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*file*  
*- Gregory*

THE WHITE HOUSE

WASHINGTON

May 19, 1976

MEMORANDUM TO: DICK CHENEY  
FROM: JIM CANNON  
SUBJECT: Uranium Enrichment Statement

Here are three alternatives for a Presidential statement or letter on his Nuclear Fuel Assurance Act, as modified by the Joint Committee on Atomic Energy:

- Option 1. Portsmouth, Ohio is only a hedge plan.
- Option 2. Puts emphasis on private ventures, and does not commit to Portsmouth.
- Option 3. Commits to the Portsmouth add-on.



OPTION 1

DRAFT

Last June I proposed to the Congress legislation that would establish a major new private industry in America -- providing the enriched fuel for nuclear power reactors. My proposal, the Nuclear Fuel Assurance Act, would make it possible for the U.S. to maintain its leadership as the world's supplier of uranium enrichment services for the peaceful uses of nuclear power.

The Joint Committee on Atomic Energy of the Congress has, after ten months, made some modifications in my proposal and approved it.

I have reviewed the changes in the bill and concluded that I will support it.

The bill, now before the Congress, meets five fundamental objectives which I stated almost a year ago:

1. Act now to meet the future needs, domestic and international, for this essential energy source.
2. End the Federal government monopoly on supplying enriched uranium for nuclear power plants.
3. Establish a procedure whereby private enterprise can bring into commercial use the tech-



nologies created by Federal research and development -- with proper licensing, safeguards, and export controls, and with the payment of royalties and taxes by private enterprise to the U.S. Treasury.

4. Provide a back-up plan for expanding existing Federal uranium enrichment capacity if private ventures are unable to meet, on time, the needs of U.S. and foreign customers.
5. Assist in controlling nuclear proliferation by persuading other nations to accept international safeguards and forego development of nuclear weapons.

Although the Joint Committee on Atomic Energy's amendment requiring Congressional approval of each contract may cause some delays in the creation of this new American industry, the bill does establish the principle of opening this technology to the private sector.

The bill and Committee report also authorize and direct the Energy Research and Development Administration to begin planning and design for the expansion of the existing uranium enrichment plant at Portsmouth, Ohio. As soon as Congress passes the Nuclear Fuel Assurance Act, I will ask Congress



to appropriate \$170 million for FY 1977 to proceed with the design and planning necessary for construction of the Portsmouth plant. if it is needed.

Four major U.S. companies have submitted to ERDA proposals to build uranium enrichment plants. Proposed contracts with the four firms can be submitted to Congress shortly after the Nuclear Fuel Assurance Act is enacted. I urge Congress to act promptly on this legislation and on each contract submitted subsequently.

We will give each private venture an opportunity to prove itself to the Congress and in the market place. As a back-up plan, we will also proceed with the design and planning of the Portsmouth addition to make certain that no time need be lost in providing the uranium enrichment capacity necessary for U.S. needs and the needs of our customers around the world.

We need this legislation. It will assist the Nation in reaching energy independence and create, in the years ahead, ~~over time,~~ millions of jobs throughout the country.

It will also benefit the energy consumer. Electricity costs far less when produced by nuclear plants than when produced from fossil fuel plants. Nuclear power is not



subject to oil embargo or a price increase dictated by any foreign supplier. And based on the past 18 years of experience, commercial nuclear power has an unparalleled record of safety.



OPTION 2

DRAFT

Last June I proposed to the Congress legislation that would establish a major new private industry in America -- providing the enriched fuel for nuclear power reactors. My proposal, the Nuclear Fuel Assurance Act, would make it possible for the U.S. to maintain its leadership as the world's supplier of uranium enrichment services for the peaceful uses of nuclear power.

The Joint Committee on Atomic Energy of the Congress has, after ten months, made some modifications in my proposal and approved it.

I have reviewed the changes in the bill and concluded that I will support it.

The bill, now before the Congress, meets five fundamental objectives which I stated almost a year ago:

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2. End the Federal government monopoly on supplying enriched uranium for nuclear power plants.
3. Establish a procedure whereby private enterprise can bring into commercial use the tech-



nologies created by Federal research and development -- with proper licensing, safeguards, and export controls, and with the payment of royalties and taxes by private enterprise to the U.S. Treasury.

4. Provide a back-up plan for expanding existing Federal uranium enrichment capacity if private ventures are unable to meet, on time, the needs of U.S. and foreign customers.
5. Assist in controlling nuclear proliferation by persuading other nations to accept international safeguards and forego development of nuclear weapons.

Although the Joint Committee on Atomic Energy's amendment requiring Congressional approval of each contract may cause some delays in the creation of this new American industry, the bill does establish the principle of opening this technology to the private sector.

The bill and Committee report also authorize and direct the Energy Research and Development Administration to begin planning and design for the expansion of the existing uranium enrichment plant at Portsmouth, Ohio. As soon as Congress passes the Nuclear Fuel Assurance Act, I will ask Congress





to appropriate \$170 million for FY 1977 to proceed with the design and planning necessary for construction of the Portsmouth plant.

Four major U.S. companies have submitted to ERDA proposals to build uranium enrichment plants. Proposed contracts with the four firms can be submitted to Congress shortly after the Nuclear Fuel Assurance Act is enacted. I urge Congress to act promptly on this legislation and on each contract submitted subsequently.

We will give each private venture an opportunity to prove itself to the Congress and in the market place. We will also proceed with the design and planning of the Portsmouth addition to make certain that no time need be lost in providing the uranium enrichment capacity necessary for U.S. needs and the needs of our customers around the world.

We need this legislation. It will assist the Nation in reaching energy independence and create, <sup>in the year ahead,</sup> ~~over-time,~~ millions of jobs throughout the country.

It will also benefit the energy consumer. Electricity costs far less when produced by nuclear plants than when produced from fossil fuel plants. Nuclear power is not



subject to oil embargo or a price increase dictated by any foreign supplier. And based on the past 18 years of experience, commercial nuclear power has an unparalleled record of safety.



OPTION 3

DRAFT

Last June I proposed to the Congress legislation that would establish a major new private industry in America -- providing the enriched fuel for nuclear power reactors. My proposal, the Nuclear Fuel Assurance Act, would make it possible for the U.S. to maintain its leadership as the world's supplier of uranium enrichment services for the peaceful uses of nuclear power.

The Joint Committee on Atomic Energy of the Congress has, after ten months, made some modifications in my proposal and approved it.

I have reviewed the changes in the bill and concluded that I will support it.

The bill, now before the Congress, meets five fundamental objectives which I stated almost a year ago:

1. Act now to meet the future needs, domestic and international, for this essential energy source.
2. End the Federal government monopoly on supplying enriched uranium for nuclear power plants.
3. Establish a procedure whereby private enterprise can bring into commercial use the tech-



nologies created by Federal research and development -- with proper licensing, safeguards, and export controls, and with the payment of royalties and taxes by private enterprise to the U.S. Treasury.

4. Provide a back-up plan for expanding existing Federal uranium enrichment capacity if private ventures are unable to meet, on time, the needs of U.S. and foreign customers.
5. Assist in controlling nuclear proliferation by persuading other nations to accept international safeguards and forego development of nuclear weapons.

