to read, "We have discussed this subject thoroughly with our senior staff who are confident that ..." (emphasis added).

In the fall or winter of 1975 Mr. Gilinsky spoke with James Conran but the conversation was limited to the subject of Mr. Conran's concern that NRC staff lacked information on nuclear weapon design. However, Mr. Gilinsky attributes the briefings that the Commission received in February 1976 from the CIA and ERDA to allegations made by Mr. Conran that ERDA was not sharing its information and that NUMEC material may have been diverted. As he understood it, the briefings were expected to lay these matters to rest. Mr. Gilinsky does not recall how the briefings were set up or how the attendees were selected. He got the impression that the briefing was intended to get the message to the various offices which dealt with these matters.

At the CIA briefing he remembers only one briefer, Mr. Duckett. He had never met him before. His impression of Mr. Duckett's demeanor was that he was nervous, and that his

hands were unsteady. Mr. Gilinsky does not recall Mr. Duckett's having a package of papers with him at the briefing. He does not recall a specific classification being placed on the information, but inasmuch as Mr. Gilinsky believes he arrived about a minute after the briefing got underway, he would have missed the indication in any case.

Mr. Gilinsky recalls Mr. Duckett's saying that the matter was very closely held at the CIA, that a handful of their personnel had been involved in the matter. The interviewers questioned Mr. Gilinsky about what Mr. Duckett said about Mr. Helms' role. He answered that Mr. Duckett said that Mr. Helms had informed the President, whose instructions were not to inform other federal agencies.

Mr. Gilinsky did not recall when questioned whether Mr. Duckett indicated that there were differing opinions within the intelligence community. He could not say for certain whether Mr. Duckett referred to an AEC view which differed from the CIA's. Mr. Gilinsky pointed out to the interviewers that the AEC was in fact a member of the intelligence community.

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and that there was no satisfactory explanation for the 1960's MUF. Someone asked Mr. Duckett for the bottom line of all this and he gave it -- that he believed that a diversion had taken place.

In response to specific questions from the interviewers, Mr. Gilinsky said that he did not recall any mention of Mr. Shapiro's family, funding of NUMEC by Israel, how Mr. Shapiro got the money to pay for the MUF, the number of bombs Israel was supposed to have or whether they were made from high enriched uranium (although Mr. Gilinsky has received information on these matters from other sources), or any "fingerprint" or spectographic analysis of Israeli nuclear material which could be traced to NUMEC.

[REDACTED]

The FBI may have been mentioned, but Mr. Gilinsky said he cannot be sure of this.

To the best of his recollection, although the material was identified as highly sensitive, no specific instructions not to disseminate it were given. The Commissioners did not sit down and discuss NUMEC immediately after the briefing.

However, he believes that the matter arose in connection with safeguards on later occasions. He noted that, in the period before the Sunshine Act, meetings were more informal than today and allowed for this type of discussion. There was no guidance to the staff issued after the briefing and no formal policy on statements of "evidence" or "no evidence" was formulated. Until the August 2, 1977 briefing mentioned below, he has no direct knowledge of anyone in the Commission being briefed on the subject other than the Mattson Task Force as indicated in Document 102 of the Task Force Report. There was no explicit provision for the attendees to pass the information on to their successors. After the briefing, however, the Commission took the subject of safeguards much more seriously, particularly the "insider" threat.

After the briefing, he recalls talking with Chairman Anders, who was surprised both at what he had heard and the fact that the story related at the CIA briefing would be given to as large a group as was in attendance. He does not recall that he knew at the time that Chairman Anders went to the White House or that Mr. Kennedy went to the NSC about the briefing. He did know that the White House was aware of the briefing from talking with James Connor of the White House staff.

Mr. Gilinsky considers categorical "no evidence" statements always to have been inappropriate, even more so after the briefing. He uses the word "evidence" as meaning information, or reason for belief, bearing on an issue. As a personal policy, Mr. Gilinsky tried to keep NRC staff from making categorical statements in this area. He was inhibited, however, by the need for not connecting his cautions to his NUMEC concern.

Mr. Gilinsky said he did not remember very well the ERDA briefing which took place a couple of days after that of the CIA. He did not think that ERDA had much to say. ERDA simply described the AEC investigation and its conclusion that the NUMEC MUF was apparently due to material accounting deficiencies. They said they had not found any evidence of diversion beyond the fact of the discrepancy itself after checking employees, etc.

Mr. Gilinsky was questioned by the interviewers about his knowledge regarding statements made in 1976 by Chairman Anders and Mr. Mason at the time they were uttered. Mr. Gilinsky stated that he has no recollection of the statement contained in a group of questions and answers forwarded to the JCAE by Chairman Anders on April 2, 1976 that "while some MUF's have been large, NRC has no indication of any theft or diversion of other than a miniscule quantity of

SNM." He does not recall seeing the statement, although the transmission to the JCAE in which the statement was contained apparently did go through his office. Since this was a few days before Chairman Anders left for an ambassadorship, Mr. Gilinsky wonders whether the Chairman actually saw it. It must have been drafted either in OPE or NMSS. As for a phrase in a speech by Mr. Mason delivered October 11, 1976,\* Mr. Gilinsky noted that the sentence is less precise than it could be, but in its context clearly refers to plutonium. He has no recollection of seeing a copy of the speech before it was delivered.

The interviewers asked whether he recalled any discussion of NUMEC or the "no evidence" statement when dealing with the Conran Task Force Action Plan. He does not recall these matters coming up in that context.

He added that the government safeguarders in AEC, ERDA, and NRC had traditionally been too ready to explain away MUF's. In the face of inventory differences it was common for them to say there was no cause for serious concern because such

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\* Mr. Mason stated: "Although plutonium for military purposes has been produced for over 30 years -- in the United States and abroad -- we know of no instance where anybody has attempted to steal significant quantities of material nor do we have information suggesting any group may be planning to do so. Furthermore, the physical properties of plutonium ..."

differences, in themselves, are not evidence of diversion, but merely reflect accounting differences. (Actually this really meant the accounting system was not working properly.)

In the spring and summer of 1977, the Commission was preparing to release MUF information. There was much apprehension about the release. The AEC and NRC had sat on the release for over two years. The NSC wanted NRC and ERDA to get together on a release format.

Mr. Gilinsky said that there was a reluctance in NRC to get out of step with ERDA on safeguards matters and it is his impression that there was pressure from ERDA to adhere to a party line, that everything was all right with safeguards. For example, toward the end of the process he recalls there were six issues outstanding between NRC and ERDA. Through negotiation NRC went along with ERDA on five of the issues, although it got ERDA to agree on the use of cumulative figures. The "no evidence" statement was not then an issue.

Mr. Gilinsky was in California between July 21-31, 1977. He did not have a copy of the final draft of the NRC MUF release which had been circulated on July 21 after he left for California, but he was in touch with Paul Goldberg,

his assistant, about the release. He referred the interviewers to Mr. Goldberg for the details of his communications regarding his objection to the "no evidence" statement which was brought to his attention. In voicing his objection, he worked through Mr. Goldberg, but instructed him in talking with Mr. Gossick's assistants about effecting a change of wording to be discreet and not to connect it directly with NUMEC because of the sensitive background.

Mr. Gilinsky always assumed, in line with a previous Commission decision, that he and Mr. Kennedy would have the last word on the release. He expected that it would pass in front of him and that he would have the opportunity at the end of the process to line out the offending statement.

In the first few days of August he encountered Jim Bishop, who handled public affairs for Mr. Schlesinger, in the halls of the Executive Office Building. Mr. Gilinsky told Mr. Bishop to be careful not to allow Mr. Schlesinger to buy off on a categorical "no evidence" statement in ERDA's public statement.

On August 2, 1977, the staff briefed Mr. Kennedy and Mr. Gilinsky on the upcoming MUF release. Three matters were covered: (1) the MUF report for 1968 and beyond; (2)

the press release to accompany the MUF report; and (3) the briefing statements to be used by staff to brief the public. Mr. Gossick, Mr. Smith and perhaps Mr. Burnett were seated at the table. At the briefing, Mr. Gilinsky was surprised to find that the MUF report was already printed. He expressed his strong disapproval of the statement at the top of page 2 of the report which said that the NRC "has no evidence that any significant amount of strategic SNM has ever been stolen or diverted." He felt the statement was impermissibly categorical and suggested that at a minimum some modifier to "evidence" should be added. When asked why the Commission could not say there was no evidence, Mr. Gilinsky responded, "Because there is evidence." (Mr. Smith at some point said that as far as he knew, there was no evidence.)

Mr. Kennedy asked where the evidence was. Mr. Gilinsky said, "You mean tangible evidence?" Mr. Kennedy said, "Yes." Mr. Gilinsky said that was too narrow a definition of evidence.

Mr. Gilinsky recalls that there was tremendous resistance to making any change. He originally wanted an erratum issued to change the sentence, at least to put the word "conclusive" before "evidence," but he was also concerned that this would highlight the matter unduly. Someone then

suggested that the impasse could be resolved by reading the "no evidence" statement in the context of the report which deals only with the post-1968 period. Mr. Gilinsky still did not like the sentence because it contained the word "ever" but agreed not to hold up the release of the document (he never approved it) if the staff agreed that the "no evidence" statement was to be read as applicable only to the post-1968 period; that NRC briefers would publicly so interpret the ambiguous statement if a question came up at the briefing or later; that the press release and briefing statement be modified to conform with this view; and that questions on the pre-1968 MUF's would be referred to ERDA. Mr. Gilinsky recalls that agreement was reached on this. As there was no quorum, there was no Commission vote on the matter, but he came away from the meeting with the clear impression that the agreement was the "sense of the table."

He recalls that Mr. Gossick was a participant in the discussion set forth above. Mr. Gilinsky does not remember anything specific about Mr. Gossick's participation except that he was opposed to making changes and that he ultimately agreed with the point that the statement in question applied only to post-1968. To the best of his recollection, Mr. Gossick was present throughout the briefing.

After the briefing the NRC press release and Mr. Burnett's public statement were modified to reflect the post-1968 point. (ERDA also later qualified its statement.)

In light of Mr. Smith's statement in the briefing that he knew of no evidence of diversion, and in view of his and Mr. Burnett's responsibilities for safeguards, Mr. Gilinsky felt that it would be unfair and improper to allow Mr. Burnett and Mr. Smith to face the public without some knowledge of the February 1976 briefings. Accordingly, he spoke to Mr. Kennedy when the briefing adjourned and expressed this view. Mr. Kennedy agreed and said "Let's do it now," and suggested that Mr. Gossick be told of this intention. Mr. Gossick said words to the effect, "Fine, but could I sit in since I have never been briefed on the matter." They then spoke to Messrs. Smith and Burnett and they all went across the hall to a small office of convenience used by the staff.

The door was closed and Mr. Gilinsky recalls standing facing the door. Mr. Gossick was to his right, Mr. Kennedy behind him. Mr. Gilinsky spoke directly to Smith (in front) and Burnett (to Mr. Gilinsky's left). He explained to them that in view of their responsibilities and particularly because they were about to brief the public on nuclear

material inventory discrepancies, there was information they should know. This would also help explain his own insistence on qualifying statements about lack of evidence of diversion.

He said that the Commission had been briefed on Apollo/NUMEC by the CIA, that information was presented which related to the possibility of diversion at NUMEC and raised serious suspicions. He told them the information was circumstantial in nature and that he was not entirely persuaded by the CIA briefing. He advised them that since he did not find the information conclusive, he considered a "no conclusive evidence" formulation literally correct. But there was a fact that could not be dismissed -- and this was perhaps the most significant thing which came out in the briefing -- that the CIA, at least in the person of the briefer, was persuaded by the evidence and had concluded that diversion had occurred. He does not recall going into further detail.

At the conclusion Mr. Gilinsky said something like: "I don't know whether I've told you anything you haven't read in the papers and didn't already suspect." Mr. Gossick said it was about what he had surmised. Mr. Burnett said something to the effect: "You've told me something, because I have just come from the intelligence community and I know they do not reach such conclusions lightly."

During the course of this session Mr. Gilinsky recalls Mr. Kennedy's saying something -- he does not remember what -- to qualify what Mr. Gilinsky had stated. Mr. Gilinsky believes Mr. Gossick was present throughout this session. He was definitely there at the start and at the end. Mr. Gilinsky has a vague recollection of Mr. Gossick's going to the door at some point. He thinks there was some interruption and that he waited for it to pass before he resumed talking. This was the first time Mr. Smith and Mr. Burnett were cut in on the CIA briefing. Mr. Gilinsky does not recall specifically instructing them not to say "no evidence" but the implication of the message was clear.

Mr. Gilinsky said that either shortly before or shortly after August 2, 1977, he had a conversation with Mr. Gossick who mentioned that he had made an unqualified "no evidence" statement before the Udall subcommittee. Mr. Gilinsky told Mr. Gossick that regardless of what he may have said previously, NRC "has to state this one correctly."

Mr. Gilinsky said that he regarded what was said at the main briefing on August 2 as more important than what was said at the small meeting across the hall afterwards. That latter session is relevant only to whether Mr. Gossick was personally briefed about "evidence." The qualification to

the "no evidence" statement -- from 1968 onward -- was made at the briefing itself.

