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Nuclear Smuggling

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Three men from Queens and Long Island, in collusion with a Russian general, smuggled nearly eight tons of material used in nuclear reactors from a military stockpile in Ukraine, stored most of it in a warehouse in Queens and spread the word that they would sell it to the highest bidder, Federal officials said yesterday.

The men were arrested today after a yearlong sting operation in which United States Customs agents posed as Iraqi Foreign Ministry officials and European arms dealers planning to buy zirconium, a nonradioactive material that is critical to the process of nuclear fission. They are charged with trying to export zirconium illegally to Iraq.

In violation of the Iraqi sanctions regulations of August 1990, which prohibit all trade with Iraq except for humanitarian items. All three pleaded not guilty yesterday before a Federal magistrate in Brooklyn.

Officials said that all the smuggled zirconium was recovered and that the seizure was the largest ever in the United States involving nuclear-related components.

The Government's investigation uncovered an intricate scheme worthy of a James Bond movie, involving black market arms deals, clandestine meetings in a bank in Astoria, Queens, phone calls and faxes to Moscow, a Ukrainian truck heading to a customs warehouse in Germany, and just last week, a final shipment of zirconium on an airplane to Amsterdam and then Cyprus.

While the material seized in the investigation was not itself dangerous, officials said the arrests of and the seizure of the zirconium highlighted the availability of nuclear-related material controlled by the military in the former Soviet republics.

In fact, officials said, the three businessmen had apparently agreed to provide the undercover, Customs agents with other, and potentially more dangerous, items, including powdered zirconium, most commonly used in cluster bombs, and nuclear fuel rods.

"That nuclear-grade material can be stored in an ordinary warehouse in Woodside, originating in the Ukraine, and destined for Iraq should serve as a wake-up call for every law-enforcement agent that it's as easy as that to get this material," said James Kallstrom, assistant director in charge of the

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New York office of the Federal Bureau of Investigation. "The good news is that the buyer of this material was not a terrorist, gorp or country such as Iraq," he added. "The bad news is, it just as easily could have been."

The men, all Greek immigrants, were identified as Demetrios Demetrios, a 40-year-old apparel importer who lives in Long Island City, Queens; Renos Kourtides, 55, the former president of Marathon Bank in Queens, and Constantine Zahariadas, 58, whom the authorities said might be a silent partner in the bank.

Mr. Demetrios and Mr. Kourtides are naturalized American citizens; Mr. Zahariadas is in the United States on a work visa.

Mr. Kourtides lives in a mansion in Muttontown, L.I. Mr. Zahariadas is thought to live there as well.

Mr. Demetrios's lawyer, Jack Wasserman, said in a telephone interview that his client has "no preconceived intention of exporting anything in violation of the law."

He said that Mr. Demetrios obtained the zirconium last spring by trading dresses with a German businessman, and that he intended to sell the zirconium for industrial use.

"If you were really going to evade the law, why would you bring it to the United States?" Mr. Wasserman asked.

Mr. Kourtides's lawyer, Lou Freeman, said his client "just didn't do anything wrong on our part."

As described by Federal officials, the case involves two schemes, one real and one manufactured by the Government in its sting operation.

The real smuggling scheme, the Government charged, began last year, when at least one of the three apparently made contact with a Russian general who had access to military stockpiles in Ukraine. Government investigators said they did not know the identity of the general, who helped the businessmen smuggle the zirconium out of Ukraine.

Robert van Etten, special agent in charge of the New York Customs office said that Customs attachés were in Moscow investigating the matter.

In May 1994, a truck rolled out of Kiev, the Ukrainian capital, loaded with 11,000 pounds of stolen zirconium.

The purest zirconium is used as a safety coating for nuclear fuel rods and can be used in munitions, including cluster bombs. By itself, it is a harmless metal used to make jewelry. The smuggled zirconium was virtually pure, 800-pound cylinders packed in wooden-slatted crates.

The crates were labeled "zirconium" in Russian, the officials said.

The truck arrived in Hamburg, Germany, but the shipment hit a snag, the Federal officials said. German officials held it in a customs warehouse and were asking questions about the origins and purposes of the zirconium. The men thought they had better to get the zirconium out of Germany, officials said, so they packed it on a freighter and shipped it to New York.

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Customs agents at the Port of New York took little notice of the zirconium, the officials said. It is not illegal to import zirconium into the United States, and the metal, destined for more mundane purposes, enters frequently.

The businessmen took the 15 wooden crates to a warehouse at 71-08 31st Avenue in Woodside, the officials said, and advertised it on the black market.

"These individuals had the zirconium more or less in open market," said Kenneth Klug, special agent for the Customs Service in New York. "They were willing to sell it to anyone. They were advertising by word of mouth."

A Government informant heard about the zirconium in May and, in late June, a Customs agent posing as a metals broker met with Mr. Demetrios and was shown the zirconium.

Over the next few months, the agent met several times with the three smugglers and introduced them to another Customs agent posing as an Irish arms broker, the officials said.

In the meetings, according to a Government affidavit, the undercover agents made it clear that the zirconium was going to be shipped to Iraq. In one conversation, the affidavit says, Mr. Demetrios said that he did not "care what they want to do.

In other conversations, he cautioned the agents not to mention that Iraq was the destination.

In October, the agents introduced Mr. Kourtides and Mr. Zahariadis to an agent pretending to work for the Iraqi Government, the affidavit said, and after much haggling, the final price was negotiated: $1.6 million.

Everything appeared to be going smoothly. The ingots were to be flown on British Airways out of Kennedy Airport to Italy.

But on Dec. 22, when the zirconium was delivered to Kennedy, Customs officials held up the shipment, telling Mr. Demetrios that he did not have the proper State Department licenses. Mr. Klug said the businessmen did not get suspicious, Mr. Klug said. Instead, they offered to get the Iraqi buyers another shipment from Ukraine.

"You have to remember they were driven by greed, so their major concern was getting the money that they fully believed we would supply to them," Mr. Klug said.

Another deal was negotiated, and last week, two metric tons of zirconium were flown to Amsterdam, and from there to Cyprus, said Joseph King, a supervisory customs agent in New York. The businessmen were expecting to get money for the zirconium that arrived in Cyprus. Instead, they were arrested at their homes yesterday morning.
The Right Man Who ‘Maintained His Cool’

By DAVID STOUT

The people who know Scott F. O'Grady are overjoyed that he survived for six days on bugs, grass and rainwater in hostile territory. But no one is surprised.

Little more than a decade ago, he was a wide receiver and kicker on Lewis and Clark High School’s football team in Spokane, Wash. “He was one of the smaller guys on the team, and not one of the standouts,” an assistant coach, Patrick Pfeifer, recalled yesterday. “I often wondered how he stayed on the team.”

Reflecting a little, Mr. Pfeifer said he knew how: “It was his stick-to-it attitude. He really wanted to stay with it.”

