

JEL/DRAFT  
10/6/77

TO: Frank Press  
Jim Jura (?)  
Others (?)

FROM: DOC

SUBJECT:

We have serious reservations concerning the draft memorandum and issue paper sent to us for comment, and an alternative draft is enclosed. It is important that any paper going to the President contain a convincing discussion of the merits of the H.R. 6249 bill approach over the current situation. We believe it important that the paper expose the weaknesses of the "give away" and other emotional and superficially appealing arguments of the opponents of the H.R. 6249 approach. We do not think the proposed paper really addresses and demonstrates the fallacies of the "give away" arguments. Indeed, it even has a certain tone of concession in this area. It seems to say these arguments are valid but are counterbalanced by other considerations.

We also question the inclusion (as "options" of approaches) that are not real options in the context of a single, uniform, legislative approach. For example, it is inconceivable that the Administration would support a title-in-the-government bill. So why discuss it as an option. The real issue is whether the <sup>H.R. 6249</sup> ~~Thornton~~ approach is better than the current situation which is essentially one of ~~various~~ variations on title-in-the-contractor or deferred determination approaches as provided for in the President's policy and various statutes. In short, the real alternatives are the H.R. 6249 approach or the status quo.

We also are concerned with the inclusion of certain statements or ideas in the paper which might lead to marginal notations by the President which

could be damaging to the whole effort. For example, a statement that the recent ERDA legislation is an "enlightened model" might lead the President to question why we are not pushing for that. In point of fact, the AEC/ERDA type legislation is the very thing this bill is attempting to eliminate. There would be virtually no support among the R&D agencies, industry, or the universities for ERDA-type legislation. The draft issue paper also makes mention of the possibility of royalty-sharing. Why this was included is not understood. It was agreed by Mr. Baruch after his meeting with the Subcommittee on Intellectual Property that this "option" would be dropped. His suggestion of this option at the meeting was greeted by nearly unanimous opposition, and its inclusion would lead to withdrawal of support by many agencies, the universities, and probably industry. Mention of this option in the issue paper might lead the President to scribble a note indicating support for this which could inadvertently result in the loss of support for this bill.