The interviewers asked Mr. Gilinsky if he had discussed with Mr. Gossick a "no evidence" statement contained in "questions and answers" sent by Mr. Gossick to Congressman Udall on August 19, 1977. He recalled that he had discussed it with him and remembers that Mr. Gossick was reluctant to change his statement. The August 19 response, as opposed to the July 29 statement, in context clearly dealt with licensees, which implied a post-1968 period. Nevertheless, Mr. Gilinsky wanted to state this explicitly. He also recalls that when this discussion took place, he learned that the letter had already been sent. He did not pursue the matter.

Mr. Gilinsky does not recall having seen at the time a memorandum from Carleton Kammerer dated August 1, 1977 which pointed out that Mr. Gossick had said "no evidence" before the Udall subcommittee. He did learn of Mr. Gossick's Udall testimony around the time of the August 2 meeting, but Mr. Gilinsky was principally concerned with correcting the NRC MUF release and does not recall seeing the actual wording of the July 29 testimony until November. Mr. Gilinsky did not think he could pinpoint any mention to Mr. Gossick of reservations he had about NUMEC prior to Mr. Gossick's testimony on July 29, 1977.

About one week after the November 15, 1977 letter from Congressmen Udall and Tsongas was received, Mr. Gilinsky saw Mr. Gossick's proposed response and became aware for the first time of Mr. Gossick's testimony before the Dingell subcommittee. He told Chairman Hendrie that the memorandum was unresponsive to the question posed by Congressmen Udall and Tsongas and that cited testimony before Congressman Dingell's subcommittee mischaracterized a Commission position on evidence of diversion. Chairman Hendrie advised Mr. Gilinsky to talk to Mr. Gossick. Accordingly, Mr. Gilinsky told Mr. Gossick the same thing: that the letter was unresponsive and that Mr. Gossick had improperly characterized the Commission's views before Congressman Dingell. Mr. Gossick replied that he did not think that he had but would consider this in his second draft.

After his second draft was circulated, Mr. Gossick came to Mr. Gilinsky's office. Mr. Gilinsky asked him whether he understood the limitation on the "no evidence" statement in the MUF release as referring to post-1968, as discussed at the main briefing on August 2, 1977. Mr. Gilinsky recalls that Mr. Gossick did not give a clear answer to this question and said he thought the NRC MUF press release was not so limited. Mr. Gilinsky asked Mr. Gossick if he recalled the small meeting across the hall after the August 2 briefing in

which he, Gilinsky, said that the CIA thought there had been a theft of the NUMEC material. Mr. Gossick said that he remembered the meeting but had no recollection of the statement and that this was the first he had heard of it. Mr. Gilinsky mentioned Mr. Burnett's reaction and Mr. Gossick said that if he had heard it that way, he, too, would have reacted in a similar fashion.

Mr. Gossick said that he had had a conversation with Chairman Rowden in June 1977 which he felt supported his view, and that he had had a conversation with Mr. Kennedy before the testimony (Mr. Gossick did not make clear whether this was the July 29 or August 8 testimony) concerning what to say if a question about evidence of diversion came up. Mr. Gossick said that Mr. Rowden and Mr. Kennedy supported his view, had reiterated that support in the previous few days, and that he felt his statement represented the prior Commission's views. Mr. Gilinsky asked Mr. Gossick whether he was adopting a narrow definition of "evidence," to mean physical evidence. Mr. Gossick said he was not.

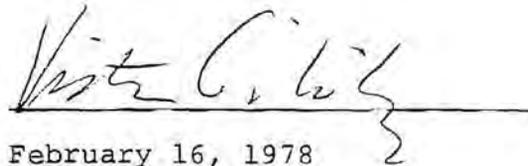
When he saw Mr. Gossick's final draft, Mr. Gilinsky did not note much difference from the earlier ones. In the face of apparent lack of agreement among commissioners on how to respond to Congressmen Udall and Tsongas (there never was a

Commission meeting on the matter), Chairman Hendrie decided to answer the Congressmen personally. Mr. Gilinsky told Chairman Hendrie that he could not join in the Chairman's interpretation of events. Mr. Gilinsky told him that he intended to write to Congressman Dingell to clear up the August 8 testimony and sketched the contents of his proposed letter. After the Chairman's letter was sent, Mr. Gilinsky wrote his letter to Congressman Dingell, which was dispatched on December 12, 1977. Before he sent it, however, he called Mr. Gossick, who came down to his office and read it. Mr. Gossick had no comment on the letter. Their conversation was desultory and Mr. Gossick said something to the effect that he did not know why he had said that (before Congressman Dingell).

The interviewers asked Mr. Gilinsky why he wrote to Congressman Dingell and not to Congressmen Udall and Tsongas. Mr. Gilinsky stated that he wrote to Congressman Dingell because he considered himself directly and personally involved in Mr. Gossick's testimony before that subcommittee in which Mr. Gossick was purporting to represent a Commission view at the time when Mr. Gilinsky was one of two sitting Commissioners. He therefore felt personally compelled to correct the record before Congressman Dingell's subcommittee. He also believed the matter was unambiguous. He sent a copy of this letter to Congressman Udall.

Mr. Gilinsky viewed the questions raised by the Congressmen's letter about Mr. Gossick's testimony as less readily answered at the time. The issue of whether Mr. Gossick misrepresented the facts could be properly addressed only by weighing and sifting statements made in relevant documents, and taking into account recollections of individuals, something Mr. Gilinsky was not equipped to do. Nor did he feel it was something for him to undertake as an individual Commissioner.

Mr. Gilinsky observed that Mr. Gossick was not pressed to go as far as he did in his testimony before the Dingell subcommittee. He volunteered it. He could have answered the question with a simple "yes." Instead he elaborated.

  
February 16, 1978

CONRAN INTERVIEW

McTiernan:

*Due to time constraints, conducted by Mr. McTiernan and Mr. Fitzgerald*

Let the record be open. I'll introduce the participants in this conference. I think the record should also reflect that it is being recorded at the request of Mr. Conran. Of course we have no objection. Present are McTiernan, Director, OIA, and John Anderson, OIA staff. Mr. Anderson is here because he handled the principal portion of our earlier inquiry regarding Mr. Conran's complaints. In the event Mr. Conran needs something from our files, Mr. Anderson can acquire it. Mr. James Fitzgerald from the Office of General Counsel (OGC) (is also present). His office and my office are sharing the inquiry that we are discussing with Mr. Conran; and Mr. Ron Clary is here as a representative of Mr. Conran and he is appearing at Mr. Conran's request.

Now it is appropriate for some preliminary statement with regard to our present assignment. OGC and OIA have been requested by the Chairman (Hendrie) to conduct an inquiry into the allegations that Mr. Gossick, Executive Director for Operations, made misstatements (unintelligible) in his appearance before the Udall Committee in July, 1977, and the Dingell Committee in August, 1977; and we thought it appropriate to discuss the investigation with you because of your extensive background in the area of "positions taken by NRC in the past on the possibility of theft or diversion of special nuclear material." This is not a rehash of all the material you have given us in the past and all the material you have given the Conran Task Force. This is an attempt to have the benefit of your experience in this area to see if you have anything that will help us in wrapping this matter up; and I guess the first question is are you sufficiently familiar with the issues in this thing or should we fill you in in more detail on the statements Mr. Gossick allegedly made?

Conran:

I think that it wouldn't hurt to just briefly reiterate, so that we all know that we are all working from the same basic data.

Fitzgerald:

I have it, Tom, represented in what I think is an accurate excerpt of a transcript from a Udall letter of November 15, and also Mr. Gossick's memorandum of December 1, (1977). This was the give-and-take at the Udall hearing (on July 29, 1977).

McTiernan:

Here is a relevant quote from the Udall hearing, and you were present, Jim, so it might come back to you. Congressman Tsongas said, "for the record let me make three points before I go (1)

Mr. Gossick: Mr. Conran made a statement that there have been nuclear materials successfully stolen. Do you dispute that? Mr. Gossick: We have investigated every incident that has come to our attention or has been alleged to us with regard to the theft or diversion of material. I can say that we have no evidence that's significant and I use the word significant because there have been cases where small minute quantities have been taken off the premises of a plant; but I say we have no evidence that a significant amount of special nuclear material has been stolen. I think one should ask Mr. Conran for the specifics of the things he is talkabout."

Now, have you got the statement in the other...

Fitzgerald: Yes, it is quoted in Mr. Gossick's memorandum to Chairman Hendrie of December (1, 1977).

McTiernan: Now, Mr. Gossick made a similar statement at the so-called Dingell hearing August 8, 1977, and it was in answer to a question by Mr. Dingell. Mr. Dingell said "Well, that brings up this question, Mr. Gossick, do you feel your judgments here, absent a review of the written material and a briefing by the intelligence agencies involved, is as hard as it should be with regard to safeguards and the mechanisms for showing the safeguard of the material in proper form?"

Mr. Gossick said, "Mr. Chairman, this was precisely the reason the Commission felt it necessary to be briefed fully on the matter. It was something that had occurred in the time period preceding, of course, the establishment of the NRC; but in the process of establishing the safeguards programs that we have in effect and that we are increasing the stringency thereof, the Commission felt it important to know whether or not there was any factor here that might affect the measures that the Commission might wish to put into force in the safeguards program."

Then continue on down, Mr. Ward who was counsel for the committee said "But you, not having access to all of this cannot personally give that assurance, is that correct?" And Gossick says, "I can only say, and this is a critical paragraph, Jim, Gossick says that "I can only say,

Mr. Ward, that the statement in view of the Commission in making this statement there was no evidence that they had indicated that any diversion had taken place, was made in full knowledge of the briefing that they had received, so while I personally was not briefed on the matter, the Commission did make and has reaffirmed that judgment, that in their view there has been no evidence to indicate any diversion has taken place."

In effect what Mr. Gossick has said, there is no evidence which in some degree has been stated in the past, that material has been stolen. Now what we would like to talk to you about is, do you have any recollection of documents, remembering again that we have the Task Force material available to us, and we have all the material you gave us in the past, do you have any documents that might help us first determine or give some indication of Commission policy at any time on this statement of whether materials have been stolen or diverted, and did you have any conversations with people like the Commissioners and Gossick that might be relevant to this situation? That's all we need to know for now, and then later on we can always talk to you if we need to get more specific.

Conran:

As to the sequence in which this information became available the Commission, I had, of course, heard rumors that it was alleged that there had been diversion for a long time. A lot of people within the agencies (NRC and ERDA) had. It was not until October 16, 1975, that I identified and became aware of information in ERDA's files that seemed to give substance to what I had regarded as sort of titillating rumors up until that time. That information, incidently, was characterized to me by Herbert Hahn and Martin Dowd of ERDA as a Top Secret report. ERDA personnel characterized information in their internal security file as Top Secret information, probably containing or derived from intelligence information. At the time I really didn't understand how they determined that; but in retrospect I believe it was from Mr. Hahn being told by the ERDA central files clerk that the information that I had asked for, I had asked for a certain file I saw crossed referenced in some NUMEC material that I had been reading, the cross reference referred to a file on Zolman Mordeciah Shapiro and I asked to see that file. Mr. Hahn called down to the central files area and the clerk, I was listening to just one end of the conversation, said something to him that

apparently she couldn't send up this batch of material as she had sent up several others previously. And there was a short conversation, and he hung up and turned to me and said, "Well they don't have it in central files, it is Top Secret information, a Top Secret file." And I believe he said, in fact, that it was in the Director's office, the Director in this case being Admiral Lyon. The storage arrangements for this information were obviously different and special, and that is apparently what lead Mr. Hahn to conclude that quite probably it contained intelligence information. Well, as I say, that was the first hard indication that I had ever had that there was some substance to the story or the allegation that material had been stolen from the NUMEC facility and diverted to the purpose of a foreign power.

Well, that was late afternoon. I returned to my work location at the Maryland National Bank Building and reported it immediately to Maury Eisenstein. Maury Eisenstein told me that he would "fill the boss (Chapman) in" on what I had reported to him. And incidentally after reporting it to him I recommended very urgently that someone in NRC obtain this information and review it and try to find out exactly what it said, and that I thought there was considerable urgency in the matter. I attached a great deal of importance to this information for several reasons. I thought that if there was information of this sort that it was diametrically opposite to statements that this agency and ERDA made both publicly and internally to their staff.

McTiernan: This will help us. What statements do you have in mind? This would be prior to October 1975 wouldn't it?

Conran: That's right.

McTiernan: Can you think of any, or maybe you can fish them out later.

Conran: Not specifically.

McTiernan: Because I've tried to pin that down too.

Fitzgerald: When you say diametrically opposed, what were the type of statements, even if you can't come up with the specifics?

Conran: The type of statements are the ones that appeared in Mr. Page's testimony, for example, to the California Legislature in November, 1975 (see Enclosure 20). They were almost identical to the words that are being fought over these days, and basically they say there is "no evidence or indication of theft of significant quantities of SNM." I believe that I've seen that statement in testimony of Chairman Ray, AEC, and General Giller, AEC.

McTiernan: We're really thinking of NRC now. We've got a lot of AEC material.