By all accounts, the 29-year-old pilot is a tough, resilient man, modest and unassuming — an ideal companion, except in a car. “One of his friends said one time they’d rather be flying with Scott than driving with him,” his sister, Stacy, said yesterday. “Scott has a need for speed, I think.”

He also has a bit of luck. A few months ago, his sister recalled, he totaled his new B.M.W. on a serpentine road in Italy. When the police arrived and saw the wreckage, they were amazed that he had walked away from it.

“He loves to go out and do things, at times, that are a little walking on the wild side,” Stacy O’Grady said. “The need for speed showed up early. At an age when many teen-age boys are thinking about cars, Scott O’Grady was thinking about airplanes. When many of his classmates at Lewis and Clark were going for the University of Washington or other schools in the Northwest, Scott O’Grady knew he wanted to go to Embry-Riddle Aeronautical University in Prescott, Ariz.

Relatives and friends say focus and tenacity are characteristic of the man. In a day full of talk about answered prayers and old-fashioned, mainy virtues, the most telling remark about Captain O’Grady’s survival in enemy territory may have been uttered by Adm. Leighton Smith, commander of NATO forces in Southern Europe.

“He maintained his cool,” Admiral Smith said. The central fact of the young officer’s deliverance, which is expected to discuss with reporters today at Aviano air base in Italy, seemed to be that with his life on the line, he remembered what he had been taught.

Not long after he joined the Air Force, he went to Fairchild Air Force Base near his hometown of Spokane for survival school. The heart of the training is the 117-day ordeal in the high, rolling terrain of Colville and Kanka National Forests of Washington State — terrain not unlike that into which Captain O’Grady parachuted after he was shot down.

All Air Force air crews must complete the course, which includes training in survival in various climates and landscapes. The students are not given much food and are expected to find some of their own in the wild.

“Much attention has been paid to reports that Captain O’Grady survived on water and bugs,” Lieut. Col. William Osborne, the school’s deputy commander, said yesterday. “We discuss bugs, and while we don’t hand any out, if there’s any there, they’re free to eat them.”

Of course, the colonel added in a tidbit of military common sense, “What we do teach here is you don’t eat the fuzzy bugs or the ones that will sting you.”

The survival training includes avoiding capture behind enemy lines — and resisting interrogation after capture. Captain O’Grady never had to use the last segment of his training. He told doctors on the amphibious assault ship Kearsarge that he had supplanted his meager rations with bugs, grass and rainwater, according to The Associated Press. He conserves his energy during the day and moved around at night, now and then activating his radio transmitter.

Early yesterday, a pilot from Captain O’Grady’s squadron flying over the area where his plane had been shot down picked up a radio signal. Only minutes before, a NATO communications unit had reportedly picked up a message from Captain O’Grady.

The message to NATO was reportedly transmitted in Morse code, a communications tool that has come to be seen as so old-fashioned that the United States Coast Guard discontinued its use this spring.

The use of Morse code seems fitting, for Scott O’Grady seems to be an old-fashioned man in some ways. Relatives say the ties of home, hearth and blood mean a great deal to him. He tries not to miss family Christmas and New Year’s gatherings, and each year he vacations with his younger brother, Paul, or his younger sister.

About 5 feet 7 inches tall and slim, he is not physically imposing. “He’s not like Rambo,” his mother, Mary Lou Scardapane, said yesterday in an interview in Seattle. “But he’s internally strong.”

Born in Brooklyn in 1965, Scott O’Grady grew up in Spokane. He graduated with honors from Embry-Riddle with a degree in aeronautical science. His studies included courses in physics, meteorology and calculus. He served in Air Force R.O.T.C. and was commissioned upon his graduation in 1989.

His parents are divorced. The pilot’s father, William O’Grady, is a doctor in Alexandria, Va., where Captain O’Grady’s sister, a teacher in the Chicago area, and brother, a denal student in North Carolina, had gathered to await word on the pilot’s fate.

A continent away in Seattle, the pilot’s mother and her husband, Joseph Scardapane, had kept a world atlas on the kitchen table all week. It was opened to a page showing the once-obscure region where Captain O’Grady had been shot down.

“He’d look at the map and think, ‘Someone surely has found him and is looking after him,’” Mrs. Scardapane said. “A sheep farmer or someone.”

Before his assignment to the Balkans, Captain O’Grady had flown F-16s in Germany and Italy. A few years ago, his father recalled, he was assigned to fly protective flights over Kurdish areas in northern Iraq. But that was after the end of the Persian Gulf war, and Scott O’Grady was sorry he’d missed the war.

“He wanted to see action,” said Dr. O’Grady. “I’d ask him about that again now.”

The pilot’s stepfather, Joseph Scardapane, said he had been hearing what he would say to his stepson. “I came up with, ‘Why did you have to run into that rocket and worry your mother?’”

After being rescued and talking by telephone with his relatives, Captain O’Grady took a shower and a nap. Doctors said he was little the worse for wear after his ordeal. On the rescue helicopter, he wobbled down an M.R.E., or “meal, ready to eat.” Any ex-serviceman knows that meant he was very hungry indeed.
Radioactive Material Seized
In Slovakia; 9 Under Arrest

By JANE PERLEZ
BRATISLAVA, Slovakia, April 21
A large amount of radioactive material, suspected to be uranium, was seized from a car in eastern Slovakia and nine people have been arrested, the Slovak Interior Ministry said today.

The police found 37.4 pounds of radioactive material in a container hidden in a car with Hungarian license plates on April 13 near Poprad in eastern Slovakia, said Peter Ondera, a ministry spokesman.

The Government was awaiting the results of laboratory analysis to confirm whether the material is uranium and, if so, whether it is highly enriched, weapons-grade uranium, Mr. Ondera said. He said the test results would be made public on Monday.

If the material is highly enriched uranium it would be by far the biggest illegal haul seized in the last several years.

"There are no doubts this is nuclear material, and so far we're sure it's uranium, but we just don't know what kind," Mr. Ondera said.

The Slovak authorities said that four Slovaks, three Hungarians and two Ukrainians were arrested in the past week at various locations in the country as the result of an investigation that had been under way since November.

"We know the car was definitely headed for Hungary but we don't know the final destination — but the material was meant to be sold somewhere," Mr. Ondera said. The car, carrying two Hungarians, was followed by the Slovak police after it entered Slovakia and was stopped at the foot of the Tatry Mountains, he said.

The smuggling of highly enriched uranium that can be used for nuclear weapons has become a growing problem since the disintegration of the Soviet bloc. The Clinton Administration has called the illicit trade in radioactive materials and its removal from poorly guarded military sites and nuclear plants in the former Soviet Union a national security threat.

Under new programs being launched by the F.B.I., Washington is offering investigative help to countries in Central Europe — a region that is a transit point from the former Soviet Union to Western Europe.

Tests are under way to determine if the material is weapons-grade uranium.

The announcement today follows the seizure in Prague in December of six pounds of 87.7 percent-enriched uranium — just below the 90 percent level considered to be potential material for a nuclear warhead.