Although the Joint Committee on Atomic Energy's amendment requiring Congressional approval of each contract may cause some delays in the creation of this new American industry, the bill does establish the principle of opening this technology to the private sector.

The bill and Committee report also authorize and direct the Energy Research and Development Administration to begin planning and design for the expansion of the existing uranium enrichment plant at Portsmouth, Ohio. As soon as Congress passes the Nuclear Fuel Assurance Act, I will ask Congress



to appropriate \$170 million for FY 1977 to proceed with the design, planning and construction of the Portsmouth plant.

Four major U.S. companies have submitted to ERDA proposals to build uranium enrichment plants. Proposed contracts with the four firms can be submitted to Congress shortly after the Nuclear Fuel Assurance Act is enacted. I urge Congress to act promptly on this legislation and on each contract submitted subsequently.

We will give each private venture an opportunity to prove itself to the Congress and in the market place. In order, however, for the U.S. to have sufficient supplies to meet present and prospective commitments here and abroad, we will also move ahead promptly with the Portsmouth addition.

We need this legislation. It will assist the Nation in reaching energy independence and create, ~~over-time,~~ <sup>in the years ahead,</sup> millions of jobs throughout the country.

It will also benefit the energy consumer. Electricity costs far less when produced by nuclear plants than when produced from fossil fuel plants. Nuclear power is not



subject to oil embargo or a price increase dictated by any foreign supplier. And based on the past 18 years of experience, commercial nuclear power has an unparalleled record of safety.



REQUEST

THE WHITE HOUSE  
WASHINGTON

May 18, 1976

MEMORANDUM FOR: JIM CANNON  
FROM: *Glenn* GLENN SCHLEEDE  
SUBJECT: ALTERNATIVE STATEMENTS ON  
JCAE'S URANIUM ENRICHMENT BILL

Here are alternative statements to fit the three circumstances you outlined -- with a cover memo. However, it's a very complex package.

None of the alternatives provide the basis for answering follow-up questions. Such answers would be necessary for alternatives #1 and #2. I've also enclosed the latest drafts of the Q&As we did for guidance of Administration officials, in case Alt. #2 is selected.

Please let me know how you would like to proceed and I'll start rewriting.

Attachments



THE WHITE HOUSE  
WASHINGTON

Request

MEMORANDUM FOR: THE PRESIDENT  
FROM: JIM CANNON  
SUBJECT: ALTERNATIVE STATEMENTS ON ~~THE~~  
~~NEW~~ URANIUM ENRICHMENT BILL

*Here*  
~~In response to your request, there are enclosed three~~  
alternative statements with respect to the Nuclear  
Fuel Assurance Act (NFAA) as reported by the JCAE  
on May 11.

- . Alt. #1 - ~~sticks to the position that~~ Portsmouth  
is ~~only~~ a hedge plan -- to be built only  
if private ventures fail. (TAB A).
- . Alt. #2 - Commits to proceed through FY 1977 with  
work necessary to the construction of an  
add-on plant at Portsmouth, but does not  
make a firm commitment to complete the  
plant. (TAB B). *design and*
- . Alt. #3 - Commits to build the Portsmouth plant as  
soon as possible. (TAB C).

~~The statements are alike in many respects but differ in  
the following ways:~~

- ~~. Relative importance given to the authorization of  
the add-on plant.~~
- ~~. Importance of avoiding the use of Federal funds for  
building enrichment plants.~~
- ~~. Degree of commitment to proceed with the add-on plant  
(final paragraph in Alt. #1 and #2; final  
paragraphs in Alt. #3.)~~ *I see them drop*

~~Alt. #1~~

*The first paragraphs are similar.  
The different notes alternate*





In the event you select the posture outlined in Alt. #2, I believe it is essential that we provide guidance to Administration officials for use in responding to questions that may come up. Drafts of proposed responses to the two most likely questions are attached at Tab D.

Attachments



TAB A

ALTERNATIVE PRESIDENTIAL STATEMENTS ON THE NUCLEAR FUEL ASSURANCE ACT, AS REPORTED BY THE JOINT COMMITTEE ON ATOMIC ENERGY ON MAY 11, 1976

*Portsmouth is a hedge plan*

Alt. #1. Stick to earlier position that Government-owned add-on plant at Portsmouth would be built only if (a) the private diffusion venture -- UEA -- failed; (b) centrifuge ventures did not come along as fast as expected; or (c) demand exceeds private ventures' capacity -- and no other viable private venture comes forward.

"The Nuclear Fuel Assurance Act reported by the Joint Committee on Atomic Energy (JCAE) on May 11, 1976, provides a viable way of fulfilling our need to expand uranium enrichment capacity in the United States so that fuel will be available for commercial nuclear power plants.

A firm commitment to the expansion of capacity in the U.S. is important to (a) the continued expansion of nuclear power domestically; and (b) the ability of the U.S. to continue as a reliable supplier of uranium enrichment services to other countries. Both are important in achieving our energy, economic and non-proliferation objectives.

"The NFAA is particularly important because it provides the framework for creating a private competitive uranium enrichment industry and ending the Government monopoly. By the year 2000, domestic and foreign demand for uranium enrichment services could require the construction in the U.S. of additional capacity equivalent to 9 to 12 plants roughly the size of each of the three existing plants. If these plants were financed by the Federal Government, the Budget outlay would be between \$40 and \$50 billion. It would take years before the investment made by taxpayers would be returned through revenues from the plants.

*Current estimates  
would be  
high as  
\$50 billion*

"Committing Federal funds to the construction of additional capacity is highly questionable when:

- The production of enriched uranium is a commercial-industrial activity of the type normally provided by private industry -- not the Federal Government.
- Private industrial ventures are ready, willing and able to assume responsibility for financing, building, owning and operating uranium enrichment plants -- subject only to the need for limited cooperation and temporary assurances by the Federal Government.



-- There are many other high priority competing demands for limited Federal funds.

"The bill also authorizes and directs ERDA to initiate work on the construction planning, design, construction and operation of an addition to an existing Government-owned uranium enrichment plant.

"Work has been underway for some time on design work for a possible add-on plant as a contingency measure. I have recently asked the Congress to approve \$12.6 million to continue this work during the remainder of FY 1976 and the Transition Quarter. I also plan to request \$170 million to continue the work on the backup plan during FY 1977.

"It's important that we continue necessary preparatory work for a Government add-on plant so that we could have such a plant available when needed in the mid-1980's -- in the event private ventures do not proceed."



TAB B

Alt. #2. Acknowledge the strong interest of the JCAE in proceeding with the Portsmouth add-on by (a) pointing to planning work already underway and funds requested for FY 1976 and Transition Quarter, and (b) indicating intention of requesting \$170 million to continue work in FY 1977 necessary to the construction of an add-on plant, but do not make firm commitment that an add-on plant will be constructed and operated.

"The Nuclear Fuel Assurance Act reported by the Joint Committee on Atomic Energy (JCAE) on May 11, 1976 provides an acceptable approach for fulfilling our need to expand uranium enrichment capacity in the United States so that fuel will be available for commercial nuclear power plants.

A firm commitment to the expansion of capacity in the U.S. is important to (a) the continued expansion of nuclear power domestically; and (b) the ability of the U.S. to continue as a reliable supplier of uranium enrichment services to other countries. Both are important in achieving our energy, economic and non-proliferation objectives.