Conran: What I'm trying to establish is, that prior to this time the myth that had been perpetuated and promulgated widely within this agency and to Congress and to the public was that there was absolutely no evidence or indication that a significant quantity of bomb grade material had ever been stolen. As I said, I think that I remember seeing that same statement in testimony to the Joint Committee by Chairman Ray and General Giller that came out at the time of Ribicoff's hearings in the context of reorganizing the agency. There was a discussion of these very matters and I've read that transcript, and I think...(Note: It was in testimony to the Senate Governmental Operating Committee, February/March, 1974. See Enclosure 4).

McTiernan: Do you know where we might get our hand on it?

Conran: I think the Governmental Operations Committee staff...

McTiernan: You mean you don't have it floating around in your material?

Conran: Quite possibly I could lay my hands on it; I'll try to find it. Those are by no means the only two incidents. This notion that there had never been any theft or any evidence or any indication of theft was so pervasive and so widespread, it was a product of a deliberate policy, I believe, in trying to mislead the public, the Congress and even the working-level people in NRC...

McTiernan: (unintelligible)...We're shooting blanks already.

Did anybody ever acknowledge to you, even at AEC or NRC, that there was a deliberate policy to mislead the public or the Congress, or is this the conclusion you reached as a result of all the work you've done in this area?

Conran: Well, its certainly my conclusion...

McTiernan: Do you recall the conversation that...

Conran: It was not just in the context of the NUMEC intelligence information. It is exactly the same sort of thing that happened with respect to (1) the question of relative ease and likelihood of success of making a fission explosive, (2) whether or not there have ever been credible nuclear threats, that is, incidents in which someone credibly threatened to use a home made nuclear explosive against the public or against the Government. In almost every area that I sought information in connection with my Special Safeguards Study assignments, and that included the MGTRE Threat Study and the Taylor Unauthorized Uses Study, it was exactly the same pattern. Very sensitive, highly-classified, most relevant information was very systematically suppressed and even misrepresented; and so it was not really a surprise to find out the same thing happened with respect to the NUMEC information. There was perhaps even a little more excuse for it because it was intelligence information, very sensitive intelligence information. It it was hard information it would have had to come from an agent planted somewhere; so to talk about it freely might very well have disclosed the identity of that person. That's why, incidentally, it was very important to try to track down exactly what was said and who had said it, and how much confidence there was in the intelligence assessment that there had, in fact, occurred a diversion and we knew where the material went or we thought we knew where the material went. If that statement was based on information from an agent that was operating in another government for example, and there was no denying it, that would be extremely important. If, on the other hand, it was based on a very circumstantial evidence, why one could adjust one's thinking on that basis as well.

I reported it to Maury Eisenstein on October 16, 1976. He told me personally that he would tell the boss and that was General Chapman what we knew about this that evening. He was in a car pool with General Chapman, and his expression was that he intended to "do a data dump" on the boss that night; and to the extent I guess, that they could talk about things on the way home, why that could be done; and if it couldn't be discussed in the car, why they would stay over for awhile and talk about it.

Well, naturally I was concerned about this information, and I kept asking Maury (afterward) what was happening. It was not obvious that anybody was making any effort to check. It was certainly obvious that that information was not being factored into all the activities of the (safeguards) Division I worked with. I talked to people almost constantly, that's sort of my style of doing my work, and from talking to working level members in every organization in the Safeguards Division, most particularly Tom Carter's group, the group that should know this information and factor it in to our assessments of threat capabilities, that sort of thing, it was obvious that this information was not finding its way back into the work that everyone in the Division was doing. As a matter of fact, quite to the contrary, it was pretty obvious that it was not, and that it was being withheld because, as I say, Mr. Page, the Deputy Director of the Division, on November 17 I think 1975, made a statement, formal statement to the California Legislature, in which he said that there was "no evidence or indication" of any such thing happening.

- 8 Fitzgerald: Do you have that statement in your files?
- McTiernan: If you don't we'll try to get it from Page but in case we miss on that...
- Conran: As a matter of fact you (OIA) may have it, or you should have it, because I gave it to you.
- McTiernan: Do you remember that?
- Anderson: No.
- McTiernan: Take a look after the meeting will you? We'll have to run this one down.
- Conran: I don't know if you've seen it or not, but I made a listing in response to an FOIA request of information, at least this is a partial listing of information that I gave to OIA when I was first talking to you guys about this in April or May of 1976. That information was included in the information that I handed over to you.
- McTiernan: (Unintelligible)...in our raw material. I don't remember it.

Conran: It's possible that you don't have the material itself, because some of it was returned to me last year by Sid Butterfield, and that's the material I have listed here. I think that you all have some additional material that was not returned to me.

McTiernan: We don't see outgoing FOIA responses. Do you have any objection to xeroxing that thing as a double check on documents that we may have missed?

Conran: No, as a matter of fact this has been turned into the FOIA office; and so was a copy of all the material listed here, incidentally.

McTiernan: Can I bum it now or do you want to go down and see your recollection on other documents? We'll xerox afterwards.

Conran: Well, to pin it down specifically on the tape, it is Enclosure I dated November 17, 1977 to a memo from Conran to Forehand, subject; "Response to FOIA Requests 77-170 and 77-188." The memo itself is dated November 30, 1977.

Well, to continue with the chronology then, Eisenstein indicated to me that he did, in fact, discuss the matter in some detail with Chapman and that Builder was also advised of the existence of this information. I kept seeing indications that nothing was being done with it...nothing effectively at the working level. I made a point of asking people (regularly) whose assignment it was to know about such things if they had any information to this effect. Incidentally, this was at the same time that an assessment team was operating at NFS Erwin, and another assessment of the Apollo facility was being planned. Emphasize the Apollo facility, that's the facility that this material allegedly was stolen from. It seemed to be pretty relevant background that the assessment team which was going to look at the current safeguards for that facility should be aware of the fact that there was this kind of a history. That simply wasn't done. None of the people that I talked to, as far as I could tell, knew anything about this information.

McTiernan: You said something that I think I intended to cover anyway before this investigation was completed. Who in the so-called Safeguards Division at the time, or the so-called Special Safeguards Study, could we contact and talk to on what steps they took to locate the NUMEC material and get the story on NUMEC?

Conran: I would say Eisenstein, Builder, Chapman, Page...

McTiernan: I'm thinking of the rank and file types that may have had immediate drafting and writing responsibilities.

Conran: Tom Carter, Joe Yardumian, George McCorkle...

McTiernan: Where those people aware of your concern about the fact that we may not have, meaning NRC, the whole story on NUMEC Apollo?

Conran: Yes, when it became obvious to me that the management was not responding to this really, very significant revelation, I began telling these people, without going into the classified details...

McTiernan: Could you focus down to maybe the specific persons that you talked to? You gave us five or six names, but could you think of any specific conversation that will really get us into it?

Conran: I'd have to think about it.

McTiernan: Would you give me a call?

Conran: I think as a matter of fact, if you would go down the list of Tom Carter's organization, and Stan Dolin's organization, and George McCorkle's organization...

McTiernan: But you think for sure you talked to Tom and McCorkle?...

Conran: I'm not sure that I ever talked to George McCorkle; but I know that I talked to Tom Carter and Tom Thayer and Ron Brightsen. A very significant fraction of the people who worked in that group became aware eventually of the fact that at least I thought there was this sort of information in existence.

McTiernan: Did they make any effort, as far as you know, to get it?

Conran: I don't know,...no I don't know. I think the most important fact is that the management of the organization didn't make an effort to disseminate at least the substance of this information.

- McTiernan: You see what we're trying to do as a part of this inquiry, just to refresh your recollection for talking here, is to establish the history of the treatment of this issue, and that's why anybody you talked to and what actions they took becomes relevant. How about documents, are there any more documents that you can think of that might get us into, you see we're reviewing all, I'm again reminding you, reviewing all of the Task Force material and we're reviewing what you've given us.
- Conran: Yes, very early on I prepared a handwritten summary entitled Appendix D, "What is Known with Respect to SNM Diversion-Major Known Incidents."
- McTiernan: We've got that.
- Conran: That's some of the material that I gave to you...
- McTiernan: I recognize that.
- Conran: As a matter of fact, it was eventually Appendix M in my Draft Overview Study.
- McTiernan: Now "M" was the Appendix originally, Jim didn't give us, remember? Wasn't it?
- Conran: No, Appendix I was the one that I originally did not give you, because it had what I knew to be a very highly classified, very sensitive information. Incidentally that's,...I think, that's an important point. My actions with respect to discussing this information (the NUMEC information) with other people were premised on the fact that I didn't know its level of classification; but at the same time it was very important to get this information out to people...
- McTiernan: We're in the same boat now.
- Conran: Well, if I had ever been shown the information and instructed that even its very existence was considered to be Secret, as opposed to Top Secret or Confidential, I would have felt compelled to be much more careful about the way that I discussed this with even other working level people within the organization. By that time, however, a very obvious pattern of deception and suppression of information and even attempted deception as to the existence of information, had been established in my dealings with ERDA. And I was not so sure but what they would intentionally mislead me as to the level of classification of this information.

McTiernan: Can you think of any documents in the nature of the one you just told us about on Page and his trip to California in November 1975...public statements?

Conran: Yes, and incidentally they continue to this day. As of December 1977 in an official Commission document, the same statement that's in contention right now, was made in an official publication of the Commission. So it's obvious that the communication problems which worried me so badly back in the Fall of 1975 are still very much with us. Its almost incredible that, with the Chairman and Mr. Gossick being publicly criticized and scathed by Congress, that the safeguards organization management would permit to be published in an official document from the Commission...

McTiernan: What is it, Jim?

Conran: A Final Environmental Statement on the Transportation of Special Nuclear Materials by Air and Other Modes. Page 7-11, Volume I...(see Enclosure 1).

McTiernan: Do you recognize it, Jim (Fitzgerald) from your work?

Fitzgerald: I've heard of the document, but I don't recognize it in this context.

Conran: It's dated December 1977. It contains almost exactly the same statements the Draft Environmental Statement for the Clinch River Breeder Reactor contained in the Fall of 1975.

McTiernan: There's another document then, isn't there? We'd better get that one down too.

Clary: These are just examples...(unintelligible).

Conran: These examples incidentally, are not exhaustive, they're just typical.

McTiernan: Yes, we don't have to be exhaustive; we've got to have something which shows a pattern.

Conran: The Clinch River Breeder Reactor Draft Environmental Statement in the Fall of 1975, the Division of Safeguards input to that document, which went out over Mr. Page's

signature, contained the same statement. There is no evidence to date of diversion of significant quantities of SNM. (Incorrect example. Similar treatments of the CFE question appear in the two documents cited.)

McTiernan: Any other documents occur to you off hand? These are helpful.

Conran: Well, as a matter of fact a speech by Commissioner Mason...

McTiernan: We have that. In Hawaii?

Conran: But that was very much earlier. The one I'm thinking of is August 1975.

Fitzgerald: Mason's speech in August?

McTiernan: We don't have that one.

Fitzgerald: No. I've got one in October 1976.

McTiernan: What do you recall was stated?

Conran: (In the August 1975 speech.) Roughly that there was no evidence of diversion or theft of a large quantity of material. It was a much more general statement... not as exact.

Fitzgerald: To whom Jim?

Conran: I think it must have been a speech at MIT in August of 1975 (correction: August 1975 speech was in Washington, D.C., see Enclosure 7). There is simply no question that at every level at both agencies, this notion was pervasive.

McTiernan: That was ERDA's testimony at the Dingell hearing?

Conran: And it was not by accident, I think. It was not simply a lack of information. It was (because of) positive statements which were designed, I believe, to be misleading on the subject.

McTiernan: But again, did anybody specifically tell you that, that it was designed to mislead in a coverup sense, or is this a conclusion you have been forced to reach in all the work you have done?

- Conran: I don't think any of the safeguards management ever told me outright that "we are setting out to deceive the Congress, the public and the staff."
- McTiernan: That's important because that has been the thrust of the newspaper stories.
- Conran: I think it is also important, however, to say this. The law prohibits the unauthorized disclosure of classified information, and makes the provision for its protection. And you do that by controlling access and establishing a need to know for people to have access to classified information. But it's a widespread practice, particularly among the management of the old AEC and ERDA and NRC, to take that legitimate prohibition under the law and misconstrue it to be a mandate to do anything to protect that information, including lie about its existence. Or if you do say something about it to carefully measure and artfully word your statements so as to be deliberately misleading. As I say, that was never said to me as a policy pronouncement, but the practice is so widespread and so dangerous, that that's why I've fought against it for the better part of two and a half years now.
- Clary: And in your discussions with these key management officials, it is clear this was an important issue? What was the response about this pattern and practice?
- McTiernan: That's going to be my next series of questions.
- Conran: Maybe I should finish the chronology of how this information became known to various levels of management officials in the agency to my knowledge, (1) Conran learned of it on October 16, (1975) at ERDA, (2) reported to Eisenstein, (3) within no more than a day, certainly, it was known to Chapman to my knowledge, (4) nothing was done with it, and my level of concern kept rising and (5) on December 15 (1975) at my request, I met with Commissioner Mason and Jim Hard, his technical assistant...a four hour meeting. All of the details of what I knew about this, and its suppression or lack of use within my organization, was told to Mason. In another FOIA listing, I've listed all the documents that I provided to Commissioner Mason at that time (see listings in Enclosure 3).