Washington has expressed concern about the possibility of stockpiling amounts of highly enriched uranium by countries that may be developing nuclear weapons, like North Korea or Iraq, or by terrorists.

There was some caution among Western officials here today about the nature of the 37.4 pounds of material seized in eastern Slovakia. They said they wanted to hear the test result — and how the analysis was done — before drawing conclusions.

The Slovaks did not say whether the analysis was being done in their own facilities or by the International Atomic Energy Agency in Vienna.

Last year, Slovakia announced nine cases of radioactive material being seized. But in each case the material turned out to be what one diplomat called virtual "rubbish" — nuclear fuel pellets being peddled as enriched uranium by petty criminals.
Mysterious Fumes in Japan Store Send 24 to Hospitals

By NICHOLAS D. KRISTOF

TOKYO, April 21 — Two dozen shoppers were rushed to area hospitals tonight in the port city of Yokohama after suffering from strange fumes in a department store, adding to a nationwide sense of alarm about the possibility of nerve-gas attacks in public places.

It was the second such incident in three days, and it recalled the far more serious nerve-gas attack last month on the Tokyo subway system, which killed 13 people and injured more than 5,000.

Chemical warfare experts in body suits and gas masks rushed to the department store, but the fumes apparently were not caused by nerve gas or anything nearly so lethal. The 24 people who were treated in hospitals suffered from burning throats, coughing and irritated eyes.

Police officers searched the store, but there was no indication that they found what had caused the fumes. There were immediate conjectures that it had been a deliberate attack, possibly linked to the one on Wednesday as well as to the nerve gas attack last month.

The department store is outside the train station in Yokohama, a city adjacent to Tokyo. On Wednesday, fumes were reported in three locations in that train station, and the symptoms were similar though more pronounced than those reported today.

About 560 people were treated in hospitals after the incident on Wednesday, but none were seriously injured. Doctors initially diagnosed phosgene gas, a chlorine gas developed in World War I, but later backed away from that. Japanese newspapers have quoted the police as saying some milder form of chlorine gas may be responsible.

The police have not found any kind of container for the gas used on Wednesday, and they are said to believe that someone carried a portable device to disperse the poison.

Earlier this year, the police found several abandoned briefcases that had been rigged with batteries, liquid containers, vents and ultrasonic humidifiers in similar vamps.

Some similar devices have reportedly been found in cars belonging to Aum Shinrikyo, the cult that is suspected in the nerve gas attack. The cult denies any involvement in such attacks.

Although there is no evidence to link Aum Shinrikyo to tonight’s incident, it is widely regarded as a potential suspect. The episode today and the one on Wednesday were similar to a gasping that occurred in Yokohama just days before the nerve-gas attack in the subway.

That easier gaining is now widely viewed as practice for the subway attack, and it is reported to have affected a subway car that was normally used at this time of day by a journalist who has written articles critical of Aum Shinrikyo.

The Governor-elect of Tokyo, Yukio Aoi, said today that he might ask for a court order depriving Aum Shinrikyo of its status as a religious organization. That would take away its tax advantages but would not affect its ability to hold religious meetings or recruit members.

No religious organization in Japan has ever lost its status in this way, but provisions in the law would allow for this to happen.

The acting head of the National Police Agency said today that the investigation into the nerve-gas attack had reached a “turning point,” and he called on regional police chiefs to concentrate on preventing any other attacks.

“At home and abroad, people are voicing concerns about Japan’s domestic security,” said the acting head, Yoko Sekiguchi, according to Kyodo News Agency. “We must not shy away from our responsibility but have to aim at solving the case as a whole.”

The head of the agency, Takaji Kunimatsu, is still in a hospital after being shot and seriously wounded last month in a carefully planned assassination attempt. Doctors have said little about Mr. Kunimatsu’s condition except that he is out of danger and making a recovery.

Mr. Kunimatsu’s shooting is being investigated in parallel with the nerve-gas attack, but the police have said little except that the attacker was an excellent shot and perhaps a professional hit man.

Kyodo quoted unidentified police officials today as saying they were in the final stages of preparing charges against Aum Shinrikyo’s leaders for making preparations for mass murder. The charges would be based on the discovery in cult buildings of vast quantities of chemicals known to make nerve gas, as well as of sophisticated computer-controlled laboratories with decontamination rooms.

Police chemists reportedly have also discovered chemicals in these laboratories that are byproducts made during the manufacturing of sarin nerve gas. These byproducts are said to have no other use.

No sarin has itself been discovered, and the police are said to be concerned that fugitive sect leaders have taken it with them. Among those missing is the 30-year-old head of the cult’s chemistry team, a man with a doctorate in organic chemistry.

Security is tight throughout Japan, and even small police boxes in other cities have been given a list of license plates of cars registered to the cult. The aim appears to be to find an excuse to stop those cars and examine them for anything suspicious.

In Tokyo, where the fear of further attacks is particularly acute, the authorities have even sealed the water containers on the roofs of buildings housing Government officials. The purpose is to prevent anyone from tampering with the water supply.

Japanese firefighters and policemen supervised the evacuation of a department store yesterday in Yokohama.
Supreme Court rules debt-collection law covers lawyers

By Jan Crawford Greenburg Chicago Tribune

WASHINGTON In what consumer groups characterized as a victory for people with debts, the Supreme Court held Tuesday that attorneys can be subject to a federal law designed to protect consumers from overzealous debt collectors.

The unanimous ruling, which affirmed a decision of the U.S. Court of Appeals for the 7th Circuit in Chicago, eliminated what many groups said was a loophole for lawyers who represent clients trying to collect debts from consumers.

Before the ruling, lawyers engaged in debt collection litigation on behalf of a bank or local merchant, for example, were not subject to the same rules as collection agencies.

"I'm glad to see the Supreme Court recognize that consumers need protection against lawyers just as they need the same protection they've always had against collection agencies," said Alan Alop, a lawyer with the Legal Assistance Foundation of Chicago.

The debt-collection case stemmed from a lawsuit Indiana attorney George Heintz filed on behalf of a Gary, Ind., bank against Darlene Jenkins, a Chicago woman. Jenkins had borrowed money from the Greater Bank to buy a car, but defaulted on her loan.

When Heintz wrote Jenkins a letter listing the amount she owed, he included $4,173 for insurance the bank had bought because Jenkins had let her insurance lapse. Jenkins then sued Heintz and his Merrillville law firm under the federal Fair Debt Collection Practices Act.

Jenkins alleged that Heintz had improperly tried to collect money the insurance payments that she had never agreed to pay, violating the federal law, which prohibits attempts to collect debts not expressly authorized.

In arguments before the court in February, Heintz's attorneys said the law shouldn't apply because Congress did not intend for it to cover lawyers who are representing clients trying to collect debts.

But the court, in a unanimous decision written by Justice Stephen Breyer, said the intent of Congress was clear, particularly since it had repealed in 1986 an exemption for lawyers.