"The NFAA provides the framework for creating a private competitive uranium enrichment industry and ending the Government monopoly. By the year 2000, domestic and foreign demand for uranium enrichment services could require the construction in the U.S. of additional capacity equivalent to 9 to 12 plants roughly the size of each of the three existing plants. If these plants were financed by the Federal Government, the Budget outlay would be between \$40 and \$50 billion. It would take years before the investment made by taxpayers would be returned through revenues from the plants.

"By moving as quickly as possible to a private competitive industry, we can avoid the need for committing Federal funds to the construction of all of the uranium enrichment capacity we will need in the future. Providing this basis for moving to a private competitive industry is important because:

- The production of enriched uranium is a commercial-industrial activity of the type normally provided by private industry -- not the Federal Government.
- Private industrial ventures are ready, willing and able to assume responsibility for financing, building, owning and operating uranium enrichment plants -- subject only to the need for limited cooperation and temporary assurances by the Federal Government.



-- There are many other high priority competing demands for limited Federal funds.

"The bill also authorizes and directs ERDA to initiate work on the construction planning, design, construction and operation of an addition to an existing Government-owned uranium enrichment plant.

"Work has been underway for some time on design work for a possible add-on plant as a contingency measure. I have recently asked the Congress to approve \$12.6 million to continue this work during the remainder of FY 1976 and the Transition Quarter. I also plan to request \$170 million to continue the work on the backup plan during FY 1977.

"Proceeding on both the approaches authorized in the bill -- private ventures and an add-on plant -- will help us assure that uranium enrichment services will be available when needed by both domestic and foreign customers."



TAB C



Alt. #3. Commit to build the Portsmouth plant as soon as possible.

"The Nuclear Fuel Assurance Act reported by the Joint Committee on Atomic Energy (JCAE) on May 11, 1976, provides the basis for a viable way of fulfilling our need to expand uranium enrichment capacity in the United States so that fuel will be available for commercial nuclear power plants.

"A firm commitment to the expansion of capacity in the U.S. is important to (a) the continued expansion of nuclear power domestically; and (b) the ability of the U.S. to continue as a reliable supplier of uranium enrichment services to other countries. Both are important in achieving our energy, economic and non-proliferation objectives.

"The NFAA provides the authorization needed to build a Government add-on plant to provide the next increment of uranium enrichment capacity. It also provides the framework for moving to a private competitive uranium enrichment industry. Together these approaches will assure that needed capacity is available.

"By the year 2000, domestic and foreign demand for uranium enrichment services could require the construction in the U.S. of additional capacity equivalent to 9 to 12 plants roughly the size of each of the three existing plants. If all these plants were financed by the Federal Government, the Budget outlay would be between \$40 and \$50 billion. Under the NFAA the Federal Government will build the next plant and industry will build future plants.

"Work has been underway for some time on design work for the add-on plant. I have recently asked the Congress to approve \$12.6 million to continue this work during the remainder of FY 1976 and the Transition Quarter. I also plan to request \$170 million to continue work on the backup plan during FY 1977. We will proceed with steps needed to have the Government add-on plant available when needed in the mid-1980's.

"The add-on plant will provide the capacity that we need to fill existing contracts most efficiently and economically, in light of existing uranium resources, and to add to the national stockpile of enriched uranium to back up the private ventures and assure all customers -- domestic and foreign -- that services will be available when needed."



TAB D

IS THE ADMINISTRATION FIRMLY COMMITTED TO BUILD  
AN ADD-ON ENRICHMENT PLANT AT PORTSMOUTH

Question

We still cannot tell whether the Administration is really committed to build an add-on enrichment plant at Portsmouth or whether you are regarding the add-on as a contingency -- to be built only if private ventures don't succeed. Which is it?

Answer

The President has indicated that he will accept the requirements of Section 4 of the Nuclear Fuels Assurance Act, as reported by the JCAE, which deals with the Portsmouth add-on. Thus, if the bill is passed, the President and the Congress appear to be in agreement.

I should point out that design work for such an add-on plant has been underway for some time. On May 5, 1976, the President asked the Congress to approve \$12.6 million to continue the work during the remainder of FY 1976 and the Transition Quarter.

If the Congress passes the NFAA, the President is committed to request \$170 million to continue the work during FY 1977 that is necessary to the construction of the plant.

I should also point out that, as a practical matter, no one can make an irrevocable commitment at this time that either the prospective privately owned plants or the add-on plant will be completed and operated, for a number of reasons. For example:

- . A final decision to construct any enrichment plant would have to be preceded by compliance with the National Environmental Policy Act (NEPA), including the preparation of a final environmental impact statement (EIS). Even the appearance of a firm commitment at this time to build or permit building a plant might provide grounds for later challenge as to whether NEPA had been observed.
- . Also, there are remaining uncertainties that have to be resolved. In the case of the add-on plant, for example:
  - There is uncertainty about the availability of electrical power. Apparently it will be necessary to build two or more coal-fired or nuclear plants and the questions of whether, when and where such plants could be built is unresolved.
  - ERDA plans to use a substantially larger compressor-converter system in the add-on plant. This system has not yet been demonstrated or produced and this work must be preceded by construction of test facilities and by testing of the system.

5/18/76



WILL THE GOVERNMENT'S ORDER BOOK FOR URANIUM  
ENRICHMENT SERVICES BE REOPENED?

Question

Now that you are committed to proceed with work necessary for a Government-owned add-on enrichment plant at Portsmouth, Ohio, will ERDA begin accepting orders against that plant?

Answer

The four private firms that wish to finance, build, own and operate enrichment plants are already negotiating with prospective foreign and domestic customers, so the order books are already open.

Furthermore, the President made clear when he submitted his proposal in June 1975 that the Government would take the actions necessary to assure that customers placing orders with private ventures would have the services available when they are needed.

Thus, there is no need for ERDA to begin accepting orders again. In fact, such action would be directly contrary to the spirit and intent of the NFAA -- which has as a major purpose the creation of a private competitive uranium enrichment industry. If ERDA began taking orders:

- . ERDA would be in direct competition for customers with the four private ventures that are prepared to finance, build, own and operate enrichment plants under the arrangements provided for in the NFAA.
- . Competition from ERDA probably would lead potential customers of the private ventures to hold-off on orders -- on the assumption that the Government would be available to provide enrichment services at a lower, subsidized cost, as in the case of existing plants. Customers might hold off even though ERDA currently estimates that the price of product from the proposed add-on plant will be equal to or higher than that of the proposed private diffusion plant.

Also, there has been substantial change in uranium markets over the past year or two which may mean that it will be more efficient and economical for ERDA to have more enrichment capacity -- and to use less uranium -- in filling contracts it already has signed.

In addition, the capacity from an add-on plant could also be used to increase the national stockpile of enriched uranium to assure that it will be available when needed by both domestic and foreign customers. It would serve as a backup, for example, if centrifuge plants do not come on line as early as expected.



5/18/76

THE WHITE HOUSE  
WASHINGTON

May 13, 1976

TO: JIM CANNON  
JIM CONNOR

FROM: SCHLEEDE

SUBJECT: URANIUM ENRICHMENT

First drafts of:

- Options paper
- Letter to Ohio Republican delegation

Neither has been reviewed by others. White House Counsel is revising their views on the constitutionality issue now.

OMB staff also reviewing.