The next event to my knowledge was a meeting with Mr. Chapman, sometime in January. I believe it was...January of 1976. Yes, January 12 (1976) I had a meeting with Mr. Chapman; and the purpose of that meeting was to report to him information relating to an alleged threat to attack a nuclear installation; but in the same meeting we discussed or alluded to the NUMEC information (see Enclosure 21). So in January (1976), to my own knowledge, Chapman was aware of this information. And as a matter of fact, he told me that in the investigations that were going on relating to the NFS facility, that Roger...I'm fishing for a name, I'll have to go back to it (correct name, Bob Erickson)...that a member of his staff had been made aware of this information so that it could be factored into a Task Force assessment that was being made at one of the facilities of a great concern at that time.

That next event that stands out in my mind is a meeting with Chairman Anders on February 23. I went into this information in considerable detail with him; and finally, apparently someone within the agency made the right move. It was my understanding that either the same day, or very shortly thereafter, the Chairman (Anders) arranged for briefings by the CIA and ERDA officials.

Well, after that, there were other meetings with Mr. Chapman around the first of April (1976) sometime. Again the (NUMEC) information was discussed. Also in the beginning of April (1976) I met with Chairman Rowden and discussed this (NUMEC) information with him.

Fitzgerald: What did he say?

Conran: Incidentally, the context of that meeting was, I had been contacted by the FBI and told that they were doing an investigation. I told the Chairman that I had been contacted, and it was my intention to cooperate fully with the FBI investigation, and if he had any objections or any legal guidance that he could give me in that context, that that's what I was there to talk to him about. He instructed me to cooperate fully, and put no constraints on me at all. Well, for the early chronology...

McTiernan: What did he say about NUMEC, did he give you a reaction to the problem? Anything to indicate policy and thinking?

- Conran: No, in retrospect as a matter of fact, it's rather surprising. My impression of Chairman Rowden was that this was new information to him, completely new information. As it turns out in the records that have been released under FOIA, he was involved as the OGC counsel who provided legal advice to an investigation of the NUMEC incident when it was current back in the mid-60's.
- McTiernan: For your information, in our June 15 (1976) report, John Anderson pointed out that this was one of the problems that he was concerned about, right?
- Anderson: Right.
- McTiernan: ...to the Commission before we ever launched our inquiry into your concerns.
- Conran: Well, I should be careful. I'm not suggesting, incidentally, that Chairman Rowden knew about the intelligence information that I'm talking about. I'm not sure that he had any prior knowledge of that before the briefing in February (1976). But he was very intimately involved with the AEC investigations of that incident in the mid-60's.
- McTiernan: Did he make any statement indicative of NRC policy on the statements with respect to theft or diversion at that time?
- Conran: I don't recall that he did. I know that one of the topics that I discussed was this same concern which still seemed to be there about the misrepresentation of crucial safeguards information. At the time, the overriding concern was our public posture on the adequacy of existing safeguards. They were, in fact, at that time dangerously inadequate, and I think that a great deal of work has been done since then, points that up very clearly. Nevertheless, safeguards officials at this agency were regularly saying to Congress, to the public and, at the Office director and Division director level, apparently to the Commission...these are all documented statements...that existing safeguards were adequate. These kinds of statements fit exactly the pattern of suppression, misrepresentation of sensitive, embarrassing, but crucial information. Very similar to the way that the NUMEC information was handled.

- McTiernan: I guess you're saying, and I'm not putting words in your mouth, I'm just trying to keep the ball rolling, that nothing was said by Chairman Rowden in that conversation indicating any policy determination on past theft or diversion. This is our focus.
- Conran: If there was any guidance given to the staff relating to the NUMEC diversion question and what its implications might be or should be in the work of the working level staff, I'm not aware of it. And I think that I might very well be aware of it, because there was a very distinct change in thinking and policy guidance with respect to the Clandestine Fission Explosive question.
- McTiernan: Right.
- Conran: Sometime in March (1976), I remember it was announced at a staff meeting one morning, Maury Eisenstien commented on the fact that we were going to start treating this question differently. In fact it was the widespread notion among the staff at that time that it was either impossible or almost impossible to make fission explosives with stolen SNM. That was changed. I don't think it was ever written down at that time, but very definitely the staff was given different guidance on this question down through the management chain. And in fact at a meeting with Mr. Chapman and Mr. Builder, the content of which was otherwise very unpleasant...this was March 8th (1976)...Mr. Chapman and Mr. Builder made a point of saying to me, sort of in the sense that "Well, I hope your satisfied now, having caused all of this trouble," that the way that we view this mater officially and internally is that the design and fabrication of fission explosives must be considered relatively easy and likely to succeed. Very positive statement, very clear guidance; but if there was any similar policy guidance given to the staff with respect to the NUMEC information, I'm not aware of it. And, in fact, my opinion is, and I have a very strong opinion on this, that the staff was not given any policy guidance on this question.
- McTiernan: I gather your almost doing that now.
- Conran: Well, what I'm saying is that in my view, from what I know of the situation, there was a very distinct line of demarcation between the old official view internally and

the new one on the question of Clandestine Fission Explosive design and fabrication sometime in March of 1976. If the Commission's change of thinking with respect to the NUMEC information was ever promulgated to the staff either informally or formally, (however) I'm unaware of it. And, as a matter of fact, as I say, I continued to bitch about the fact that apparently it was not. I should say here, incidentally, that I have never talked to General Gossick about the NUMEC information.

McTiernan: How about Commissioner Gilinsky?

Conran: I had a meeting with Commissioner Gilinsky, February 20, 1976. I didn't mention that meeting, because I'm not at all sure that I told Commissioner Gilinsky this information. It was my intention at the time to meet with the Chairman (on February 23, 1976); and since I knew that this was very likely to lead to a considerable donnybrook, I can't remember that I had the intention to talk to Gilinsky about this, and I don't recall that I did.

McTiernan: How about Commissioner Kennedy?

Conran: I never spoke with Commissioner Kennedy at all until January of 1976.

McTiernan: January 1976?

Conran: I'm sorry, January 1977. He's the one Commissioner, of the original five man Commission, that I did not contact personally through the first year and a half of this development.

McTiernan: Did you discuss diversion with him?

Conran: I made an outline of topics to discuss at that (January 1977) meeting. I'm quite sure that I did because one of the principle topics that I was discussing with him, trying very desperately to have an input to the decision that was imminent on the NRDC Emergency Measures Petition, was generally the question of adequacy of safeguards. One of the topics that is most relevant to that concern is safeguards risk; and I had done a safeguards risk estimate, a very preliminary one. The results were alarming...to see the quantitative expression of just how bad our safeguards are, relative to our approach to reactor regulation and analysis.

- McTiernan: Do you have any recollection right now talking with Commissioner Kennedy?
- Conran: Yes, now that I think about it, I discussed the matter very explicitly I believe with Commissioner Kennedy. In fact, it was a fait accompli that a diversion had occurred, in a quantitative assessment of safeguards risk, that's an extremely important piece of information. (with respect to) to the question of frequency of attempts and more specifically frequency of successful attempts to steal the material (e.g. the NUMEC incident). It's the difference between having no data and one datum. That difference incidentally, is the difference between not being able to estimate really on the basis of hard evidence what this frequency might be...
- McTiernan: Do you recall what he said?
- Conran: ...and the fact that you've already had the experience.
- McTiernan: Do you recall what he said that might be relevant to what we are asking today?
- Conran: No, I don't.
- McTiernan: How about Commissioner Mason?
- Conran: Well, Commissioner Mason as I indicated, knew everything that I knew about the NUMEC information, with the possible exception of the name of my intelligence contact, on December 15, 1977. There's a possibility that I had alluded to that information in a meeting with him earlier, but I'm not at all sure about that.
- McTiernan: And just for the record, did he state anything, do you recall anything he said, that gave some indication that his thinking from the policy standpoint?
- Conran: I believe his comment was that that was certainly the sort of information that should be taken into account in our safeguards thinking. Incidentally, I remember an exchange of comments and even notes, on this subject with respect to Mr. Page's testimony (see Enclosure 20). I was in fairly frequent contact with Jim Hard at that time. He was Commissioner Mason's technical assistant. And when I saw the statement in Mr. Page's testimony that

I considered to be false, I told Jim Hard about this. Commissioner Mason's office obtained a copy of the Page testimony, and I pointed out what I thought were the misleading portions. And the questions that occurred to Commissioner Mason at the time, were "Well, if this were true, how would it effect our safeguards thinking," and "Do you think that this information should be made public," and that sort of thing.

McTiernan: Was this the Commissioner talking or Jim (Hard)?

Conran: This was the Commissioner.

In no way do I mean to imply by those remarks...I guess they can be interpreted a couple of different ways; but my impression is that Dr. Mason considered that information to be relevant, and if it existed it should be known, and it should be properly factored into our safeguards approach.

McTiernan: We are just tracing the history.

Fitzgerald: You mentioned an exchange of notes. Did you see documents to Hard from Page or something like that?

Conran: Well, I remember seeing a note from Jim Hard to Commissioner Mason, and I believe underlined portions of Page's testimony, and Hard's comment that this is the kind of think Conran is talking about, the misleading information category generally. And I also remember seeing a return scribbling by Commissioner Mason to the effect that, "Well, how do you think this should be said? Are you suggesting it be made public?" You know, that sort of thing. That was around the first of December of 1975 (see Enclosure 20).

McTiernan: Did it end there as far as you know?

Conran: As far as I know it did. Well, (no) it didn't end there. That was one of the incidents that contributed to the December 15th (1975) meeting, the very long meeting with Commissioner Mason. It was background for that meeting.

Another significant incident that I should mention in this record...I have already recorded it, incidentally, in reports to you...on December 1 (1975) I finally talked to Carl Builder personally about this, among other things. Builder's reaction was appalling; I'm not really sure

what prompted it. First of all he questioned my credibility, and would say things like "How come you're the only person that ever comes to me with this suspicion that people are holding out on us?" That, incidentally, was my claim; (ERDA) had withheld this information from the Commission itself, not just from me. They, of course, denied me access to it; and as far as I could tell, they had withheld it from the Commission itself. Even though they had made an agreement, incidentally, with the Commission, an informal agreement with ERDA would supply this sort of information to the Commission. They had worked out some ground rules on how the handling of very sensitive information of this sort should be done. Even with that agreement, and the understanding that there would be very limited dissemination of this information, ERDA withheld this information (from even the Commission) to my knowledge.

To get back to the conversation with Builder on December 1st (1975), he even expressed the idea that, even if it had happened, it was water under the bridge, and he didn't see how it would affect the safeguards scene today, because we surely did things much differently today than we did then. It was just a rehash of problems of the past, that was not necessary (to pursue it).

A couple of days later, perhaps a week later, on December 12th as a matter of fact, I received a telephone call from Mr. Builder; and in the course of the conversation he instructed me very specifically not to seek further information of this sort from any Government agency.

McTiernan: Did he name NUMEC specifically?

Conran: He named intelligence information specifically. It was quite clear to me that he was talking about sensitive, classified information that was relevant to my assignments at the time. His comment was that I was making people out at ERDA very nervous by asking questions in these areas; and he instructed me not to seek information further. And, in fact, I had already made contacts that I was awaiting coming to fruition; so I asked him "What if somebody contacts me as a follow-up to earlier contacts?" His response was "Don't accept it." His instructions to me were so clear in that regard that when I found out, for example, about the threat that had been made (in January 1976), as had been reported by an ACRS consultant, that a dissident group was planning to attack a nuclear facility sometime during 1976, I was afraid that Builder

would consider it a violation of his instructions to me if he knew I had that information. So instead of going to Builder, I went to Chapman and told him about it. There is no question in my mind what Builder's view was and what his instructions were in this respect.

McTiernan: Let's see, we've run down the list of Commissioners and we have got Chapman and Builder. But Gossick for sure, you do not remember discussing NUMEC with?

Conran: I never discussed NUMEC with Gossick; but Mr. Gossick certainly came into possession of the information that I knew about, as a matter of record (see Commission meeting transcript for April 4, 1977) on April 4, 1977. That was the day that you (McTiernan) and Mr. Gossick and some other people were sitting around talking about my letters (to Udall, Carter and the Commission). Gossick was making comments that he had not yet seen my March 10 (1977) report (to OIA), and he was asking if he could see a copy of it, and it was given to him at that time. There was a fairly detailed discussion of what I know of this matter in that report.

I think that's another important comment that should be made, incidentally. I'm not sure what your office (OIA) did with the information but your office knew about the existence of the information and my knowledge of it in early April (1976)...April 12, 1976, I think it was our first conversation about it...

McTiernan: We covered it in our June 15 (1976) report, didn't we John?

Conran: ...and at the same time the allegations that this information was being misrepresented publicly and to the Congress and was not being factored into our safeguards program (was reported to OIA). So that's one other bit in the chronology that I think should be in the record.

McTiernan: All that was fully recorded. That's right, we'll crank that in.

Clary: You characterized and described a sequence of meetings and discussions. Did you initiate these meetings or were they in response to a request?

Conran: All of these meetings were at my initiative and usually under considerable pressure to sit down and shut up. As a matter of fact, what finally made me come to you (McTiernan) and document the whole thing was that Chapman called me into his office one day and made a very overt threat to fire me if I continued seeking information relevant to my safeguards assignments as I had been.

Fitzgerald: I thought Marty Daugherty sent you over.