"This will affect the ethical attorney who makes an honest mistake or who doesn't take a position simply out of fear of liability," said Bruce Carmen, a lawyer with Chicago's Hinshaw & Culbertson, which represented Heintz.

U.N. agency works to prevent nuclear materials from leaving former USSR

By Ray Moseley Chicago Tribune

VIENNA, Austria When Iraqi dictator Saddam Hussein took some Westerners hostage in 1990 before the outbreak of the Persian Gulf War and then released them, he inadvertently gave away Iraq's secret effort to build nuclear weapons.

Some hostages were held at the Iraqi nuclear research center in hopes of deterring the United States from bombing the installation. After those hostages were released, the U.S. Central Intelligence Agency quietly bought their clothing and subjected it to laboratory analysis.

The analysis turned up minute traces of highly enriched uranium proof that the Iraqis were working on a bomb. That discovery, as much as the need to protect Middle Eastern oil supplies, may have prompted President George Bush's determination to go to war against Iraq, in the view of some people familiar with the incident.

The equipment developed by the United States to detect the uranium is now available to the International Atomic Energy Agency, a United Nations agency based in Vienna that bears a major responsibility for controlling nuclear proliferation around the world.

The IAEA, in tests in Australia, found it could detect traces of work done at a research center with uranium isotopes 15 years earlier.

Such tools are expected to prove extremely useful to the IAEA as it joins with other agencies and governments in efforts to stem the flow of smuggled nuclear material from the former Soviet Union that is now worrying officials in the West.

The IAEA, operating from a high-rise office building along the Danube River, has become a high-profile agency because of its work in dismantling the nuclear programs in Iraq and South Africa, and the roadblocks it encountered in trying to inspect nuclear facilities in North Korea.

The agency, created in 1957, has 2,000 employees. It does not attempt to duplicate the work of police agencies, but its key nuclear safeguards department has an annual budget of $70 million and is staffed by 550 people, of whom 250 are inspectors.

Deputy director general Bruno Pellaud, a Swiss who heads the department, said the IAEA's role in the forced dismantling of the Iraqi nuclear program and in South Africa's voluntary dismantling of its seven nuclear devices had given his inspectors weapons experience they didn't have before.

Pellaud said he was giving particular current emphasis to helping Kazakhstan, Ukraine and Belarus, all republics in the former Soviet Union, protect nuclear materials that otherwise could easily be stolen because of lax or non-existent security.

"If a bank has a ton of gold, it will say it needs automatic alarms, heavy doors and guards all around," he said. "We have the same setup. There is a worldwide convention on physical protection of nuclear materials, which provides that they should be sealed in a closed room and protected by a 24-hour human guard system."

Pellaud said IAEA officials also were organizing training courses for security personnel in the nuclear industry of the three republics.

"There is a will to do something in the former Soviet republics," he said. "We are on their backs, in a friendly way, and the signals are getting through."

He said there had been a considerable black market in crenin-137, a radioactive material that has nothing to do with the production of nuclear weapons. However, that market has dried up because of safeguards measures and police seizures.

Pellaud conceded that, if a country was sufficiently determined, it would develop nuclear weapons despite the efforts of the IAEA or other agencies.

"The key issue is security," he said. "Countries that have not resolved their security concerns might be tempted to try to develop nuclear weapons."

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COURT LETS RULINGS STAND -- AND DEALS BLOW TO AFFIRMATIVE ACTION

By Clarence Page

WASHINGTON -- One should never make too much of the U.S. Supreme Court's refusal to hear a case, since it has many from which to choose and many reasons not to choose any one of them.

But, when the Supremes handed victories to white men earlier this week by deciding not to hear appeals of two race-based affirmative action cases, the temptation to make a big deal out of it proved overwhelming for both sides.

It was "a complete victory for the white male plaintiffs," said their lawyer.
On the other side, "this puts a question mark of confusion over this whole field of law," said Richard T. Seymour of the Lawyers Committee for Civil Rights Under Law in Washington.

Indeed, it does, and not just for lawyers. The court let stand two so-called "reverse discrimination" verdicts from lower courts. One threw out a quota for promotions of black firefighters in Birmingham, Ala. In the other case, a Pittsburgh jury had awarded a white engineer $425,000 in damages because he was passed over for promotion by a less-educated and less-experienced black man.

In the current politically superheated atmosphere surrounding the issue of affirmative action, a victory for so-called "reverse discrimination" leaves employers and others wondering what to do. Many who want to do the right thing must be asking themselves, "What is right thing?"

The Lawyers Committee, the Justice Department and the NAACP had sued the City of Birmingham in 1974, alleging the city continued to exclude blacks from management ranks in its fire and police departments.

These are the same police and fire departments the nation remembers turning dogs and fire hoses on men, women and children protesting against racial segregation in the early 1960s.

The court action resulted in a 1981 consent decree that called for, among other provisions, the promoting of one black firefighter for every two available promotions.

Supporters of the plan argued that the quota accelerated the city's efforts to reach its goals. A federal court approved, and most of the goals were reached by 1989.

But, last year a U.S. Court of Appeals in Atlanta struck down the plan as a "rigid quota" that was too broadly fashioned. "Race-neutral alternatives should be considered first," the Atlanta court said.

In the other case, Frederick Claus, the white engineer, who had a degree in electrical engineering and 29 years of experience at the company, complained that he was passed over for a promotion at Duquesne Light Co. by a black man who did not have a bachelor's degree or the required seven years of experience.

Once these was a time when the courts were more willing to recognize that long-tenured white men like Claus were automatically advantaged by their skin color in a racist society, whether they acknowledged it or not. That day is fading fast.

Suddenly the famous line from poet Finley Peter Dunne's "Mr. Dooley" comes to mind: The Supreme Court always reads the election returns. Probably so. The high court appears to be quite willing, at present, to let the local courts do the fine tuning on current law, while the political candidates take the issue to the people.

That's OK for the court, but employers need guidance. In general, the courts are saying that affirmative action is permissible, but it should not be taken to extremes. That's fair. But, what's "extreme?"

A few years ago there was broad agreement that Birmingham's extreme abuses of blacks called for extreme remedies. There also was a belief that a company like Duquesne Light Co. could decide for itself whether flexible merit standards were OK in seeking bright minorities for the sake of diversity in management. Both were extreme cases. But what about the closer calls employers must decide every day?

It is not enough to tell employers to be "color-blind" or "gender-blind." Most of us would be inclined to hire and promote in our own image. Given a free choice, we tend to view "merit," consciously or subconsciously, as "people who look like me."

Affirmative action, properly tailored, requires employers to at least consider minority and female applicants seriously. It also encourages minorities and women to believe they have a fair chance, that they have the law as a wind at their backs, not in front.

Unfortunately, with the federal Equal Employment Opportunity Commission already experiencing a two-year backlog of complaints, the politics of the moment could go farther than "reverse discrimination" and turn basic fairness into wind. A big bag of it.