THE WHITE HOUSE  
WASHINGTON

*The words 'Construction' & 'enrichment' - DRAFT*

MEMORANDUM FOR:

FROM:

SUBJECT: Strategy for Dealing With the Nuclear Fuel Assurance Act as Reported by the JCAE on 5/11/76

THE ISSUE:

*in the your proposed Nuclear Fuel Assurance Act*

The principal issue for your consideration is how the Administration should react to certain changes made by the JCAE before the committee ordered it reported by a vote of 15-0 on last Tuesday. The changes involve *questions of*

- the Constitutionality of the Congressional review procedure for proposed contracts. As changed, contracts can be signed only if the Congress passes a concurrent resolution of approval within 60 days.
- ~~and a question of~~ whether the Congress would ever approve proposed contracts with private ventures.

The JCAE also inserted words directing that work proceed on a government owned add-on enrichment plant but your ~~advisers do not believe~~ this presents a significant problem.

*are decided over*

The Congressional Approval Procedure for Contracts

Language previously agreed to by the Administration provided that ERDA could enter into contracts unless the Congress passed a concurrent resolution of disapproval within 60 days. The new language is very clear that a concurrent resolution of approval is now required and there is no question that this is the explicit intent of Chairman Pastore.

*will be*

The new language involves three considerations:

- ~~Constitutionality implications~~ *(it is tantamount to a one - house veto by Executive Action)*
- ~~feasibility~~ of getting contracts approved under the new procedure
- impact *on* the interest of prospective private venture (and their financial backers) in proceeding if the revised bill becomes law.



Constitutionality.

It is the opinion of the White House counsel that:

- . consistent Executive Branch position has been that the prescribed Congressional review is in violation of the Constitution provision of separation of powers because (a) it would involve the Congress in a detailed study, review and approval process that is an Executive function, and (b) <sup>is</sup>, therefore, not completed legislation.
- . the provision for Congressional review -- in terms of relative "acceptability" -- is mid-way between a committee veto and a one-house veto.
- . if accepted, the review requirement could:
  - . serve as a precedent for future Congressional encroachment attempts, and
  - . raise questions of consistency with your veto of the International Security Assistance Arms Exports Control Act of 1976.
- . You have the option of accepting the language if you conclude that the legislation, in balance, is necessary in the national interest (comparable to your action on the FEC bill). the potential impact of signaling acceptability of this language in negotiations towards an acceptable arms export control bill has also been considered (NSC staff: please check the following). NSC advises that it does not believe a significant problem is involved, even though the Assistance bill issue will not be resolved <sup>until</sup> early June because considerable progress has been made <sup>in</sup> reaching a compromise with the Congress.

Practicable Problem of Getting Contracts Approved.

There is no question but that obtaining Congressional approval will be more difficult than avoiding disapproval. However, your advisers are split as to whether the new review requirement presents insurmountable problems:

- . some feel that the time allowed on the bill (30 days for action by the JCAE and 30 days for Floor consideration) is not enough time and that disapproval through inaction is a virtual certainty.
- . others believe that it will be possible to obtain approval (though more than 60 days may be needed), because the ~~implications~~ <sup>implications</sup> particularly budgetary impact -- of not proceeding with a proposed contract can be made clear and ~~would~~ be a potent factor.

Being Revised by Baker's office



Views of the Prospective Private Enrichment Firms.

We have asked the four prospective firms to review the revised bill and give us their views. Of the three responses received thus far (UEA, Exxon Nuclear, Garrett Corporation), the views have been the same:

- . they do not like the new language because it will be more difficult to get approval.
- . the new approval procedure will not deter them from proceeding, or significantly impact their enthusiasm.
- . the language with respect to the add-on plant does not present a problem.

(For Background, however, You should be aware, that the private ventures may very well oppose strongly any appropriations for an add-on plant once the NFAA is approved and they are safely on the way with their own ventures. This could involve FY 1978 and future year appropriations.)

ALTERNATIVES

• Alternative I

Work for passage of the bill as ordered reported by the JCAE. Do not attempt to obtain changes in the Congressional approval requirement with the committee or on the Floor nor signal any Constitutional objections. Plan to sign the bill if it is passed by the Congress and indicate Constitutional objections in the signing statement.

White House counsel believes that a record of objections on Constitutional grounds must be made and that this is not a real alternative.

• Alternative II

Immediately notify the JCAE of the objections on Constitutional grounds and of the unreasonableness of the requirement as a practicable matter. Assume that no changes in language will be made by the committee or in Floor amendments. Plan to balance all considerations and to sign the bill with a statement of objections on Constitutional grounds. Assume that the Constitutionality would eventually be tested in the courts.

- . the advantages of this approach, <sup>to do</sup> that it would create the proper record <sup>and maximize chances of getting the bill.</sup>
- . the disadvantages <sup>is</sup> that it would have no real impact on the practical problem of getting contracts approved.





Alternative III

Immediately notify the JCAE of the objections on Constitutional grounds and because of the difficulties in getting contracts approved. Seek committee reconsideration of the requirement and acceptance of a less onerous review procedure. As a minimum, seek a longer period of Congressional review. Proceed as in Alternative II if the effort fails.

- . this approach has the advantage of building a proper record and could conceivably result in a more acceptable approval requirement. The JCAE has come a long way in the whole issue and may now be approachable on this one remaining issue.
- . the counter argument is that Chairman Pastore was fully aware of the implications and the changes and would have no intention of making any changes.

RECOMMENDATIONS AND DECISIONS

\_\_\_\_\_ Alternative I. Raise no objection. Work for passage of the bill as ordered reported.

\_\_\_\_\_ Alternative II. Make a record with the JCAE and the full Congress. Plan to sign the bill with a statement of objections on Constitutional grounds.

\_\_\_\_\_ Alternative III. Seek changes in the bill before it is brought to the floor.



THE WHITE HOUSE

WASHINGTON

May 13, 1976

MEMORANDUM FOR: JIM CANNON  
JIM CONNOR  
BILL KENDALL  
CHARLIE LEPPERT  
JIM MITCHELL  
BOB FRI  
BARRY ROTH

FROM: GLENN SCHLEEDE

SUBJECT: POSTURE ON THE JCAE VERSION OF  
NFAA

As I indicated by phone, the JCAE apparently is headed toward filing a report by Saturday. We still do not have access to a copy of the draft. I assume that Bill Kendall is still after one.

In accordance with our discussions yesterday, there are attached:

- Draft options paper. All that can be said for this is that it collects a number of views. It has a long way to go. Most of it has been reviewed by Barry Roth and parts by Hugh Loweth.
- Draft response to the Ohio Republican Delegation which seeks to describe the proposed commitment to the add-on facility at Portsmouth. (Loweth has reviewed).
- Two draft Q&A's:
  - . Are you committed to build an add-on plant?
  - . Will you reopen the Government order book?

Other than described above, these papers haven't been reviewed or cleared with anyone.

Enclosures.