McTiernan: That's what I recollect. You were over on the in-step...

Conran: Well, as a matter of fact, yes, you've tripped off another recollection. After the instruction from Builder, this was on December 12 (1975), that I shouldn't seek this information any more, this kind of information, I went to the personnel people and had a conversation with Jerry Black, I think was his name. The gist of the conversation was "Is there a regulation which I can quote, which would require Mr. Builder to put this instruction in writing;" because I thought it was something that should be taken up with higher levels. And at that meeting, I alluded to this information. It was exactly this kind of information and its suppression and mishandling that concerned me. I can't recall that I met with Daugherty at that time; a couple of months later was the time frame in which Daugherty became generally aware of it. Incidentally, these conversations with O&P (personnel) people were not detailed. It was as general an allusion as I could make to this intelligence information, just to give them the flavor of the sort of information that it seemed to me was being covered up, without disclosing details unnecessarily. But I guess it is relevant that in mid-December (1975) O&P learned of this in the context of what I thought was an illegal order by Builder not to seek information relevant to my assignment, and not even to accept it if it was offered.

McTiernan: And of course the Task Force report treated your concerns in this area too.

Conran: The Task Force treated my concern in this area just about as badly as I think it could be treated; I'm very critical of it; I've made my criticisms in that respect in formal comments to Udall; they're dated August 19 (1977). As a

matter of fact, I discussed that very same issue, the Task Force Report, with Roger Mattson in late-April 1977, and with Chairman Rowden in late-April 1977. So Chairman Rowden and Roger Mattson certainly knew my very strong feelings on the fact that the Task Force treatment of the NUMEC incident was inadequate.

McTiernan: There are two things we want to cover for sure on the details of the FBI inquiry, in the sense that any indication of who else they talked to at the agency. You see, that's still a pending investigation in the FBI and I don't know what we can get out of them. But I am trying to get out of them what is relevant to our investigation. I'm in touch with the FBI and they're reviewing who was interviewed. Do you remember the name of the agents?

Conran: I think I could probably dig that up.

McTiernan: And the next question is did they tell you who else they talked to at the agency?

Conran: With respect to the question of FBI investigation in this matter, on May 18 (1976), I finally met two FBI agents and discussed everything that I knew about the NUMEC information, and what I considered to be relevant background. That includes incidently, very specifically, what seemed to be absolutely insensible actions on the part of ERDA and NRC management officials, a pattern and practice well-established by that time, of suppressing and even outright misrepresenting information in a number of areas including the NUMEC information. I thought that that was relevant to their investigation, and so I discussed it in great detail. This conversation with the FBI, incidently, was one item referred to in my conversations with Chairman Rowden.

McTiernan: You came out to see me, remember and I advised you to talk to the FBI too?

Conran: Yes.

McTiernan: And I speculated with you that it involved NUMEC because it had been in the paper at that time.

Conran: As a matter of fact, the initial FBI contact...I don't have an exact record of it, but it was about a month earlier as I recall (by telephone).

McTiernan: Did they tell you who sent them to you?

Conran: They said that the Attorney General had ordered the investigation of the NUMEC matter.

McTiernan: How did they get your name, do you know? I am trying to see who else they may have talked to in the agency so we can establish some liaison with them and get what happened.

Conran: I think that that FBI investigation was triggered by some fallout or some follow-up to my attempts to verify what I had begun to suspect of the NUMEC information. When it seemed apparent to me that my organization, my management up through the (NMSS) Office Director level, was not going to do anything with this information except cover it up, I made a decision to go to the Commission with it. To go to the Commission with it, I wanted to be damn sure of what I was talking about. I was so worried about the signs that I saw, and again these were the very strange handling of very relevant information, that I told Maury (Eisenstein) that within the constraints that were upon me, I was going to try to verify the information. That would necessarily involve people out the Government (because of Builder's constraints on my contacts). I had been working with a group at Mitre on a Threat Analysis study; that group was still under contract to NRC. The subject of their investigation was (safeguards) Threat Analysis; and if someone had shown the capability to divert material, that was certainly relevant to the question of threat. So putting all these constraints and circumstances together, I finally decided to ask Mr. Chick Brennen (of the Mitre study group) to help me make contact with someone who might be able to give a go/no-go indication of what I knew of the matter, and what I suspected.

McTiernan: Chick Brennen is an FBI agent?

Conran: Chick Brennen is the former Director of the Domestic Intelligence Division of the FBI. I layed out the whole story for him, the reason for my concern, and the reason for this sort of unusual request and procedure. He thought that there was enough reason for concern, and he agreed to try to help me.

McTiernan: When was that Jim?

Conran: Well, I think it was in...

McTiernan: April?

Conran: No, my best recollection is that it was in early-November perhaps...

McTiernan: 1975? And then the FBI didn't interview you till...

Conran: ...1975. Early to (mid) November 1975, I think. If it is extremely important, I could pin a date on it. I have never pinned a date down, incidentally because I agreed... We finally met, incidentally with an individual that I think could be accurately characterized as being a knowledgeable member of what is generally thought of as the intelligence community. But at the time, not an employee of the Government...

McTiernan: You said we finally met with...

Conran: Chick Brennen and I. Chick arranged the meeting, and we discussed what I knew of the matter and he (the intelligence contact) verified what I knew of the matter in a very authoritative manner, I thought. After that meeting, I felt very confident about going to the Commission. I know what I know. It has been verified two ways and something should be done...something more than what Builder and Chapman had done.

Fitzgerald: Who is that? Who did you meet with?

Conran: I agreed the source would be unattributable, and that's why I have never pinned down the date on this as a matter of fact.

McTiernan: Could you give us an approximation? You were interviewed (by the FBI) in either April or May 1976, and you contacted Chick sometime in the Fall of 1975. When did Chick set up this meeting? Roughly, do you know?

Conran: November of 1975.

McTiernan: Where did you meet?

Conran: I don't think that's relevant. I don't think it is necessary...

McTiernan: See we are reporting everything that happened because we don't want to be accused of a cover up. We're even into the briefing...

- Conran: Okay, let me say that I don't intend to tell anyone except...Well, my intention right now is not to tell anyone details of the meeting that would disclose his identity. If I'm pushed to the wall, it would just be very select people.
- McTiernan: We are leaving this entirely up to you, Jim. We are just going to report to the...
- Conran: I am not trying to withhold information, I am giving all of the relevant information. I think these details... as far as I can tell they are not necessary. It is not necessary to know them. If that becomes important later... why...
- McTiernan: Just so that you understand our position, I think that we are going to complete an investigation whereby we know everything and dealing with everything so we are not accused of engaging in a cover up. So we will just report that this happened and let somebody else talk to you.
- Conran: I'm trying to be forthcoming, and if it becomes vital to know that...I don't think it is vital because all of the facts and details that I knew about, that this person verified for me, have been published by now.
- McTiernan: Sitting here, now the only...
- Conran: As a matter of fact, it's my very strong impression that Congressional investigators, in all of the people they have talked to in this matter, have touched with this person.
- McTiernan: Today? The only relevance that strikes me at this present time is that there is clearly somebody high in the intelligence community that seems to agree with you. And clearly the FBI in the Fall of 1975 knew about your concerns.
- Conran: That's the track that I was following. I think the FBI investigation was tripped off by the actions of Mr. Brennan and this other person after my conversation.
- McTiernan: See, a newspaper column said that Anders was tripped to the White House.

Conran: They made contact with Congressional sources, I'm aware specifically of contacts with members of the Congress who would be part of intelligence oversight and nuclear energy oversight.

McTiernan: Did Chick tell you who made the contacts?

Conran: Yes. He didn't tell me a lot of detail about it; but he did tell me that they had made contact; and later come to find out there was an FBI investigation going on.

McTiernan: In effect, we have a situation here which is interesting in the sense that you gave notice to the FBI, somebody in a high level in the intelligence community, and the FBI notified the Congress on your concerns much earlier than the time it broke.

Conran: I suppose that's true.

McTiernan: That's its relevance.

Conran: I think, as a matter of fact, that in the overall scheme of things it appears that the people outside of this agency, who didn't have the responsibilities that we do for knowing enough about the facilities that we regulate to regulate them knowledgeably and effectively, did act properly when they were notified of my concerns. That's in stark contrast to the reaction of my management.

McTiernan: So just for the record...and I leave this entirely up to you, because we are just going to report everything that happens and let the chips fall where they may...could you tell us who he contacted on the Hill, if you knew?

Conran: No, I wouldn't.

McTiernan: Do you know?

Conran: It would only be hearsay.

McTiernan: Hearsay in the sense that he told you?

Conran: Yes. I have no direct knowledge from having participated in the meeting who they contacted.

McTiernan: Did the FBI give you any idea who else they talked to in NRC?

- Conran: They indicated that they wanted to talk to someone in the Regional Office that had responsibility for NUMEC and NFS.
- McTiernan: I am particularly interested in whether they had mentioned they talked to anyone here in Headquarters, like Mr. Gossick for instance.
- Conran: I suggested people they could talk to here. As far as I can recall they didn't mention that they had talked to anyone yet.
- McTiernan: Who did you suggest?
- Conran: My chain of management in NRC starting with Builder. No, starting with Eisenstein; Eisenstein, Builder. I had a note from Jerry Page by that time formally notifying me that he didn't know anything about this; so I didn't suggest that they talk to Mr. Page. But I suggested that they talk to Eisenstein, Builder, Chapman. I can't recall that I referred them to Mr. Gossick, but certainly to the Commission. I had talked to four of the Commissioners by that time...everyone except Commissioner Kennedy. I also suggested names that they could contact at ERDA, and they indicated that they wanted to talk to someone in the Regional Office who had responsibility for NFS Erwin and Apollo. I'm not sure; but I think the NFS Erwin interest might have been my doings. I had done an analysis in December of 1975 on Apollo MUF data and on NFS MUF data. As a matter of fact, on the MUF data for all the facilities, but those two were very unique in the respect that over the last 10 years they stood out as facilities that had not only not improved their performance but had actually deteriorated. So since they both fell in the same category I mentioned, that perhaps they might also be interested in looking at NFS Erwin. The connection, incidentally, was that by this time I had begun to consider the possibility that someone at a very high level within ERDA might very well be involved in the misappropriation of nuclear material, not from just one facility, but from other facilities.
- McTiernan: That's my next question. I'm looking to make certain that we cover all loose ends that seem to exist as a result of our go around on this one. While I was at the hearing (July 29, 1977) before the Udall Subcommittee, I didn't quite pick this up; but I want to make certain that if it hasn't been followed-up that somebody takes the responsibility for following it up.

On page 24 of the transcript...and I'm not working with the final report, Jim...there are other instances, this is Conran speaking, "There are other instances of theft and materials stolen than from the NUMEC installation. Theft or suspected thefts. That information is included in an Appendix of my Draft Overview Study." That's one statement you made.

Conran: Yes, may I address that?

McTiernan: Well, let me give you the whole summary then I'll just add one simple little question.

And then you say on the same page, "There have been other successful attempts to steal nuclear material; not always a large quantity, not always bomb grade. There have been a number of instances in which nuclear material was stolen and in some instances was recovered, so we know it was stolen. And Mr. Lujan says, "Where?" And then you say, "The documentation that I have in my head is so extensive that I really cannot remember which part is classified and which is not. So I would really rather not say in public. But all the information that I have referred to is in the overdraft study, or I have identified it in some other way for the Subcommittee, I would get very specific in a closed meeting." And in another place you say, "I documented this information 1 year and 3 months before I was transferred; I knew of it quite sometime before." And then Mr. Tsongas picked up on this, and where he asked the question, "Mr. Gossick, Mr. Conran made a statement that there had been nuclear material stolen, do you dispute that?"

Now the only thing I want to make certain that I have covered in this thing, because it looks like a loose end, has NMSS ever asked you any further to make certain they got all the things that are in your mind, or have they ever had a coordination with the Committee on things you may have told the Committee on this matter?

Conran: Absolutely not. And I want to have on the record that that's typical; that's not unexpected. That's the standard way of NMSS management doing safeguard's business. Because of the context, I want to clarify something. The instances of successful theft that I was talking about here...I've qualified my remarks, "Not always SNM, not

always bomb grade material, and if it was bomb grade material, not always large amounts." There are documented within ERDA and NRC files of at least six instances of theft; and in some instances we know the material was stolen because it was recovered and there was a prosecution. Chick Brennen himself has knowledge of one instance in which several tons of yellow cake had been stolen. That material was recovered, and there was a prosecution based on that. That's the sort of thing that I'm talking about.

McTiernan: Well the thing that really sticks out here in my reading is the fact that you had discussions with the Subcommittee staff, and I want to make certain that NMSS and the Subcommittee staff coordinated on that.

Conran: I have not told the Subcommittee staff anything that I have not banged on the table about, and written about in great detail to my organization, for two and a half years. As a matter of fact, I have told the Subcommittee staff less I'm quite sure than I've discussed with everyone else in this agency, including yourself (McTiernan), incidentally. I'm not holding out anything on this agency. I have a record of when I gave what material to whom. It should come as no surprise to Gossick, Chapman, Builder, Smith, Burnett, and Page that there are other instances of theft. They are a matter of record. I dug them out in the Fall of 1975, and I gave that information to my management. Nothing has been done with it, and that's the reason for finally going outside the agency to see if we couldn't get it handled in the right way.