MCNAMARA HAS NO RIGHT TO CLAIM NAIVETE By Donald Kaul

Robert McNamara, secretary of defense during much of the Vietnam war, has just published a book in which he says that war -- "McNamara's War," we used to call it in the bad old days -- was a mistake and he apologizes for making it.

Oh, that makes me feel ever so much better. For the past 20 years I've been rolling and tossing in my sleep, wondering whether I did the right thing in opposing the war in the '60s and '70s. Now I can rest, sanguine in the knowledge that one of its chief architects has recanted.

McNamara says that, in retrospect, it is obvious that the conflict was primarily nationalistic in character, that our South Vietnamese allies were slugs and that the war was basically unwinnable. This, by the way, is what I was saying 30 years ago, when the war was raging.

How is it, you might ask, that a columnist writing then from the vantage point of Des Moines, Iowa, could be right about the war when the truth escaped so brilliant a secretary of defense with access to all manner of CIA reports, secret studies and inside information?

Myself, I would argue that it's proof of something we columnists have always known intuitively: that newspaper columnists, as a class, are smarter than secretaries of defense and their ilk.

This is why we always seem to have all the answers, while experts waffle.

Not everyone would agree, of course. And, to be fair, columnists were not the only ones to have doubts about the Vietnam war. Many citizens, college students among them, shared our views and, in Des Moines, a group of high school students were kicked out of school for a brief time because they wore black arm bands to class in protest of the war. They were later reinstated, and much later the Supreme Court ruled that it was permissible for high school students to be smarter than the secretary of defense and to demonstrate it by wearing black arm bands.

McNamara does not admit it was a matter of intelligence. He says he and his equally brilliant colleagues at the Pentagon and White House missed the situation because they were naive.

...I had never visited Indochina," he writes, "nor did I understand or appreciate its history, language, culture, or values. The same must be said, to varying degrees, about President Kennedy, Secretary of State Dean Rusk, National Security Adviser McGeorge Bundy, military adviser Maxwell Taylor, and many others."

In other words, they were innocent in the ways of the inscrutable East and were slow learners besides.

I don't know about you, but when a rich and powerful man tells me he's naive, I always put my hand on my wallet, instinctively. You don't get to run Ford Motor Co., the Pentagon and the World Bank -- all jobs McNamara has held -- by being naive. Not more naive than high school students in Des Moines, at any rate.

Forgive me my cynicism but I used to think that Robert McNamara was a liar and I think so now. And, like any truly accomplished liar, he comes to believe his own lies. So he may actually think, by now, that he and his playmates stumbled Candido-like into the morass of Vietnam, out of the best intentions I don't.

I think they were arrogant carpetbaggers who'd spent their lives leapfrogging from one success to another and they were afraid to admit that they were in over their heads. And, having made
Russia Orders Tightened Security to Protect Nuclear Materials

By Margaret Shapiro

MOSCOW, Feb. 23—Amid growing concerns in the West about lax nuclear security, Russian officials have begun to acknowledge the need to modernize and tighten controls at nuclear research and production facilities.

Prime Minister Viktor Chernomyrdin ordered new, tighter security at nuclear facilities today, according to the Russian news agency Interfax. His order followed a report to the cabinet today from Interior Minister Viktor Verin that 89 percent of Russian nuclear sites lack basic equipment at their gates for detecting radioactive substances.

According to the Independent Television Network news, Chernomyrdin, after hearing Verin's report, said the security problems make it impossible for Russia to prove to the world that nuclear contraband cropping up in Europe and elsewhere is not originating in Russia.

As recently as last summer, when Western agencies suggested that several batches of stolen nuclear materials came from Russian facilities, Russian officials denied the existence of nuclear security problems.

Even today, authorities insist that while their system is antiquated, it is basically sound.

"The system was created a long time ago, and maybe it is physically old, but it is safe and provides enough security," said Georgi Kankirov, a spokesman for the Russian Atomic Energy Ministry, which has responsibility for non-military nuclear sites. "There is no threat that everything will be stolen."

But Russian and U.S. experts say that many of Russia's nuclear facilities are protected by inadequate and outdated systems.

Set up under Soviet rule for a strictly regimented, closed society, worried only about external threats, the security often amounts to little more than barbed wire fences and armed guards, providing scant protection against insiders and their accomplices who hope to get rich by smuggling out nuclear materials for sale on the black market.

"We were a totalitarian regime, where its own total system of security existed. Now we find ourselves in the West for guarding nuclear sites and radioactive materials, such as closed-circuit cameras, sophisticated coded locks, fingerprint authorization and movement sensors. Just as significant, these facilities have no effective method for tracking their inventory during processing, a key point of vulnerability."

In an article published in December in the weekly Moscow News, Menshchikov wrote that even in the one area in which Russian security excels—armed guards—there are problems because many military units are understaffed, poorly paid and undertrained.

An accompanying list of nuclear facilities "urgently" needs new security systems, enumerated "obstacle" buildings, "unsanctioned access to nuclear warhead components" and violations of "international safety norms" in storage of nuclear material. It also noted that in Tomsk-7, a closed nuclear city in Siberia where weapons-grade plutonium is produced, "several hundred kilograms of plutonium have been lost without being registered."

Alexander Yablokov, an adviser to Russian President Boris Yeltsin who has been active in monitoring the environmental dangers posed by these nuclear sites, was shocked by what he found in a recent visit to Tomsk-7.

"Thousands of containers of plutonium and enriched uranium from obsolete nuclear warheads were stored in an old warehouse not built for such a use. The building was heavily guarded by soldiers and an armored personnel carrier, and Yablokov and his associates were searched, but there were no other monitoring devices, he said in a recent interview. "There were no electronic keys or fingerprint access that modern places have, just regular locks," he said. "Still, one can't just get in [plutonium or uranium] there—you can't approach alone." Theft, he said, is "more likely during the preparation stage."

Promoted by security concerns, the U.S. Department of Energy has provided funding to U.S. nuclear laboratories to work with their Russian counterparts to develop, purchase and install up-to-date security systems. The department is funding about a half-dozen projects, according to a U.S. Embassy official.

"The most successful have been at the Kurchatov Institute in Moscow, where a state-of-the-art security system began functioning in December. Kurchatov, an aging nuclear research facility where Russia's atomic bomb was developed, has several research reactors and large stocks of enriched uranium. Its grounds had been protected by little more than a heavily guarded wall and fence, and it was considered by U.S. and Russian experts to be vulnerable."

"The security system that was there simply from U.S. standards, it didn't even come close," said a U.S. official.

U.S. officials said that, beyond Kurchatov, the program to modernize Russia's nuclear security has run into roadblocks.

"There's been progress," said a Clinton administration official, who blamed the Russian Atomic Energy Ministry, which has been slow to acknowledge any major problems. The official said that unlike the Defense Ministry, which has a close working relationship with the United States on the nuclear security issue, the atomic ministry is suspicious and closed.