SUBJECT: Strategy for Dealing With the Nuclear Fuel Assurance Act as Reported by the JCAE on 5/11/76

Briefly, the Joint Committee on Atomic Energy (JCAE) made two significant changes before they ordered reported last Tuesday the Nuclear Fuel Assurance Act:

- The Congressional review procedures were revised to require specifically a concurrent resolution of approval within 60 days in the case of each proposed contract before it could be signed. Language we had agreed to provided, in effect, that contracts could be signed unless the Congress passed a concurrent resolution of disapproval.
- The section of the bill authorizing design and construction planning for a Government-owned add-on plant (as a contingency measure) was revised to authorize and direct ERDA to initiate design, construction planning, construction and operation of an add-on facility. An authorization of \$230 million was provided.

#### ISSUES

- The first issue is whether we should be so concerned about potential challenges on constitutional grounds by others to the new Congressional review procedures to warrant an attempt to obtain changes in the language.
- The second issue is whether we should be so concerned about feasibility of getting Congressional approval of contracts within 60 days to warrant an attempt to get changes in the bill.



-- the third issue is whether we should be concerned about the change in language with respect to the proposed Government-owned add-on facility.

Constitutionality. The so-called "committee vetoes," "one-House vetoes," "two-House vetoes," and other "coming into agreement" provisions generally raise at least two problems of constitutional dimensions. First, the Executive Branch traditionally argues that these provisions subvert the legislative process which is required by the Constitution. Secondly, we assert that these provisions encroach upon the President's constitutionally based veto powers. In addition to these two bases of objection, a third Constitutional defect on occasion surfaces in the context of Congressional attempts to limit exclusively Executive functions; e.g., the conduct of foreign affairs.

With respect to the current proposal, the White House Counsel advises that:

1. The proposal does not appear to interfere substantially with the President's veto powers since the Congress could require separate legislative authorization for each contract and the proposed power of approval is only permissive and not mandatory in nature;
2. There is not under consideration here any matter which is exclusively Executive in nature; and
3. The principal Constitutional defect raised by the proposal is that subsequently approved contracts based solely on a concurrent resolution would not be authorized as a matter of law.

Although such contracts would not be challenged by the Executive Branch on this last point, this point could be cited by someone opposed to the enrichment program in order to challenge the contract in court. It is unlikely that such a challenge would be successful, but it could cause some delay. This problem would be overcome if the Congress were to approve the contract by a joint resolution.

The Department of Justice has never taken a position on the constitutionality of such concurrent resolutions of approval. However, Justice notes that the present provision is substantially less objectionable on



on constitutional grounds than the concurrent resolution of disapproval. It is the opinion of the White House Counsel that the problem is whether acceptance of this review requirement could:

- raise questions of consistency with your recent veto of the International Security Assistance Arms Exports Control Act of 1976.
- serve as a precedent for future Congressional encroachment attempts.

Counsel further advises that you have the option of accepting the language without objecting or recommending instead a joint resolution of approval. A joint resolution would have the additional benefit of approving a contract by law even if more than 60 days had elapsed.

There is a potential that signaling acceptability of the JCAE-approved bill could impact negotiations toward an acceptable Arms Support Control bill (NSC staff and Congressional Relations, please check the following.) This potential has been considered and NSC staff and Max Friedersdorf advise that they do not believe that it is a significant problem even though the Assistance bill will not be resolved until early June.

Practicable Problem of Getting Contracts Approved. There is no question but that obtaining Congressional approval will be more difficult than avoiding disapproval. However, your advisers are split as to whether the new review requirement presents insurmountable problems:

- Some feel that the time allowed on the bill (30 days for action by the JCAE and 30 days for Floor consideration) is not enough time and that disapproval through inaction is a virtual certainty.
- Others believe that it will be possible to obtain Congressional approval (though more than 60 days may be needed) because the Administration will have an opportunity to make clear the budgetary impact if the Congress fails to approve a contract. Furthermore, any subsequent funding required for building a Government-owned plant in lieu of private plants would have to be accommodated within Congressional budget limitations.



Significance of the Language dealing with a Government add-on plant. Your advisers do not agree fully on the significance of the add-on plant language.

- Some feel that it is of little significance because there are so many hurdles that must be crossed before the plant could become a reality, including: (a) the need for an environmental impact statement, (b) considerable uncertainty as to the availability of electric power, and (c) the need for additional Congressional authorization and appropriations in future years.
- Others feel that the language is a problem because:
  - . You are, in effect, being forced to make a good faith commitment to proceed with the construction and operation of an add-on plant.
  - . Such a commitment can be avoided only by strenuous efforts to keep the commitment unclear.
  - . The strong Congressional interest in building an add-on can still lead to some kind of binding requirement -- before Congressional action is completed -- to build the add-on plant before the private diffusion plant goes ahead.

Views of the Prospective Private Enrichment Firms. We have asked the four prospective firms to review the revised bill and give us their views. Of the three responses received thus far (UEA, Exxon Nuclear, Garrett Corporation), the views have been the same:

- They do not like the new language because it will be more difficult to get approval.
- The new approval procedure will not deter them from proceeding, or significantly impact their enthusiasm. You should recognize, however, that the incremental costs to the private firms who hold on for another four or five months is not that great.
- They do not regard the language with respect to the add-on plant as a problem:
  - . UEA does not regard it as a problem because they fully expect to have a plant on-line before a Government plant would be available. Further, UEA assumes that the Government will not reopen its order book. Thus, the prospective add-on plant would not be in competition with UEA.



- . The two centrifuge firms that have responded have made it clear that they would object strongly if both the UEA plant and an add-on plant were constructed because it would interfere with their markets. However, they do not believe that both plants would get built and have indicated that they would oppose strongly any future appropriations for an add-on plant once the NFAA is approved and they are safely on their way with their own ventures.

### ALTERNATIVES

Alt. #1. Work for passage of the bill as ordered reported by the JCAE. Do not attempt to obtain changes in the Congressional approval requirement with the Committee or on the Floor nor signal any Constitutional objections. Assume the add-on plant language is not a serious problem. Plan to sign the bill if it is passed by the Congress.

-- The advantage is that we would be most likely to get the bill passed following this approach.

-- The principal disadvantages are:

- . The uncertainty with respect to Congressional approval of individual contracts.
- . The potential need for you to make a good faith commitment to build an add-on plant at Portsmouth. (This disadvantage could be mitigated to some extent by an assurance that you would not have to commit to the size of the plant and that it might be satisfactory to proceed with some addition to Portsmouth if: (a) a source of supply for the currently overloaded order book, and (b) as a back up for private plants.)

Alt #2. Immediately notify the JCAE of objections to the Congressional review provision on grounds that: (a) it is an unreasonable requirement that could have the effect of preventing private enrichment and because it leaves too much uncertainty; and (b) it provides the potential for third parties to challenge contracts on Constitutional grounds. Recommend a substitution of a joint (rather than concurrent) resolution of approval. Also seek some extension of the 60-day approval. Do not object to the language on the add-on plant. If the Congress makes no changes, plan to approve the legislation in its present form.



-- The advantages of this approach are that it would create the proper record, it maintains consistency in your position on the concurrent resolution, and permits Congress to act after the 60th day. It could conceivably result in a more acceptable approval requirement. The JCAE has come a long way in the whole issue and may now be approachable on this one remaining issue.

-- The disadvantages are that it would have no real impact on the practical problem of getting contracts approved. Further, it appears that Chairman Pastore was fully aware of the implications of the changes and would have no intention of making any changes.

Alt. #3. Notify the JCAE of the objections to the bill on the grounds identified in Alt. #2, plus objections to the add-on plant language.