Clary: Jim you mentioned Burnett. Now he is relatively new to Safeguards in this scene. How do you characterize the policy and the practice in that division since his joining that Office? Has there been any change?

Conran: At best it's unchanged. Some people think that the management now is not even up to Mr. Builder's par, in that regard.

I wanted to make one more comment about NFS. I mentioned NFS to the FBI, and you picked up on that comment, and I thought you had perhaps related it to my statement to the Committee. I'm not making the accusation that I know of any records of theft from the NFS facility. However, I am aware of a sequence of events that are a matter of record, which are consistent in every way with the scenario that would include systematic diversion of material in

that facility over a long period. That's documented in Exhibit A to the March 10, 1977 report that I gave you. I knew of it at that time, and that's why I told the FBI. These two facilities, Apollo and NUMEC, have very strange MUF performance histories. One of them, in fact, had an allegation of theft connected with it, and so it was particularly of concern. But NFS is very much like Apollo in that respect, in that it has a staggering cumulative MUF. In December, 1975 and January, 1976 there were found accounting practices which are sufficiently questionable... I'm not making an accusation, but I say categorically they do fit a scenario in which people who work at that facility are involved in a diversion of material at that facility. That's something that should be looked into. All of the investigations and assessments that are made at NFS should be done with that background. It makes a difference in whether you put implicit trust and faith in the contractor personnel in doing inventories, and in doing all kinds of assessments that have been done under the Integrated Assessment Plan, (as have) been done by the Division of Safeguards over the last year. There has occurred at NFS a sequence of events, that if you take safeguards seriously, you simply have to admit that they (could) fit in a pattern, a scenario, of diversion of materials from that facility. There has been no follow-up on that information by Builder, Chapman, Burnett, or Smith to my knowledge. Another relevant point is that currently, I understand, there's a very large out-of-tolerance MUF, which has occurred at that facility within the last accounting period.

McTiernan: What I referred to, just so you know when I picked up on that NFS...

Conran: May I make one more comment? In a CIA report that was released accidentally recently, is the only other place that I have seen written, what I have written in the regard. The CIA assessment is that, "Done competently, diversion of materials from our facilities could be done undetected." I think that's true. And I think this agency has an obligation to find out what the hell the CIA knows and thinks about this subject, which seems to be very close to what I think, that no one else in the Division of Safeguards thinks, or at least is permitted to say.

- Clary: There are documents too, to support that they were submitted by staff independent of Mr. Conran.
- Conran: All of this may be getting away from the question of Gossick's involvement in this whole thing. I don't really think so. I think the whole situation that Gossick found himself in the midst of contributed very directly to his present problems. In that regard, since he was responsible for the Information Control Policies in his organization, he is culpable. But, I think all of this background may very well be relevant to the question of whether his lack of knowledge about NUMEC was intentional or not. I'm not prepared to say that Gossick's lack of knowledge about NUMEC was deliberate or malevolent, on anyone's part. The fact of the matter is, the way relevant safeguards information is handled in this agency set him up, very likely set him up. It's still going on. I mentioned the fact that the same statement that Gossick is in trouble for, and the Chairman has been criticized for defending, now appears in an official document of the Commission, issued in December of 1977 after this whole furor broke in the press. It's incredible. It's basis for a continuing concern that the basic fundamental problem that caused this whole mess over the last two and a half years is still there. And its the reason, incidentally, that I'm still insisting on the right to finish my study, to document very explicitly these conditions and to recommend ways of clearing them up. Because it's apparent that even the new Safeguards Management is not moving in this direction.
- McTiernan: Well you know the Subcommittee has been briefed by all the interested agencies. Now they are better briefed than this agency is. They got a CIA, NSC and FBI briefing they say in the letter, right?
- Fitzgerald: There were several agencies...
- Conran: That's the cause of my statement that, if the management in this agency is not going to take seriously the obligation to know what there is to know, in order to regulate safeguards knowledgeably and effectively, then we should get out of the business of regulating bomb grade material completely.

- McTiernan: Based upon your knowledge of this issue and everything you've said, and everything you know about the issue, do you think that was a deliberate mistake on the part of Lee Gossick in those two hearings?
- Conran: Well, I think this matter is so serious that I'm somewhat reluctant to offer an opinion in that regard; but I'll say this, to my knowledge, Mr. Gossick did not know in detail, from conversations with me, the relevant NUMEC intelligence information. After April 4, 1977, Mr. Gossick had in his possession, if the Commission meeting transcript that I've been given is to be believed, he had the information in his possession. At the same meeting there was discussed some paragraphs in my Open Letter (April 4, 1977) to the Commission, that alluded to the fact that perhaps Government officials themselves were either involved or culpable in the theft or misappropriation of the material. Somebody picked up on that statement in the context that I was a little bit flaky for having made it. So it's clear that in the same Commission meeting in which Gossick participated, the question of the theft of a large amount of material and who might have been involved in it, and that sort of thing, came to the fore. So it's quite possible that Gossick didn't go home and read the entire 600 or 700 pages that comprised that report; but I think there is no question that if he was unaware of that information when he talked to the Committee, he was culpably unaware of that information. Again in that regard Mr. Gossick should not be singled out for special treatment by the Committee. That's not to say that I think he should be excused by the Committee. I think the entire chain of command in the safeguards organization should receive the same sort of attention that Gossick does in this regard.

Another example of who I have talked this matter over with is Mr. Burnett, the new Division Director. When he came aboard I made a point of going in and talking to him, and having a series of conversation with him. He knows as well as anyone in this agency, on a much more current basis, what the reasons for my concerns, and the sources and the quality of the information that I had. And yet he sat through the same hearing and didn't say anything to correct Gossick's statements. The same can be said of Smith. And, I can't really say "no offense intended," the same of you (McTiernan).

I'm saying that Gossick is not alone in this situation. He's the focus of attention because he was, since there was no Commission at the time, he was "Mr. NRC."

McTiernan: Of course the thing you have to recognize since you encompassed me into this thing too, is there is no doubt that everybody wasn't aware of NUMEC. The first one who mentioned it was a Congressman in Gossick's testimony of the NUMEC issue. The real question is whether you deem that evidence or not.

Conran: Well you see the haggling over the word "evidence" here is symptomatic of what I'm talking about. There are still a number of people in this agency who think it's all right to pick and choose your words, to artfully word and carefully construct your sentences so that, without outright lying, you can give a completely misleading impression. And that's what I take an exception with for two and a half years; and that's what the Congress finally took exception with. Those people have a right to know this information, and if we had to go into a closed session to cover that information with them we had an obligation to do that. That obligation still exists, and as a matter of fact, this is a good place to get it into the record. That sort of thing is still going on. The same sort of misleading statements are still on the record, misleading the same committees of Congress, regarding (1) the relative ease and likelihood of success of making fission explosives, (2) whether or not there has ever occurred a credible threat to use a homemade nuclear weapon against society...there have been such threats, (3) whether or not we do things in a sufficiently conservative way and (4) what we make of the reams of intelligence information that is available to us about threats that have been made, the capabilities of organizations, the intentions of organizations, what has actually occurred in the past. Incidents which, if you look at them in retrospect without having the full information about the incident, if you look at that information and treat it conservatively, you would be forced to conclude that something malevolent very well might have occurred. How that influences our picture of the current and future safeguards threat is extremely important. It has been entirely, completely misrepresented to the Oversight Committee in Congress that deserve that information. They still don't have it (the correct information), incidentally, because although I've talked

to the Oversight Committees of Congress I have not given them classified information. I want to say that specifically because you, Mr. McTiernan, were among the people who made some pretty serious allegations against me...

McTiernan: ...I don't remember...

Conran: ...regarding the way that I've treated classified information, and whether or not I was a security risk with respect to my intentions to give away information to the press.

McTiernan: ...I never mentioned security risk.

Conran: These are things that came out of those Commission meeting transcripts...

McTiernan: I remember that, when they were talking about what they should do about the material you were carrying around, I said you had access to your safe in my office, and I was getting concerned about the hours you were keeping coming in, and I remember it well...

Conran: Well, I was working my butt off to produce the report that was already late. That's why I was set up over here. It was convenient to my house. I needed a safe storage facility. If I carried classified documents around, I always met every regulation, it was double wrapped...John (Anderson) can tell you about that.

McTiernan: I asked for the safe to be moved out of my office.

Conran: Your organization itself got me the "courier card" that was the last step in authorizing me to do these things...

McTiernan: I asked for the safe to be removed from my office, I didn't want to be responsible for it.

Conran: That's one reason, incidentally, that I insisted on a very exact record of this meeting today...

McTiernan: Jim, I don't care...

Conran: Because I think I have dealt squarely with this agency on all of these matters in the past. And as a matter of fact at a very critical moment, April 4, 1977, and in some subsequent Commission meetings, people who should

have known the most about this whole situation, I feel misrepresented very badly my role and my intentions and my actions. And as a matter of fact, I mentioned that on this record because I think it is very possibly relevant to this whole question that the Committee is following.

McTiernan: Well, everybody is entitled to their opinion, but we played you pretty straight. You know I was deeply concerned about how you would handle me in that relationship with us with that supervisors name too, that I ordered you not to give him access to your report.

Conran: That's what I'm talking about. That misrepresented my role...

McTiernan: You misrepresented what I said to you...

Conran: I've tried to straighten it out with you since...

McTiernan: I told you to write a memo to file, you haven't done it yet.

Conran: Yes, and...

Fitzgerald: I've got a question. You indicated that you had a conversation with an FBI agent who put you in touch with this man in the private sector.

Conran: An Ex-FBI agent, he was...

McTiernan: This Mr. Brennan is an Ex-FBI agent?

Conran: He's the Ex-Director of the Domestic Intelligence Division...

McTiernan: He was in the FBI then wasn't he? He had left then?

Conran: No, he was retired. He was under contract to MITRE, who was under contract to us in the midst of a Threat Study.

Fitzgerald: And my understanding is this was in November, 1975, and you indicated that this other individual, who you don't want to name, verified what you already knew. Could you tell us what your talking about there? Can you give me the substance of that conversation?

Conran: Generally, that an intelligence assessment existed to the effect that material had been stolen from a licensed facility in the United States and diverted to the purposes of a foreign power.

Fitzgerald: Was this intelligence assessment related to NUMEC, or was it more general and just an unnamed facility?

Conran: I don't remember specifically. I believe that the gentleman's statement was just that general...that he had seen a report, an intelligence assessment, he was verifying what I was already aware of at that point. He said that he himself had seen a report, an intelligence assessment, to the effect that material had been stolen, a large quantity had been stolen and diverted to the purposes of a foreign power. He didn't get any more explicit than that. I don't think he did. Now you have to realize that this was in the context of a conversation in which I was not constrained, not to mention the NUMEC facility. But I don't believe that this contact was that explicit, and I think that there was probably a reason for that. I think he was making judgments all along as to what...

Fitzgerald: Did he indicate what this intelligence assessment that he had seen was based on...any specifics about what led them to that conclusion?

Conran: He was reluctant to discuss any further details, and I think properly so. The ground rule for the meeting was that, to the extent that a go/no-go validation could be made of the information that I already knew or suspected, that was the purpose of the meeting. And recall again that this was so that I could have added assurance that I was on firm ground going to the Commission, and insisting that something should be done with this information.

Clary: Now I've heard this conversation describing the verifying of what you knew at the time. I ask, did you discover, or did this individual volunteer this information to you at that time?

Conran: Relevant to the NUMEC matter, I think not.

Fitzgerald: You also mentioned that the, I guess the former FBI man, had notified members of Congress.

Conran: I say that what actually occurred in that area I think you should talk to Brennan about it. Anything that I could...

Fitzgerald: You indicated that it was hearsay?

Conran: Yes.

Fitzgerald: I'm willing to receive hearsay.

Conran: I'm unwilling to pursue it because it's hearsay as far as I'm concerned. I think if your really interested in knowing what happened you should contact Brennen.

Fitzgerald: Well, why won't you tell us?

Conran: I say because it's a very serious matter, and I'm trying to relate what I either know directly or have a very firm defensible basis for alleging or suspecting. I think it's not improper for this organization to contact Mr. Brennen who was at the time under contract with NRC.

McTiernan: Did he talk it over with the FBI at that time do you know; because I thought I heard a discussion that he was still with the FBI?

Conran: I don't know.

Fitzgerald: What was your title in the 1975....

Conran: It's included in the report that I gave to McTiernan. It was Senior Safeguards Analyst. The job description very clearly required me to seek the information I was seeking. Part of the job description says "frequent contact with high level officials both inside and outside the agency." I think it was not at all outside the scope of my job. The only thing that worried me at the time was the suggestion by my own organization that I should not be seeking further information relevant to this assignment.

Fitzgerald: I have no further questions.

McTiernan: Any final comment Jim?

Conran: No, I just hope that these comments are helpful in coming to whatever is the equitable resolution of this matter.

McTiernan: I thought that new documentation helped us considerably.

Fitzgerald: And you will try to find some of those documents...