"They don't really want to share information. There's a tendency to bargain rather than to cooperate," the official said. "At a certain point you say this is not in the spirit of the post-Cold War and the Cold War they don't want to do it want to force it."

Yeltsin Promises to Strengthen Military

President Boris Yeltsin, flanked by Prime Minister Viktor Chernomyrdin, right, takes part in Moscow ceremony honoring Russian armed forces. Afterward, Yeltsin promised to take charge of "strengthening" the military. Details, Page A17.
Carter Makes Return Visit To Wary Haiti

Aristide's Government Fears Meddling in Vote

By Douglas Farah
Washington Post Foreign Service

PORT-AU-PRINCE, Haiti, Feb. 23—Former president Jimmy Carter, who played a crucial but controversial role in persuading Haiti's military rulers to step down last year, returned today to try to bolster the nation's nascent democratic process under President Jean-Bertrand Aristide.

The visit, although unofficial, has triggered anxiety in the Aristide government. Many officials here view Carter as favoring the former military regime and fear an attempt to meddle in parliamentary and local elections scheduled June 4. In recent days, graffiti have been sprayed across much of the downtown area denouncing Carter in vulgar language.

"Carter is a false democrat" and "Carter is a thug" are among the less harsh signs sprayed in red paint around the city, including on the outside gates of the Presidential Palace. A group of 36 organizations, strong allies of Aristide, today denounced the visit, calling Carter a "danger to democracy."

Aristide's supporters fear Carter is here to bolster and unite the badly fractured conservative and centrist opposition to Aristide for the coming elections in an attempt to build a credible alternative to the president's pandering.

Sen. Sam Nunn, D-Ga., and retired Gen. Colin Powell, former chairman of the Joint Chiefs of Staff, are scheduled to arrive Friday to accompany Carter. The three came in September and persuaded Lt. Gen. Raoul Cedras to step aside, just hours before a U.S. military strike against Haiti was to begin.

President Clinton had ordered the attack to oust the military and restore Aristide. After the Carter accord, some 20,000 U.S. troops occupied Haiti Sept. 19 in a peaceful environment and suffered no casualties. The mission will be turned over to the United Nations on March 31. Of the 6,000 troops to remain under U.N. command, about 2,400 will be from the United States.

But the Carter agreement allowed the military leaders to go into gilded exile and escape punishment for overthrowing Aristide in a bloody 1991 coup and for thousands of deaths for which they share responsibility. The accord also sought to protect the army from being dismantled. Both points of the agreement are deeply regretted in the Aristide camp, who denounced the deal as giving away too much.

In a sign of the tension over the visit, no one from the Aristide government met Carter's delegation at the airport. While Carter said Aristide invited him, two senior Aristide aides said the president had not.

"He said he was coming and so we will invite him to dinner, but we do not know what he is doing here," one Aristide aide said. "We know we have to watch all three of them carefully, because they are tricky, sneaky."

In a brief arrival statement, Carter said he was returning to Haiti for three purposes: to assess progress being made and see what help is needed for the June elections, as well as presidential elections in December; to evaluate Haitian economic development and to analyze security issues.

Carter said he was aware of the graffiti, "written as words of welcome to me." He called the graffiti "a lawless act, apparently by one who is against democracy and freedom, but who doesn't represent the people of Haiti."

Aristide was elected in 1990 with 67 percent of the vote and remains tremendously popular, and his allies are expected to get a large majority to both houses of Parliament in the June election. This would give Aristide a virtually unlimited mandate during his last nine months in office, because he would control all three branches of government.

Many conservatives, who traditionally have held power, risk not being reelected. They already are filing numerous complaints against the electoral process alleging that the Aristide government is blocking their participation and preparing electoral fraud.

Aristide's distrust of Carter has its roots in the 1990 election, at which Carter was a key observer. Senior Aristide aides say Carter tried to throw the election in favor of Marc Bazin, preferred by the United States at the time. They said Carter met with Aristide the night before the election and asked the candidate if he would concede if he lost.

While Carter maintained he met with all the candidates to assuage the same questions in hopes of avoiding post-electoral violence, the Aristide camp, which felt certain of its victory, viewed the visit as an attempt to set up a fraudulent defeat of Aristide.

Carter kept asking the same questions, and Aristide kept asking why he was asking," said an Aristide aide who said he attended the meeting. "We knew then he was trying to steal the election for the Americans."

"Do not be fooled. We will be friendly and polite to Carter, but no one has forgotten September, because we know there could have been a much better deal."
presses Russia, Clinton, Over Iran Deal

Finally, Mr. Yeltsin has given the United States an incomplete accounting of Russia's current conventional arms deals with Iran, contrary to a pledge he made to Mr. Clinton at a summit in Washington in September. Russia's refusal to halve its arms sales to Iran is delaying the creation of an international mechanism aimed at stemming the spread of weapons and arms-related equipment and technology to potentially dangerous nations.

The Administration finds itself in the awkward situation of defending aid to Russia even as Moscow is ignoring American protests.

In the first of two days of meetings today with Georgi Mamedov, Russia's Deputy Foreign Minister, the American Deputy Secretary of State, Strobe Talbott, focused less on the issue of the expansion of NATO, a senior Administration official said. Despite tensions, the United States is eager to create a special relationship with Russia and, including a high-level Washington-Moscow dialogue on NATO, senior Administration officials said.

In a subsequent meeting today with Mr. Mamedov, Lynn Davis, the Under Secretary of State for arms control, stressed the importance of canceling the Iran nuclear deal.

Secretary of Defense William J. Perry made the same point in a meeting on Tuesday with Russia's First Deputy Defense Minister, Andrei A. Kokoshin, explaining that the matter was urgent because of the Russian action at stimulating the building of low-cost generating plants that would use fuels like natural gas and solar, wind and geothermal power, thus cutting the country's dependence on oil. Hundreds of these plants have been built since the act was passed.

In yesterday's ruling, the Federal commission expressed "grave concern about the need for the added power and contended that the California commission had relied on stale data."

The issue of required contracts has been raised by utilities in other states, including New York and Maine. Utilities like Consolidated Edison and Niagara Mohawk Power have spent hundreds of millions of dollars buying out contracts that they were forced to enter during the late 1960's. While the decision of the Federal commission was limited to California and to the building of new plants, some industry experts said it could set a precedent for the agency to grant relief to utilities in other states.

Vikram S. Budhraja, the vice president for planning and technology at Southern California Edison, estimated that the utility had faced entering contracts that would have been worth about $14 billion from 1997 to 2003 and would have raised the cost of power to customers by about $1 billion. "This will prevent rates from going up further," he said of the decision. "We have more than enough power for the next 10 years."

Jim Brown, a spokesman for the Electric Generation Association, which represents about one-third of the independent power producers, said: "This could inhibit the industry from building new plants. It could make lenders reluctant to invest in new plants."