-- The advantage of this approach is that if the JCAE were responsive, a better bill might result.

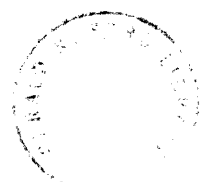
-- The principal disadvantage of this approach is that we are, for all practical purposes, already committed to continue work on an add-on plant -- though we are not committed to construction and operation of such a plant.

#### RECOMMENDATIONS AND DECISIONS

\_\_\_\_\_ Alt. #1. Raise no objection. Work for passage of the bill as ordered reported.

\_\_\_\_\_ Alt. #2. Seek changes in approval requirements. Make a record with the JCAE, but plan to sign the bill even if no changes.

\_\_\_\_\_ Alt. #3. Seek changes in approval requirement and add-on language before the bill is brought to the floor.





CAUTION: THIS LETTER ASSUMES WE WOULD  
ACCEPT THE BILL AS ORDERED REPORTED.

DRAFT  
5/13/76

DRAFT RESPONSE TO OHIO REPUBLICAN DELEGATION - KEY POINT p. 3.

Dear \_\_\_\_\_:

Thank you very much for your recent letter to the President concerning the critical need to expand the capacity in the United States to provide uranium enrichment services that are required to supply fuel for commercial nuclear power plants here and abroad. The Administration agrees fully that this is a matter of utmost importance to the Nation and should be resolved quickly because of its importance for: (a) the continued expansion of nuclear power domestically; (b) the ability of the U.S. to continue to be a reliable supplier of uranium enrichment services to other countries; and (c) the importance of both these factors in achieving our Nation's energy, economic, and non-proliferation objectives.

An early decision on the matter is also important because of its potentially far-reaching implications. By the year 2000, domestic and foreign demand for uranium enrichment services could require the construction in the U.S. of additional capacity equivalent to between 9 and 12 plants roughly the size of each of the three existing plants. If these plants were financed and owned by the Federal Government, the budget outlay would be between \$40 and \$50 billion. It would take years before the investment made by the taxpayers would be returned through revenues from the enrichment plants.



I am sure that you will agree that it is highly questionable for the Federal Government to follow a path that would maintain the current Government monopoly in providing uranium enrichment services when:

- The production of enriched uranium is a commercial, industrial process of the type normally provided by private industry -- not the Federal Government, particularly in light of the many competing demands for Federal funds.
- Private industrial ventures are ready, willing and able to assume responsibility for financing, building, owning, and operating uranium enrichment plants subject only to the need for limited cooperation and temporary assurances by the Federal Government.

The Joint Committee on Atomic Energy (JCAE) conducted exhaustive hearings on the President's proposed Nuclear Fuel Assurance Act (NFAA) which he submitted to Congress on June 26, 1975. We are pleased that the JCAE, on May 11, 1976, ordered reported the NFAA with some changes from the President's proposal, <sup>the revised bill</sup> ~~which~~ <sup>resulting in S. 2221/66/6</sup> appears to be a very effective approach for moving ahead, and one which deals in a very effective way with the interests you have expressed on behalf of the people of Ohio.



Briefly, the bill ordered reported by the JCAE provides the frameword for the Energy Research and Development Administration (ERDA) to negotiate cooperative agreements with prospective private enrichment firms and to bring each of those agreements to the Congress for review and approval. This approach would permit us to begin transition to the private, competitive industry. Of even greater importance to you, Section 4 of the bill authorizes and directs the Administrator of ERDA to initiate constructions planning and design, construction and operation activities for the expansion of an existing uranium enrichment facility.

As you may know, ERDA already has work underway on the design and construction planning ~~leading to~~ <sup>necessary for</sup> the construction of a major addition to the uranium enrichment plant located at Portsmouth, Ohio. The President recently asked the Congress to approve \$12.6 million to continue this work during the balance of FY 1976 and the Transition Quarter. Section 4 of the bill makes clear that the Congress intends this work to continue. Assuming that the bill passes, I intend to submit to the Congress a budget amendment requesting \$170 million for FY 1977 to continue work authorized by Section 4.

I should point out that some of the points made in the letter you signed with other members of the Ohio delegation about the President's proposal and the merits of the alternative approach are apparently based on some misunderstanding of



pertinent information. I am enclosing a brief paper which comments on the points you have made to help assure that there is no continuing misunderstanding that could interfere with prompt action of the legislation.

Sincerely,

Enclosure



ARE YOU FIRMLY COMMITTED TO BUILD AN  
ADD-ON PLANT AT PORTSMOUTH

Question

We still cannot tell from what you have said so far whether the Administration is really committed to build an add-on plant at Portsmouth or whether you are regarding that as a contingency -- to be built only if private ventures don't succeed.

Answer

The President is committed to proceed with the action authorized by Section 4 of the NFAA if the Congress passes the bill as reported. Design and construction planning work has been underway for some time. The President recently requested Congressional approval of \$12.6 million to continue the work during the remainder of FY 1976 and the transition quarter. If the Congress passes the NFAA, he is committed to request \$170 million to continue the work necessary to the construction of the plant.

As a practical matter, no one can make an irrevocable commitment at this time to build and operate an add-on enrichment plant at Portsmouth for several reasons. For example:

- . A final decision to construct such a plant would have to be preceded by full compliance with the National Environmental Policy Act (NEPA) including all the steps leading to a final Environmental Impact Statement (EIS). An appearance of a firm commitment at this time might prove to be grounds for later challenge as to whether NEPA had been observed.
- . There are remaining uncertainties as to the cost and feasibility of proceeding with the add-on plant for such reasons as:
  - The continuing uncertainty about the availability of electrical power because it would be necessary to build two or more new coal fired or nuclear plants. Whether or when such plants could be built is unclear.
  - The plan to use a larger compressor-converter system which has heretofore not been demonstrated or produced.



## REOPEN ORDER BOOK?

### Question

Now that you plan to proceed with the steps necessary to build a Government-owned add-on enrichment plant at Portsmouth, Ohio, are you prepared to reopen the ERDA order book for uranium enrichment services?

### Answer

We do not plan to reopen the Government order book. First, reopening the Government "order book" would be directly contrary to the spirit and intent of the NFAA -- which has as a major purpose the creation of a private competitive nuclear fuel industry.

A move by the Government to take orders would:

- put the Government in direct competition for foreign and domestic customers with the four private ventures that are prepared to finance, build, own and operate enrichment plants under the arrangements provided for in the NFAA.
- probably lead potential customers of the private ventures to hold off on placing commitments on the assumption that the Government would provide enrichment services at a lower, subsidized cost as in the case of present plants -- even though there is strong reason to believe that costs from a Government-owned add-on plant will be higher rather than lower than the proposed private stand-alone plant.

Furthermore, our latest assessments are that there is adequate demand available in the form of existing ERDA contract commitments -- if tails assay is reduced to the level that makes sense in light of today's uranium economics -- to utilize additional capacity that could be provided at Portsmouth.

Also, the output from an add-on at Portsmouth could be used to increase the Government stockpile of enriched uranium and also serve as a backup to private ventures without getting the Government in direct competition with private ventures.



JMC memo to file and Schleede:

URANIUM DECISION--Senator Taft should receive notification

May 21, 1976

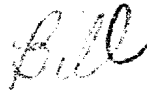
Dear Senator:

Thank you for your May 20 letter to the President urging that he approve the Second Supplemental Appropriations Bill, 1976.

