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UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

April 11, 1974

MINUTES OF
EXECUTIVE SESSION 74-27

9:30 a.m., Thursday, April 11, 1974, Commissioners' Conference Room
D. C. Office

Commissioners

Dixy Lee Ray, Chairman
William O. Doub
William E. Kriegsman
William A. Anders

General Manager

John A. Erlewine

General Counsel

Marcus A. Rowden

Secretary of the Commission

Paul C. Bender

Staff

John A. Griffin (Attending for
Commissioner Larson)

Robert E. McKinney
Charles Carter
Sidney Marks
James Liverman

*Thomas Rehm
*Martin Domagala
*Michael Hawkins

*Attended item II only

Director of Regulation

*L. Manning Muntzing

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I. Medical Ethics Problem

A. Dr. Liverman gave a status report on activities since the last Executive Session on this matter. He noted the Surgeon General of the Army and the General Counsel of the Army have been informed and that Dr. Shields Warren, former Director DBER, had been interviewed by BER and Inspection representatives. During the course of the interview the AEC team learned that the three California patients might have been informed of the proposed injections by Dr. Joe Hamilton.

Dr. Liverman reported that he was back before the Commission for guidance because of his concern about the general attitude and approach being taken by the interviewers performing the inquiry. As he saw it there were two possible courses of action.

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In either of the cases below steps would be taken to inform the appropriate individuals of the problem.

The two approaches for the inquiry are:

1. to rely in a major way on the large volume of published data (such as that in Plutonium in Man by Stover and Stover examples of which were provided the Commission by Dr. Liverman) suitably collected, collated, and evaluated, and to conduct only those limited interviews necessary to establish whether there had been informed consent.
2. to conduct a detailed investigation with in-depth interviews of all personnel involved.

Dr. Liverman's view was this latter approach could create a real problem in that it would appear that we were conducting a grand jury type investigation which in his view was unwarranted.

- B. Dr. Ray noted there was no intent for the present Commission to sit in judgment as to what had happened in the past, but that we should develop a clear record and be able to respond to press inquiries.
- C. Dr. Liverman noted he was concerned with the general tone the investigation was taking, but he felt we must come in compliance with the guidelines and insure that the patients or their survivors were informed. He also raised the question as to whether Inspection or BER should be leading the investigation.
- D. The General Counsel stated we must look at the practicalities to determine what action is necessary to bring us into compliance and insure no more actions are taken without informed consent.
- E. Commissioner Doub noted he felt the point at issue was not the validity of the program and there should be no scape goats or fingers pointed at the personnel responsible for managing the program. However, time was of the essence and we had to keep the investigation moving.
- F. The General Manager suggested one approach might be to let the Historian review the record and write a report based on the record.

- G. The General Counsel stated the key issue to be decided was who would ask the questions, BER or Inspection, and that in his view the problem with BER asking the questions was that it appeared they were investigating themselves. He noted further that it was vital to protect the reputation of the people administering the program as well as to insure the patients were informed.
- H. Mr. Bender noted the solution appeared to ride on whether BER or Inspection phrased the questions.
- I. In response to Commissioner Kriegsman's questions about the timing of the report, Dr. Marks replied he felt the inquiry could be completed within two weeks.
- J. Commissioner Doub noted the first deadline of three weeks had already arrived.
- K. The Commission agreed:
1. a joint BER/Inspection team, assisted by Inspection, would conduct an inquiry taking cognizance of the written records on the project in developing the inquiry;
 2. no public stenographers or tape recorders would be used in the interviews connected with the inquiry.
 3. the General Manager and the General Counsel will resolve any differences between BER and Inspection which may arise during the course of the inquiry.
 4. a complete file of recorded records and materials will be collected in Headquarters by BER.
 5. a status report will be made to the Commission in two weeks.

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II. AEC Participation in the ERDA/NEC Split

- A. The Commissioners, the General Manager and the Director of Regulation discussed:
 - 1. The role of the General Manager and the Director of Regulation as Commission Representatives on the OMB Steering Group that will oversee the reorganization that will take place when the ERDA/NEC legislation becomes law.
 - 2. The necessity for close communication between the Commissioners and the AEC Representatives on the Steering Group during the transition period.
 - 3. The designation of personnel for the Task Forces that will work as subordinate groups under the guidance of the Steering Committee.
 - 4. The desirability of having the General Counsel and the Director, Office of Planning and Analysis participate in developing AEC input into the Steering Committee action.
- B. The Commissioners were very explicit in stating equal interest in the formation of ERDA and NEC.
- C. The Commissioners noted the following problem areas in the present legislation.
 - 1. The establishment of the Bureau of Security in NEC. The Commissioners indicated they would rather see an Office of Security established instead of an operating bureau.
 - 2. Jurisdictional problems inherent in the designation of an Assistant Administrator for conservation within the ERDA organization.
- D. The General Manager designated John C. Ryan, Assistant General Manager for Administration as his alternate. The Director of Regulation designated Daniel J. Donoghue, Director, Office of Administration, Regulation as his alternate.

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- E. The following procedures were established:
1. When a Steering Committee meeting is called, the AEC Representatives will give a copy of the agenda (if one is published) to the Secretary for circulation to the Commissioners.
 2. After reviewing the agenda, if a Commissioner has any guidance he will furnish it directly to the AEC Steering Committee Representatives.
 3. After each Steering Committee meeting the AEC Representatives will prepare a memorandum covering the content of the meeting and give to the Secretary for circulation to the Commissioners.
 4. The Secretary will schedule a meeting of the Commissioners and the AEC Representatives shortly after each Steering Committee meeting.
- F. The Commissioners requested the Secretary to prepare an index of Commission papers dealing with the NEC/ERDA split and circulate to the Commissioners, the General Manager and the Director of Regulation.



Paul C. Bender
Secretary of the Commission

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