"This decision adds to the concern of whether the state regulators have the final say," he added. "Now that is much more uncertain."
U.S. -Led Force Off Somalia Set To Aid Pullout

BY DONATELLA LORCH
Special to The New York Times

ABOARD U.S.S. BELLEAU WOOD, off Somalia, Feb. 22—Thousands of troops from seven countries, scores of aircraft and more than 20 ships are poised off the coast of Somalia, part of an American-led operation to help the United Nations pull out its peacekeepers during the first week of March.

Senior military officials here say the show of military might, minutely planned to avoid troop landings on religious holidays or on days when Somalis hold demonstrations, is meant as a limited mission with only peaceful objectives.

But though warring Somali clan leaders told American commanders today that they had no intention of attacking during the evacuation, Lieut. Gen. Anthony Zinni, 9f the Marine, commander of the coalition forces on land, said increasing banditry and shifting political alliances made the situation highly volatile.

"We've brought forces in to face the worst-case threat," General Zinni said at a briefing on the U.S.S. Belleau Wood, just off the coast of Mogadishu, the Somali capital. "The worst case is a deliberate faction-based militia attack, but that is unlikely. One of our concerns is the spillover from inter-clan fighting. They're waving at me when I go ashore now. They'll throw rocks at me tomorrow. It's the Somali way."

By the time American marines, assisted by a small contingent of Italian marines, briefly go ashore, a few but a couple thousand United Nations troops will have left. Already the roughly 4,800 remaining United Nations peacekeepers have withdrawn to the port and airport areas in Mogadishu.

Every effort has been made to avoid confrontation with the Somalis, General Zinni said. There is frequent contact with the faction leaders, in particular with Mohammed Farah Aideid and his main opponent, Ali Mahdi Mohammed. In response to Somali requests, the ships keep as low a visibility as possible on the horizon, and there will be few American ashore until the main contingent arrives for the final pullout.

The American military is distributing leaflets and posters through the Somali police, saying they have no intention of remaining in Somalia. The troops plan to use, if possible nonlethal weapons like sticky foam tear gas and rubber bullets.

The landing is timed so as not to coincide with the Muslim holy day on Friday or with Mr. Aideid's demonstrations on Thursdays and Sundays.
By JANE PEREZ
Special to The New York Times

PRAGUE, Feb. 7 — Acting on a tip from an anonymous female telephone caller, the Prague police swooped down on a smart blue Saab in a crowded shopping street at midnight just before Christmas. As they were told they would, the police found highly enriched uranium casing a back seat in metal cansisters — 2.7 kilograms, or about 6 pounds’ worth.

Since the uranium was seized, Czech investigators and Western officials interviewed have determined that the Prague cache was of 87.7 percent uranium-235 in oxide form, and the smugglers were former nuclear workers who knew what they were handling.

It turned out to be by far the biggest seizure to date of highly enriched uranium in what defense officials say has become a major threat to United States security in the post-cold war era — the illicit trade in radioactive materials from the former Soviet Union and other former Communist countries.

But merely verifying that the uranium was not only the biggest — it was actually the real thing. The most likely scenario is where it came from and who was destined for.

The car carrying three former nuclear workers from the Czech Republic, Belarus and Ukraine, and the gray powder on the back seat, was yet another reminder that much remains to be done to encourage the Russians to improve their nuclear safeguards, nuclear experts said.

“This is the largest confirmed case of highly enriched uranium to come out of the former Soviet Union,” said a Washington official.

“People set up when the document that purported the material was 87.7 percent enriched turned out to be accurate. That’s what got people’s attention.”

The uranium was not quite that serious grade and not sufficient on its own to create a nuclear weapon, the official added.

After preliminary tests, experts said they believed that the high enrichment indicates that the uranium could have come from a either a storage site of the Russian Navy or a fuel fabrication plant in the former Soviet Union. Nuclear submarines in the former Soviet Union use fuel of similar enrichment levels, they said.

Stopping leaks of nuclear material from poorly guarded military and research sites, storages and nuclear plants in the former Soviet Union have become a priority of the Clinton Administration.

“There are 950 sites for enriched uranium and plutonium in the former Soviet Union from the Western borders to the eastern peninsula,” said Mark D. Hibbs, European editor of Nuclear Fuel, a Washington-based specialty publication. Supplies of nuclear material were spread across research institutes, weapons laboratories, assembly plants, power plants, nuclear waste storage sites and naval fuel depots. “The task at hand is which of the 950 inventories holds the 87.7 percent.”

What worries American experts is the possibility of stockpiling amounts of highly enriched uranium like the 2.7 kilograms, either by countries near the nuclear threshold like North Korea or Iraq, or by terrorists.

According to the International Atomic Energy Agency, more than a bomb would require 25 kilograms of the type of enriched uranium found in the car in Prague. Although 87.7 percent enrichment is ideal for a bomb, “if you’re sophisticated enough you could make it detonate at 87.7 percent,” said David R. Kyed, the director of public information at the agency.

Given the lack of information the Russians had about their own inventories of nuclear material, Mr. Hibbs suggested investigators were facing an almost impossible task.

But Czech investigators, proud of having cracked this case — at least in the initial stages — have released some details about the Czech, Jaroslav Vagner, Sr., a former nuclear worker, and the two men with him in his Saab last Dec. 14.

In many ways, Mr. Vagner fits the profile experts have developed of the likely nuclear smuggler: an underpaid Communist scientist seeking vast riches.

It was also telling, several American experts said, that Mr. Vagner was Czech. After the “normalization” of relations with the Soviet Union after 1968, the Czechs were Moscow’s most trusted scientists in the Warsaw bloc, they said. Mr. Vagner made several trips to the former Soviet Union while working at a Czech nuclear plant in the 1980’s, Czech investigators said.

After graduating from the Czech Technical University in Prague in 1963, Mr. Vagner worked for 13 years at the Nuclear Research Institute at Rez, specializing in heavy-water reactors. He worked at the Ministry of Fuels and Energy and during the 1980’s worked at the Dukovany and Temelin nuclear power stations.

Frustrated by poor pay, he left the Temelin nuclear plant and went into a variety of business, the police said. He lived in a municipal apartment block where most people drove cheap Skodas, but Mr. Vagner was conspicuous for his Saab.

Mr. Vagner’s two companions in the car at the time of the seizure were from Belarus and Ukraine, and both were nuclear workers who had come to the Czech Republic last year, the police said.

Like other nuclear smugglers caught in Europe in the last year, the trio were apparently asking exorbitant prices — “several million dollars” — for their uranium, an investigator said. They had apparently been trying to work the uranium in Prague, now a city awash in foreigners, he said.

Czech investigators said they were getting no cooperation from the three suspects now being held in a Prague jail. The suspects have hired lawyers and are not talking.

More clues to the origins of the Prague cache are expected to surface in the next month when the laboratory at the atomic agency in Vienna are expected to have completed their analysis of the uranium. Mr. Kyed said.

The highly radioactive spent fuel rods can be reprocessed, with the plutonium and uranium extracted for reuse in breeder or conventional reactors. Once the uranium and plutonium are extracted, they are vulnerable to theft and use in bombs because the bomb-grade material at some sites that generally have poor security.