I know he will find your comments regarding items for the State of Ohio of interest, and I wish to assure you I shall call your letter promptly to his attention.

With kindest regards,

Sincerely,



William T. Kendall  
Deputy Assistant  
to the President

The Honorable Robert Taft, Jr.  
United States Senate  
Washington, D.C. 20510

bcc: w/incoming to Alan Kranowitz, OMB, for further handling  
~~bcc: w/incoming to James Cannon - for your information~~

WTK:JEB:VO:vo



JOHN C. STENNIS, MISS., CHAIRMAN

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# United States Senate

COMMITTEE ON ARMED SERVICES

WASHINGTON, D.C. 20510

T. EDWARD BRASWELL, JR., CHIEF COUNSEL AND STAFF DIRECTOR

*Handwritten notes:*  
Approved  
Action  
G...  
P...

May 20, 1976

The President  
The White House  
Washington, D. C.

*MF*

Dear Mr. President:

I am writing to urge you to sign the Second Supplemental Appropriations Bill, 1976, which we in the Senate approved Wednesday.

Included in this bill, Mr. President, are items which I consider to be of great importance to the State of Ohio. These include \$1.6 million for dike repairs at the Cedar Point Wildlife Refuge near Toledo, and \$12.6 million to proceed with an addition to the uranium enrichment facility at Portsmouth.

The dike repair work is a most pressing matter which can not be further delayed. Dikes are necessary to hold back the waters of Lake Erie and prevent flooding in the area. What makes their repair such an urgent matter is that the City of Toledo's main drinking water pumping station and a similar facility for Oregon, Ohio, are in the flood plane area. Should major flooding occur, these two facilities would be put out of operation.

I have personally inspected those crumbling dikes, which are the maintenance responsibility of the Department of Interior. I have also had discussions with local public officials, and am informed that it would require as long as two weeks to restore the flow of safe drinking water, once the flood waters have receded. Such a disruption would endanger the health and well-being of area residents, have a disastrous impact on business and industry, and threaten a major economic crisis in this large, metropolitan area.





The President  
May 20, 1976  
Page 2

*Colson*  
*By*  
*Jones*

For the people of Toledo and Oregon, this is a most important and urgent bill.

As you know, Mr. President, I have also been concerned with our nation's ability to meet the growing need for enriched uranium. We are in danger of finding ourselves in short supply in coming years unless action is taken soon to develop new production facilities. Also, should the United States be incapable of meeting the demand for enriched uranium, a side effect might well be to encourage other nations to produce it on their own. The unfortunate impact in that is that the waste materials resulting from the production process can be used in production of nuclear weapons, the proliferation of which we have sought to curb for so long.

A third item in the bill, Mr. President, is an amendment of mine which denies any future federal funding of projects related to the People's Bicentennial Commission. This group, which has directly and indirectly received federal funds in the past, has chosen to engage in the harassment of the families and employees of our nation's business and industry leaders. Through a mail campaign, they have implied that these business and industry leaders may be engaged in illegal acts, and this so-called "commission" has encouraged establishment of what amounts to a national spy network to monitor them.

I am quite confident that the appropriate authorities in the executive branch are capable of investigating and prosecuting in the cases where such misdeeds occur, Mr. President. I do not believe the federal government needs to be in the business of financing the harassing tactics of the People's Bicentennial Commission.

Again, Mr. President, I urge you to sign the Second Supplemental Appropriations Bill.

With every good wish.

Sincerely,

*Bob Taft, Jr.*

Robert Taft, Jr.



# Report to the Congress

American Nuclear Energy Council  
1750 K Street, N.W.  
Suite 300  
Washington, D.C. 20006  
202/296-4520

CRAIG HOSMER  
PRESIDENT

REPORT NO. 8

MAY 25, 1976

## NUCLEAR FUEL ASSURANCE ACT

H.R.8401; S.2035

Enriched uranium is the fuel for nuclear power stations. ERDA facilities perform uranium enriching services for U.S. and some foreign utilities, earning revenues and balance-of-payment credits. The growth of nuclear power already demands more enriched uranium than ERDA can supply. New enriching capacity must be added to avoid a nuclear fuel gap. To have it in operation by the early 1980s (when the fuel is needed) construction of new capacity must start now.

Depending on size, new enriching plants will cost \$1 to \$3 billion each. Aggregate investment in them by the year 2000 will reach many billions of dollars.

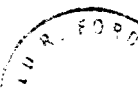
*Operations of this magnitude solely to supply commercial fuel put into question whether the future structure of the enriching business in the U.S. should continue to be taxpayer supported or ought to be privatized.*

Passage of the *NUCLEAR FUEL ASSURANCE ACT* (H.R.8401; S.2035) makes possible the needed start on building new enriching capacity.

NFAA leaves open the future structure of the industry. It authorizes a new government enriching plant and offers government cooperation and assurances (*SUBJECT TO CONGRESSIONAL REVIEW AND APPROVAL*) to encourage development of a competitive private uranium enriching industry.

The concepts written into NFAA serve a useful public purpose, fairly protect the government, and provide a framework in which the future structure of the uranium enriching industry in the U.S. can beneficially evolve. *ENACTMENT IS RECOMMENDED.*

(Details Inside)



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PRINCIPAL PROVISIONS OF NUCLEAR FUEL ASSURANCE ACT

- Authorizes and directs ERDA "to initiate construction planning and design, construction and operation activities for expansion of an existing uranium enriching facility". Authorizes appropriation of \$255 million for this purpose.
- Subject in each case to Congressional review and approval, ERDA is authorized to enter into "cooperative arrangements" with prospective private uranium enriching entities providing "such Government cooperation and assurances" as "appropriate and necessary to encourage the development of a competitive private uranium enrichment industry". These may include:
  - o *Furnishing Government technology and equipment on a cost or royalty basis;*
  - o *Warranties on Government furnished material and equipment;*
  - o *Purchases and sales of enriching services between ERDA and private enrichment firms;*
  - o *ERDA authority to take over, modify, complete, operate or dispose of a private enrichment plant if its backers are unable to complete or bring the technology into commercial operation. In doing so ERDA may undertake only to acquire equity of U.S. investors or pay off debt of U.S. lenders; where a failure is due to mismanagement, ERDA will not compensate and equity of the private investors would be lost.*

An authorization of \$8 billion is provided to back up the cooperative arrangement contracts entered into. The real purposes for having the authorization outstanding is to assure the private enriching entities that the technology for which they are paying a royalty will work, to assure utilities that the required enriching capacity will be available, and to assure the credit worthiness of private enriching entities seeking to raise capital from the private money markets.

NEED FOR PROMPT ACTION

Natural uranium must be enriched before it can be used to make fuel for nuclear-fueled electric power generating plants. Present U.S. enrichment capacity, provided by three plants owned by ERDA and operated by private contractors has been fully committed under long-term contracts since mid-1974. Since that date, the Government has been unable to accept contracts for additional enrichment services. *IF THIS SITUATION IS ALLOWED TO CONTINUE, IT WILL SEVERELY INHIBIT THE GROWTH OF GENERATION OF ELECTRICITY WITH NUCLEAR FUEL IN THE U.S.*

NFAA Optimizes Resource Utilization

If additional enrichment capacity is not built, a significant amount of fossil fuels will be needed to replace nuclear generation or the country will suffer severe economic adjustments. Since domestic oil production is declining, it is



apparent that oil necessary to meet a nuclear shortfall would have to be imported, thereby increasing our dependence on foreign sources and adversely affecting the United States' balance of payments. Substantial increases in coal demand are already projected even if additional nuclear plants are built.