- Conran: Listen I should say that, if in the matter of course you have not received the listings that I have provided to the FOIA office recently, there may very well be some information there that would be relevant to your investigation. For example, there are Outlines and Meeting Agendas for the meetings I had with the Commissioners, and Chapman. Those might be of interest to you because they do establish, as well as can be established, who talked about what, and when they talked about it and that sort of thing.
- Clary: I would like to make a point here too, to reiterate what we have already requested of Chairman Hendrie, there are still outstanding several items of documentation that Jim has not had the opportunity to review. I seriously suggest that this documentation be addressed separately in the conclusions of this investigation; and, if possible, that Jim review it and comment on it.
- McTiernan: I don't know what documents your talking about but is this in connection with the grievance?
- Conran: No, it's in connection with my study that was terminated, uncompleted.
- McTiernan: And your being denied your own study?
- Conran: I was specifically reassigned to a non-safeguards job so that I couldn't pursue those studies.
- McTiernan: You said there were documents you were being denied that I should know about. I don't follow you, I'm sorry.
- Clary: Mr. Burnett has some. They are references cited in the Task Force report.
- Conran: Yes, Burnett confiscated my safe full of material...
- McTiernan: I understand that all of that has been given back to you.
- Conran: No, it has not been given back to me. Mr. Gossick understood that too. It's another example of the lack of communication in this organization. That material has not been returned to me...

McTiernan: It's my understanding...

Conran: As a matter of fact, I have never been given an accounting of the material that was confiscated from me, even though it included Secret, Restricted Data, National Security Information, Weapon Data. I have never been given an accounting for that material. I guess if I could...

Clary: That constitutes a security infraction.

McTiernan Let me tell you this Jim...

Conran: To make a wrap up statement, I hope that this investigation doesn't lead to just the censure of just one person or criticism of one person. The whole system needs...some very fundamental safeguards policy and information control policy decisions have to be made and implemented. I hope that's what comes out of this investigation.

McTiernan: I was not involved in this total and complete final confiscation of your documents. My understanding was that they were going to be looked at and given back to you, and I've always taken that position and I think...

Conran: Well, they haven't been; and I've discussed that matter with Burnett personally on a number of occasions, and as a matter of fact all the way up to the Commission.

McTiernan: Well you can, I've told you what my position is, I'm sure.

Okay, now transcription, we're going to crash on the transcription of this thing. We will have somebody type it, and you can come over and look at it in draft. John, will you kind of work with the girls on this thing too?

Conran: I'll be happy to help on any basis I can. If maybe to help it along I can start reviewing as it starts becoming available, rather than getting the whole package...if you want to do that.

(SOMEONE SPEAKING - COULD NOT DISTINGUISH WHO OR WHAT WAS SAID)

McTiernan: I beg your pardon. If Mr. Conran authorized you to have access to it, that's fine with me. Jim, would you give me a note?

Conran: Mr. Clary is already authorized.

McTiernan: I mean he wants the transcript; and I don't mind giving the transcript but I'd like a note from you.

Conran: On what...

McTiernan: That you want me to give him a copy of the transcript. That's all fine with me; because he is your representative.

Conran: I'm not sure that's necessary. Mr. Clary has been given access...

McTiernan: Then I'll give you a copy, and you make a copy of yours, and give it to him, all right?

Conran: Yes, I say for the record Clary has been authorized access to all of the classified information that I require to document my grievance...

McTiernan: You see I don't know anything about Mr. Clary's role. I'm not involved in your grievance at all. Anything you want to give him is fine with me, all right?

Conran: Okay.

McTiernan: I have no objections of him being here, I have no objections of recording this thing, all I want is the facts.

Conran: Okay, I hope it helped.

McTiernan: Yes, those documents were very helpful. Good enough.

Anderson: This terminates the interview.

CONRAN INTERVIEW

- Anderson: Okay Jim, for the record you indicated you had more information to add to the previous interview last week; I forget, what was the date?
- Conran: February 1, 1978.
- Anderson: The individuals present are John Anderson, Ron Clary, Carlos Yanez, and Jim Conran. Today's date is February 10, 1977. This interview is being conducted in the Office of OIA.
- Conran: On the conversation with Tom McTiernan as a follow-up to the interview last week I requested a supplemental interview or an interview to supplement the record that we had already made February 1, 1978 to document subsequent conversations with McTiernan, John Anderson, Mr. Fitzgerald, OGC, and a number of others within and outside the agency regarding the matter at issue here. If this is a little bit sketchier and disorganized than you might have wished, it's because we anticipated this interview Monday, and I thought I would have the weekend to prepare for it, but we're happy to come by and try to provide the supplemental information on as expeditious basis as we can.
- Anderson: I apologize for the short fuse, but as I explained to you, we're under a time constraint and we're having typing problems and so on, so it's best that we do it now so that we can get this typed up hopefully tomorrow.
- Conran: One thing that I had wanted to do prior to this follow-up interview was to review all of the references to the Matson task force. I had asked for access to those references a number of times in the past and nothing was ever worked out on them. I have had the chance just previous to this meeting in Mr. Gossick's office to look at a couple of the classified references that I thought were particularly germane.
- Anderson: Was that today?
- Conran: Today, yes. It is my intention, and Mr. Gossick agreed, that I could have a chance to review all of the task force references on a more leisurely basis, and a more thorough basis, so if anything else develops out of finalizing that review, it may be necessary to supplement the record again. But as a matter of fact there is plenty to put in the record today, so we will get on with it. Well, I've written down a list of items that I thought it was necessary to address on the record and I have not really had the chance to organize it so I'll just jump into them. The first item that I have is the involvement,

extensive involvement and a rather comprehensive knowledge of the early development, as a matter of fact of the whole situation that I was involved in, in Safeguards, but in particular how I came to acquire and report the NUMEC information. I was in very frequent contact with Mr. Hard in the summer and fall of 1975 and all of 1976 while Commissioner Mason was still here. As an example, very shortly after Chic Brennen arranged for an interview or a meeting with an intelligence source that verified the information that I had already acquired or suspected about the NUMEC business, ah, very shortly thereafter I recorded the results, generally the results, of that meeting with Mr. Hard and indicated that it appeared that the suspicion that had been growing in my mind was confirmed and that this information should be made known to the Commission.

Anderson: Did you talk to this intelligence source personally?

Conran: Yes.

Anderson: Do you have his name?

Conran: We went through this the other day.

Anderson: Is Brennen's name Chip or Chic?

Conran: Chic. It's actually Charles D. Brennen. His nickname is Chic. Well, I think it is important that in the course of this investigation that OIA touch base at least with Jim Hard if you haven't already. He can verify a number of the details of my reported involvement in the chronology that I mentioned. Specifically and particularly Commissioner Mason's knowledge of this situation. The second item that I have on my list is titled, Maurice Eisenstein/Gerry Page... Sometime in March or April 1976, I had been involved in sort of a crash dive task force to examine the concept of resident safeguards inspector program. Our agency had been torqued up by the Joint Committee on this question at the Appropriation Hearings in mid-March 1976, so I was involved in this task force and after the task force reported, I took the trouble to write a letter to Carl Builder and tell him it was enjoyable being a part of the task force and I hoped it would contribute to the understanding and resolution of the problem there was, if there was any. But that the recommendations of the task force I thought would only be valid and practical if the people who ran the facilities themselves understood the need for such a program. As a recommendation, I suggested that they should be given at least the substance of the information that had so changed my thinking on safeguards. For example, the relative ease and likelihood of success and clandestine fission explosive design and fabrication. The fact that apparently there had been credible nuclear threats made, and the fact

that it appeared that diversion of the large amount of material from a licensed facility was already a *fate de complete*. At least there was some opinion and serious indication from that direction. Oh, when Page read that letter to Builder he wrote me a very short note back and said that he didn't have any knowledge of diversion of material from any facility and so my reference to that fact bothered him very greatly. I could hardly believe what I read because the situation was that people in the organizational structure on both sides of Page, so to speak, Builder, Chapman on the top side, and Maurice Eisenstein and myself on the bottom side, knew this information and yet the Deputy Division Director was disclaiming any knowledge of it. Another bit of relevance of this thing yet to the subject at hand may be it goes to the question of candor, just how honestly and candidly the information that already was inside the agency was being handled by the management of the organization. I mentioned that I had had a chance to review one of the classified references to the task force report just prior to this meeting. That document was the interview of Mr. Page by the task force and although I only had a chance to skim it, it's quite clear, and some of the quotes that stand out in my mind are as follows: Mr. Page didn't have direct knowledge by looking at intelligence information of the NUMEC situation, prior to sometime in early 1976, but he admitted that he strongly suspected that there was intelligence information. A second fact is, and it came as a revelation to me, that Mr. Page had been asked to go to the CIA following the CIA briefing of the Commission and the top safeguards managers of the agency in February 1976. I'm not sure. Ken Chapman, Carl Builder...

Anderson: How do you know he was asked to go?

Conran: He said so in the transcripts. He and Bob Tharp of ERDA went to the CIA and looked at documents there relating to the NUMEC diversion situation or the intelligence information relating to that possibility. He didn't pin down any date and so it's impossible for me to know whether he made that trip to the CIA Headquarters before or after he wrote this letter to me I am talking about, that I referred to earlier. Either way, however, it seems to be something lacking in the candor of Mr. Page's treatment of this subject in his conversations or correspondence with me. If he strongly suspected it, I think the wording of his letter leaves a little to be desired as far as candor goes and if he had already been to the CIA Headquarters then there is no excuse for him writing what he did. There is another important relevance I think, very important relevance to the fact that Page went to the CIA along with a ERDA representative and reviewed information relating to the NUMEC diversion information, intelligence

information. And the relevance is this: If Mr. Page, if the CIA provided Mr. Page and Mr. Tharp in their review of intelligence information, information which has been disclosed within the last several months, that's not consistent with Mr. Page's final judgment on whether or not material had been diverted from NUMEC. He states very clearly in the transcripts for example that nothing in the investigations or the MUF information that he had seen indicated to him that any material had ever been diverted from an facility. That may not be very well put. The point I'm trying to make is that the CIA may in fact not have given Page and Tharp information that existed that was quite relevant to the question at issue here and the principal reason for their being at Langley. I remember now why Page went to the CIA. He said that a letter had come from the White House asking NRC for information relating to the question of possible diversion of material from NUMEC. As a result of that, he was tasked to prepare a joint report to the National Security Counsel. So the situation that we have is that the White House is asking NRC to look into the situation... NRC looks into the situation jointly with ERDA and noting it's clear whether they were misinformed or properly informed, but either way, whether the CIA intended to withhold information from them or whether they provided them with misinformation or false information or incomplete information, Page's conclusion about the relevance of that information and the meaning of it when he came back to NRC and prepared a report to the National Security Counsel is simply not consistent with information that's on the record now.

Anderson: What period of time was that you're talking about? Can you pin a month and a year?...

Conran: No I can't. Because Page did it himself.

Anderson: Was it before February 1976 or after February 1976?

Conran: No. It was after February 1976. The closest that I can try to pin it down is that it was sometime around and it is not clear to me whether it was before or after Page wrote the short note to me in which he disavowed any knowledge of the situation.

Anderson: What was the date of the note?

Conran: ...I'm looking for the date of the note now. It was sometime in March or April 1976.

Anderson: Okay, well that's close enough.

Conran: It was April 9, 1976. The memo from Page to me was an OOU memorandum dated April 9, 1976. The other possible relevance of this information to the issue in question, Gossick's culpability in making what had been termed misrepresentations to the Udall Committee and the Dingell Committee is this: General Gossick delivered testimony to both those committees. It's highly unlikely that General Gossick wrote that testimony. It's highly likely that it was staff in the usual fashion. In retrospect Mr. Smith and Mr. Page were brand new to the agency at that time regular (noviaros) and so it's unlikely that they prepared the testimony for Gossick. The next down on the usual chain of command in staffing such testimony was Mr. Page. So, clearly of the time that General Gossick's testimony to the Udall Committee and to the Dingell Committee was staffed for him at least down to the Page level in the organization. People had been exposed to intelligence information relating to the NUMEC diversion incident. Mind now there is still a question as to whether they had been exposed to correct information or complete information. Well, the only other thing that I can add to this topic is that there has been a suggestion made to me recently in conversations with people outside the agency that there is some indication in information recently released by ERDA under an FOIA request that bears on the question of whether Page was aware of the intelligence information presented at the briefing, the CIA briefing on February 23, 1976. I simply haven't had a chance to check it out yet.

Anderson: Do you know whether or not he was at that briefing?

Conran: I've asked a number of people and they don't know. Reference 102 to the task force cites a list of people who were at both the CIA briefing on February 23 and the ERDA briefing on February 25.

Anderson: You haven't had access to that?

Conran: Not until very recently.

Anderson: And do you recall having seen the list, then?

Conran: I have seen the list and that list does not include Mr. Page. Although there is nothing in the wording of the memo that suggests or assures that the listing provided therein is inclusive. Other people may in fact have been present in other words, and it would not be inconsistent (with information) given in Reference 102.