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The highly radioactive spent fuel rods can be reprocessed, with the plutonium and uranium extracted for use in energy production or bombs.

A growing fear that terrorists can buy the makings of a nuclear bomb.

Made by Ahmed Tawfik/The New York Times
By Default and Without Debate, Utilities Ready Long-Term Storage of Nuclear Waste

By KEITH SCHNEIDER
Special to The New York Times

COVENTRY, Mich., Feb. 9 — For the foreseeable future, more than 70 communities near nuclear generating plants will become repositories for spent nuclear fuel, the most radioactive of all atomic wastes, without any public hearings or environmental studies of the sites.

Utilities have no choice but to build de facto permanent repositories near their plants, because after decades of searching for a centralized nuclear waste site, the United States is still at least 15 years away from a solution and has nowhere else to store the roughly 30,000 tons that have already accumulated.

In a little-noticed ruling in January, the United States Court of Appeals for the Sixth Circuit in Cincinnati, cleared the way for utilities to store radioactive wastes indefinitely at their nuclear power plants without holding formal public hearings or conducting any environmental assessment. Three weeks later, on Feb. 1, members of the Mesecmar Apache tribe in New Mexico turned down a proposal to build a national high-level nuclear waste storage center on their reservation.

Both supporters and critics of nuclear power agree that two decisions mean that it is now much easier, and even necessary, for utilities to build their own storage sites for atomic wastes. Despite having spent nearly $2 billion studying a potential repository at Yucca Mountain in Nevada, the Department of Energy still does not know if the site is suitable, even if it is, the earliest that a permanent repository could open there would be in the year 2010.

Here at the Palisades Nuclear Plant, an hour southwest of Grand Rapids, nine 16-foot-tall concrete, and steel casks are being erected in a monument to one of the 20th century’s enduring technical and political failures. The casks, each of which holds 30 tons of spent nuclear fuel and costs $500,000, stand side by side on a slab-flat concrete pad a stone’s throw from Lake Michigan. How long the casks and their contents will remain here is anybody’s guess.

This was never envisioned in the 1950’s and early 60’s, when the Government promoted the development of immense electric generating plants powered by atomic energy. Anticipating that the Government would either allow spent fuel to be recycled or would construct a permanent repository, utilities generally built small water pools to store their wastes temporarily.

But the recycling idea was barred in the late 1970’s by President Jimmy Carter, who feared it would produce huge quantities of plutonium capable of being used in nuclear bombs. And efforts over the last four decades to establish Government-owned permanent repositories in Kansas, Washington State, Texas and Nevada have failed.

Now utilities own the nation’s 109 operating reactors and manage several others that have been closed, studying how to move spent nuclear fuel from hundreds of indoor storage pools to outdoor concrete casks. The Nuclear Regulatory Commission has already received applications from utilities in Arkansas, California, Minnesota, North Carolina, Ohio and Pennsylvania for permission to build storage sites like this one, and more applications are expected, commission officials say.

In fact, they have no choice. Roughly 19 percent of the energy generated each year by the plant’s owner, Consumers Power, a subsidiary of the CMS Energy Company, is produced by the Palisades reactor. Nationally, about 21 percent of all electricity is generated by nuclear power.

As long as the reactors operate they will produce high-level radioactive waste, adding to the 30,000 tons already accumulated since the 1960’s, according to the Department of Energy. By the second decade of the 21st century there will be $5,000 more tons of spent nuclear fuel, department officials estimate.

"If we are out of space in our pool and we needed at several other options for storing wastes," said Mark Savage, the Palisades spokesman. "Dry fuel storage in casks is the option we chose, and it’s the safest and simplest component we have at this plant. There are no moving parts and nothing to break. It sits on a pad and releases heat."

The cask design chosen by Consumers Power is essentially a heat shield steel barrel 1 inch thick inside a reinforced concrete shell that is 29 inches thick. During loading, the steel barrel is lowered into the storage pool, bundles of spent fuel rods are placed in the barrel, a thin top is welded in place and the entire assembly is then lifted out of the pool and aligned into the shell. The 139 tons of steel and concrete cannot contain all the radiation; a person pulling the cask for an hour would receive half the dose of a chest X-ray.

Four other nuclear power plants in Maryland, South Carolina and Virginia already store their wastes above ground in casks. What distinguishes the Palisades project from the others is the relative ease with which Consumers Power established it. The other sites had all required extensive environmental evaluations and full public hearings.

In 1982, as part of the Nuclear Waste Policy Act, Congress approved the impending storage pool problem and encouraged utilities to build alternate nuclear waste sites. In 1980 the Bush Administration put the policy into effect by writing a rule that said the new storage sites could be built without public hearings or an environmental study, as long as the utilities used casks that had been certified and approved by the Nuclear Regulatory Commission.

Two years ago, immediately after the commission approved the Palisades cask design, a coalition of anti-nuclear groups and Frank Kelley, the Michigan Attorney General, sued the Government. Mr. Kelley argued that cask storage represented a potentially dangerous change in the way the federal government was managing atomic waste that inserted much more public involvement and debate.

But the appeals court, in a decision last October before the appeals court, Mr. Kelley argued with no national repository in sight, power companies are filling the void.

By John F. Coates, the nuclear commission's solicitor, "It became apparent that dry cask storage was the safer alternative."

On Oct. 31, a three-judge panel of the Sixth Circuit unanimously ruled that the Government's action to encourage construction of alternate ground nuclear waste storage sites was valid and lawful. Mr. Kelley said that he had not decided whether to appeal the case to the Supreme Court.

Mrs. Sinclair, the head of Don't Waste Michigan, an anti-nuclear organization, said her group would appeal to the nuclear commission to overturn the 1980 rule.

"The issue is whether the public has the right to be involved in how we are going to dispose of these poisons," Mrs. Sinclair said. "It's incredible. The Government now has a procedure for building these waste sites in which they don't have to notify the public, local authorities or anyone else. They can just build them and let them stand alone."

Mr. Kelley produced a memorandum from Dr. Ross B. Landisman, an N.R.C. soils expert, warning Ivan Selin, the commission's chairman, that the Palisades waste site was situated amid unstable sand dunes, was within 150 yards of Lake Michigan and was vulnerable to earthquakes. He urged the agency to conduct a full environmental assessment to avoid what he said could be "catastrophic consequences."

Then the regulatory agency's heavy equipment was barred and efforts over the last four decades to establish Government-owned permanent repositories in Kansas, Washington State, Texas and Nevada have failed.

Now utilities own the nation's 109 operating reactors and manage several others that have been closed, studying how to move spent nuclear fuel from hundreds of indoor storage pools to outdoor concrete casks. The Nuclear Regulatory Commission has already received applications from utilities in Arkansas, California, Minnesota, North Carolina, Ohio and Pennsylvania for permission to build storage sites like this one, and more applications are expected, commission officials say.

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