### Impact on U.S. Trade

Expansion of domestic enrichment capacity will have a positive impact on U.S. trade. U.S. foreign exchange revenues from the sale of enriched uranium and enrichment services have reached \$1.1 billion. Moreover, substantial additional revenues have been earned by U.S. companies from tie-in sales of nuclear reactors overseas because of the availability of U.S. enrichment services to provide their fuel. The dollar amount of these sales can be expected to grow if domestic enrichment capacity is made available to supply such services. Current uncertainties concerning the construction of new U.S. capacity already have significantly impaired foreign sales of U.S. nuclear reactors and enrichment services. *TO THE EXTENT THAT NUCLEAR FUEL IS NOT AVAILABLE FROM AMERICA, THE PROLIFERATION OF ENRICHMENT FACILITIES IN FOREIGN NATIONS IS ENCOURAGED.*

### Impact on Proliferation

The ability of the United States to be an effective force in guarding against the proliferation of nuclear weapons will diminish should its share of the world enrichment market decrease. The ability to supply enrichment services provides an opportunity to influence the manner in which enriched nuclear fuel is used and safeguarded against unauthorized uses. Failure to expand U.S. enrichment capacity will turn foreign users to other sources, thereby curtailing U.S. influence upon nonproliferation objectives and efforts.

### NFAA PROVIDES A FLEXIBLE APPROACH

Hearings before the Joint Committee on Atomic Energy revealed concern over several features of the NFAA as originally proposed; three in particular: (1) whether private industry could finance and provide the required plants on a timely basis; (2) the scope of assurances which might be offered to private enriching enterprises; (3) whether Congress would be given sufficient opportunity to review and approve contracts which ERDA might enter into with private industry. The bill, as reported by the Joint Committee, addresses these issues and is responsive to the concerns expressed during Committee hearings, *AS REFLECTED BY THE 15-0 VOTE BY WHICH THE COMMITTEE REPORTED THE BILL.*

### The Issue of Plant Ownership

The NFAA as amended by the Joint Committee is sensitive to the need for timely action in an exceptional degree. It assures prompt addition of the first increment of needed new enriching capacity by directing ERDA to start now on a new government-owned plant. NFAA also authorizes ERDA to encourage private enterprise to enter in the enrichment market, which could diminish the need to spend substantial public monies to assure the uninterrupted supply of nuclear fuel. A White House Domestic Council study indicates that investment in new uranium enriching capacity outlays needed to match projected growth in demand

for nuclear fuel could reach a cumulative outflow of \$14 billion by 1988, and that not until 1999 will costs be recovered and a return on investment start to show. This indicates the magnitude of federal budget expenditures that might be sidestepped if government responsibility for enriching can be lifted.

### Why are Government Cooperation and Assurances Needed at all?

Ordinarily private industry automatically moves ahead to supply a need for any fuel. But in this case, there is no private industry to expand upon. Government owns the three existing plants. It has all the technical and economic enrichment know-how. NFAA is needed to authorize transfer of the needed knowledge to potential enrichers on a cost or royalty basis.

And, for the very reason that this technology has been the exclusive monopoly of Government, assurances that the technology actually will work are essential to allow pioneering private enrichers to obtain debt financing from the money market. The back-up assurances which ERDA would offer in any cooperative arrangement with private enrichers are contingent liabilities of Government, but very remote ones. Government technology, which must work right if the plants are to function properly, will be the heart of single plant investments of \$1 to \$3 billion. Because this technology has been the exclusive property of the Government, a guarantee to potential private enrichers that it will work is essential to secure debt financing. In view of the long experience of Government with enriching technology and the supervision which ERDA will provide, there is every reason to believe that the plants will succeed and that lenders will move in to expedite the entry of private enrichment.

*REASONABLE ROYALTIES WILL BE PAID TO THE GOVERNMENT FOR THE USE OF ITS TECHNOLOGY AND FULL COST PAID FOR ANY EQUIPMENT IT MAY SUPPLY. Effective safeguards and physical security of the technology and the products will be imposed. Should there be foreign participation in any private enriching facility, NEITHER THE GOVERNMENT ASSURANCES NOR ANY ACCESS TO TECHNOLOGY WILL EXTEND TO THE FOREIGN PARTICIPANTS. Only U.S. citizens will be compensated.*

Once established, there is little reason to expect NFAA's back-ups will even be called upon.

### Opportunity for Congressional Review and Approval

NFAA assures Congressional review and approval of any proposed contract for a cooperative arrangement for private participation in uranium enrichment. *UNDER THE PROCEDURES SET OUT IN THE BILL, ANY PROPOSED CONTRACT FOR A PRIVATE ENRICHING FACILITY MUST BE SUBMITTED TO CONGRESS FOR REVIEW AND APPROVAL.* The Joint Committee is given 30 legislative days to recommend a concurrent resolution stating that Congress does or does not favor the arrangement. Within 25 days thereafter the resolution would become the pending business of the House and Senate. A vote would be taken within another five days. *ERDA COULD NOT EXECUTE A CONTRACT UNTIL BOTH HOUSES APPROVED* and would be bound by the limits of the Congressional joint resolution. Thus, complete Congressional review, oversight and approval is assured.



IMPACT ON BUDGET

The bill authorizes \$255,000,000 to initiate expansion of an existing uranium enrichment facility, the so-called "hedge plan". This funding is already included in the proposed ERDA authorization for FY 1977. The \$8 billion contingent liability authorized by the bill would have no effect on this budget, since it could never be called up before a private enriching plant is started and, somehow, falters. Should that contingency occur, there still will be no cost to the Government as a result of these assurances without the actual appropriation of government funds. The expectation is that no funds would ever be expended.

FAVORABLE ACTION ON H.R.8401 and S.2035 AT AN EARLY DATE IS RECOMMENDED.

- 0 -

Note: American Nuclear Energy Council Report No. 3 "*NEW URANIUM ENRICHMENT CAPACITY*" (February 1, 1976) summarizes the national situation on enrichment and discusses its technology. Copies were furnished all members of the House and Senate. Limited copies are available for further distribution.

NOTE

The American Nuclear Energy Council was organized July 1, 1975 in response to the need for a focal point in Washington from which to project the common energy interests of the American people and the American nuclear community. It is a non-profit industry trade association and has registered pursuant to the lobbying law. Former Congressman Craig Hosmer is its president.

The Council supports development of solar, fusion and other longer range energy resources but holds that nuclear power is essential if this nation is to have adequate and dependable energy supplies during the next half-century. It believes that energy independence can be achieved only by vigorous utilization of domestic U.S. coal and nuclear energy resources.

The Council stands for the proposition that the risks of nuclear power are minimal in relation to its public benefits and far more acceptable than massive power shortages or continued dependence on fragile foreign willingness to supply a vital fraction of the energy needed adequately to fuel the American economy and provide jobs for millions of American workers.