- Anderson: How was the list of attendees selected, do you have any idea? What was the criteria for attendance? Or criteria for being excluded?
- Conran: I have no information. As far as I know, material judgment on the part of Chairman Anders.
- Anderson: Was there just a small group of people at the meeting? Or was it a large group?
- Conran: Yes. The listing of people in Reference 102 for both the CIA briefing and the ERDA briefing, subsequent ERDA briefing, is very limited. Five or six people, no, perhaps five to 10 people.
- Anderson: Five to 10?
- Conran: Yes. The last item on this topic...I think it's quite relevant... I think I may have referred in the earlier interview to knowledge of someone within the safeguards management staff of the presence of an intelligence report in Mr. Builder's or Mr. Page's safe, sometime in the Spring or Summer 1976. The wording of Reference 102 suggests strongly, and I think intends to convey the impression that the intelligence information which was presented at the briefing in February was not obtained, was not asked for by the agency and, therefore, the intelligence information never existed within NRC. Ron Brightsen has told me personally on several occasions that he has seen and read a document which sounds very much like an intelligence report because of the content of that report. So I think that it's important that OIA try to run that down.
- Anderson: You know, it's very difficult to go out and find a document that all you know is that it's an intelligence document. You know...14 million files to go through.
- Conran: It might not hurt to contact Ron Brightsen, he may have more...
- Anderson: Can you pin a subject and a date on this intelligence document?
- Conran: Oh yes, I can very definitely pin a subject, not a date, some details mentioned.
- Anderson: From, to, things like that...
- Conran: No, but the details indicated quite clearly that it was the result

25X1, E.O.13526

Anderson: By whom?

Conran:

25X1, E.O.13526

Anderson: Do you think NRC has this document in its files?

Conran: I think we had this document in our files.

Anderson: You think it doesn't exist anymore?

Conran: I think it doesn't exist anymore.

Anderson: So it would be difficult for us to find it, if you think it doesn't exist.

Conran: I'm not suggesting that you find the document itself, but rather check into the question of whether or not there may have been intelligence information in ERDA secure spaces available to Safeguards Division management personnel down through the Assistant Director level. It's all relevant to the question of how did Gossick's testimony get written the way it did.

Anderson: And you think that this document is in the ERDA files?

Conran: I don't know its present location.

Anderson: But you think that Ron Brightsen might know where it is?

Conran: Well, he can certainly give you first hand information on it from having seen the document and read it.

Anderson: And at what period of time did he see it?

Conran: As I say sometime in the Spring or perhaps early Summer 1976. Well, the third item I have is entitled, FBI Interviews and GAO Interviews. If I didn't pin them down before, I was interviewed by the FBI in May 1976 and in October 1977, about the NUMEC information or a possible diversion incident. I was interviewed by the GAO in October 1977 as well. I provided names of the agents, the FBI agents, who interviewed me in one of the enclosures to a memo that I have given to Mr. McTiernan documenting our last interview. The name of the person interviewing me from GAO, I'll have to give you later. The next item I have is entitled, NUREG 0350. In conversations subsequent to the February 1 interview I discussed with, I believe OGC personnel and Mr. McTiernan, the relevance of the

7 month long effort, approximately 7 months long effort, to develop NUREG 0350 which in simpler terms was the MUF release made by this agency on August 4, 1976. I provided copies of documents relating to that effort. Again as enclosures or attachments to the memorandum that I referred to earlier. I was not involved intimately in that effort and I might add here that I think that was by design of the management of the safeguards organization. But because it was of great interest to me I kept track of it from a distance as well I could, and whenever something would appear in the reading file that seemed particularly relevant I made a copy of it for myself and it is these copies that I have provided in the context that I noted. The one memo that seemed to have particular relevance in this respect is dated February 11, 1977. It's a memo from Fred Crane of the Test and Evaluation Branch. He was sort of the project leader in developing this NUREG 0350, to Thomas Thayer, his Assistant Director, the subject was MUF Release, among other things Mr. Crane says as a result of the meeting with Mr. Chapman, Mr. Harris, Mr. Fouchard, and Bill Altman, the statement that we have no evidence of diversion will be included in (NUREG) MUF Release when it's finally made. That's a very categorical statement and it indicates very clearly that as of February 11, 1977, it was the intention of this organization to make that categorical statement in a public release of MUF information. I would emphasize again that was as a result of a meeting with Mr. Chapman who most definitely was at the CIA briefing in February 1976. Well, there are five or six other memos which track the history of development of NUREG 0350 and it's clear that somewhere around March or April 1977, there were discussions at the Commission level. Going to the question of whether or not...Well, who was going to be responsible for pre-1968 MUF data. And of course the reason, one reason that pre-1968 MUF data is such a tough subject to handle is because of the NUMEC information. So, other than to say that clearly in February 1977, the intention of this agency, the policy of Mr. Chapman of the NMSS Office Director, was to make a categorical statement which was not consistent with what was known of the NUMEC incident at that time, as early as February 1976. Another classified document which I have reviewed recently that was among the material confiscated by Mr. Burnett so it had to be reviewed following our earlier interview on February 1, is a transcript of the Commission meeting in June, I think it's June 6, 1977. I believe Mr. Gossick was present at that meeting, so of course was Mr. Crane. One of the principal topics at that meeting and the Commission gave particular emphasis to this question, was that we should not make categorical statements about the MUF data that we were going to release, that we were going to participate in with ERDA in the release of August 1977. So, again it's a very clear indication of an almost incredible screw-up in conveying and implementing policy guidance from

the Commission to the lower levels of management and staff of NRC. I don't have all the information of course, but I think it's relevant to your inquiry to look into the discussions that happened at the Commission level, sometime around March or April 1976, and who decided and why it was decided that we would want to remain aloof and disavow pre-1968 data and why we shouldn't make categorical statements about MUF, and why we did anyway, when NUREG 0350 was finally published August 1977. Again, in the context of that topic, if I hadn't said it before I want to say categorically that two of the safeguards staff who were very intimately involved, very deeply involved in the development of NUREG 0350, Bill Altman and Fred Crane. I made a point of personally discussing my knowledge of the NUMEC affair with both those people. The next topic that I have is Burnett/J H C conversations regarding the NUMEC intelligence information. I alluded to it sort of in passing in the earlier interview, I think it should be emphasized, again in the context of why it came to pass that Mr. Gossick's testimony said what it said having been most likely reviewed by all subordinate levels of management down through Mr. Page, all of whom had every opportunity and every reason to know the substance of the intelligence information available with respect to NUMEC. I mention Mr. Burnett specifically because I made a point of going in and talking to him on at least three occasions and the dates of those meetings and the topics of those meetings are in Enclosure XI which I provided attached to my memo to McTiernan. I was very specific and very emphatic in my conversations with Mr. Burnett that I knew what I knew about what I had said in this area. I even offered to bring in Mr. Chic Brennen to verify what I knew about that matter, as I later did incidentally with Chairman Hendrie in October, to try to convince him that the matter was being treated incorrectly and dishonestly in our public pronouncements and just generally the way we were handling that information and applying it or not applying it.

Anderson: What was the date of the Burnett meeting?

Conran: June 24, 27 and 28, 1977. The next item I have listed for comment is as a result of a very recent conversation with Maury Eisenstein. I referred earlier to the ODO note I received from Mr. Page in August 1976, which he disavowed any knowledge of NUMEC. At that time as I say it was difficult for me to believe that he didn't because people on both sides of him in the organization knew it and... Well, at that time I had butted heads with Mr. Page on a couple of occasions concerning my views about the... Well, I had some disagreements, some run-ins, with Mr. Page because of my views relating to the merit of material accounting as a safeguards measure, so I wasn't

really in the...I didn't really want to lock horns with him so to speak, or antagonize him saying something which he was given the indication that he considered of concern to him about NUMEC. So, I asked Maurice Eisenstein if he would inform Mr. Page of the top secret report for example that I had learned about.

Anderson: Do you know when you talked to Eisenstein?

Conran: Well, it was either the same day or the next day after receiving Mr. Page's April 9, 1976 memorandum. Yes, it's very shortly thereafter. Anyway, I asked Mr. Eisenstein if he would answer Mr. Page's request for information in this area, recalled by that time that I had of course become aware of the top secret file containing intelligence information at ERDA in October 1976 and had verified it by contacts with an intelligence source.

Anderson: Can you tell me the intelligence source who he worked for?

Conran: No, I think we have covered that topic.

Anderson: You can't tell us what agency or, of course, I know you have said "no name" in this matter.

Conran: Right. Mr. Eisenstein said that he would bring Page up to speed on all the intelligence information that we knew about from one source or the other. Well, I don't know whether he did that or not. The purpose of my call to Mr. Eisenstein recently was to find out if he had done that and he has already told me he can't recall doing that. You may want to pursue that question with him a little more. I mention this incident because my recent conversations with Mr. Eisenstein and from previous conversations with Mr. Eisenstein, it has been clear to me that when I told Maury in October 1976, the information that was so shocking to me, that he didn't find it shocking at all, and a very strong impression exists on my part is that Mr. Eisenstein knows a great deal more about these matters than you may be aware of and I would recommend strongly...He works for ACTA.

Anderson: Downtown?

Conran: I could find a telephone number for you later, yes. Okay, the last item, one that I want to emphasize very strongly is this. I said things about the existence of intelligence information relating to a possible diversion at the NUMEC facility that outraged my management and a number of other people. Quite frankly they didn't believe me or if they did they denied the relevance of that information. I think developments subsequent to my cashiering out of the Division of

Safeguards last July had borne out, almost 100 percent and maybe more, what I had said on that subject. Not just the fact that the information existed but the fact that the existence of the information was lied about, or misrepresented, that that information was not provided on a timely basis by ERDA to management of this agency including all the way up through the Commission, and that we had not properly taken that information into account in the analysis and design of safeguards. I have said very similar things about other very important, very crucial aspects of safeguards. I am even more sure of what I am talking about in those other areas. For example, the fact that fission explosive, clandestine fission explosive information has been withheld, misrepresented, not used properly. Also information relating to whether or not credible nuclear threats have been made. What I am talking to here, and another of the enclosures that I have included in my submittal to Mr. McTiernan relates to that general theme that the way the NUMEC intelligence information was handled or mishandled is just symptomatic of the very much more general problem of the way that all kinds of very important, very crucial safeguard information is mishandled. The one outstanding example of this was the, is a package of material that as I indicated before that I've included in the submittals to Mr. McTiernan and has to do with the Clinch River breeder reactor and the way that the question of relative ease and likelihood of success of clandestine fission explosive design and fabrication was handled in the context of the Clinch River breeder reactor proceedings. Without belaboring the point more than I have to, I want to emphasize that I contend seriously that that sort of information was handled so badly in the context of the Clinch River breeder reactor proceedings before the duly constituted licensing board that the Division of Safeguards input to that proceeding constituted a material false statement. I read a response to a request for (admissions) by an intervenor organization. The response was signed off by Mr. Page. It did not reflect information which I myself brought into this agency relative to that question...very crucial information, the sort of information that would make a difference in a licensing board's decision. The CFE question was an admitted contention in that proceeding, that means that the licensing board would be making its decision on information specifically encompassed by the contention. It was contention number five. I challenged the information provided in the affidavit signed by, the sworn affidavit, signed by Mr. Page which went back to the intervenors. In this case it was NRDC. I challenged it at a number of different levels and in a number of different ways including contacting the Executive Legal Director organization, Mr. Gibbner, Mr. Englehardt, Mr. McTiernan (DIA), Commissioner Kennedy, and Chairman Rowden. Aside from the fact that my input to this question was not only never solicited, but was suppressed by the way it was handled. The handling of this issue is simply not

consistent with statements which are on the record in Congressional hearings recently, going to the question of whether or not licensing boards are advised of significant developments relating to the issue or the application under consideration by that licensing board. Despite the fact that I had challenged as a material false statement, a sworn affidavit, put in to the Clinch River proceedings by my organization, even though I challenged it and complained to ELD, OIA, and the Commission itself, the licensing board Chairman, Marshall Miller, was never (brought into the picture). To complete my statement, despite the fact that I authoritatively, knowledgably challenged the input of the Division of Safeguards to the Clinch River proceedings as a material false statement, to the Executive Legal Director organization, the agency inspector, and to a Commissioner and the Chairman, the licensing board chairman at Clinch River was never notified of that development by anyone except myself. I eventually took the bit in my teeth myself and called Mr. Miller on October 7, 1977, to determine whether or not he had ever been advised of these developments. He had not been. He said that he was interested in hearing more and asked me if I would document what I was telling him and I promised that I would on a time available basis. The reason for my calling Mr. Miller, incidentally, was that a hearing was coming up for Senator Hart on exactly this sort of question, notification of licensing boards. I had seen a statement, a rather categorical statement, in the newspaper a short time earlier by Chairman Hendrie in which he was making a very strong point that although we had slipped up a little bit in the North Anna proceedings with respect to reporting the fault at the North Anna site, that for the last 2 years or so we didn't do things that way anymore, we very promptly notified licensing boards of significant developments. I thought that before he said that to Senator Hart someone should call to his attention that there was another incident which might be brought up at that hearing in a rather embarrassing fashion. So I talked to Bill Gory in the Chairman's office about this very thing and strongly urged him to make sure that the Chairman was aware of this Clinch River breeder reactor information. I think that's all that I have to say today. Are there any questions about any of this, John?

Anderson: No. I want to thank you very much for providing this additional information. I don't have any questions that I can think of off-hand at the moment, but after reviewing the transcript and having it typed up, if we have any questions we will be in touch. Is that alright?

Conran: Fine.

Anderson: Thank you very much. This concludes the interview.

