



OFFICE OF THE
SECRETARY

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

PDR 016

June 12, 1985

Mrs. Marjorie Aamodt
200 North Church Street, Oak 203
Parkesburg, Pennsylvania 19365

Ref: 85-A-18C (FOIA-85-8)

Dear Mrs. Aamodt:

This letter responds to your undated Freedom of Information Act Appeal (FOIA-85-A-18C) for documents denied you in our agency response of March 27, 1985.

After reviewing the fourteen documents which are the subject of this appeal, the Commission has decided to release two of those documents: SECY-84-322, dated 8/13/84; and the 8/17/84 memorandum from M. Malsch, OGC to S. Chilk, SECY. The released documents are enclosed and will be placed in the PDR.

The only enclosure to these released documents which has not already been served on you is the draft order which was identified as Enclosure 1 to SECY-84-322 (item 1 on the attached Appendix). This draft order contains the predecisional legal analysis, advice and recommendations of the Office of the General Counsel. Documents 2 and 3 in the attached Appendix similarly contain predecisional legal analysis, advice and recommendations of the General Counsel's Office. The Commission has decided to continue to withhold these documents under Exemption 5 for the reasons set forth in the initial response.

Documents 4-13 in the attached Appendix all contain the predecisional views of the Commission, and the Commission has decided to continue to withhold these documents under the deliberative process privilege of Exemption 5. Document 4 is Commissioner Asselstine's copy of the draft order described above, with his handwritten notes on it. Documents 5 through 10 are vote sheets of several Commissioners on SECY-84-322 and SECY-84-322A. These vote sheets do not represent the final action on the part of any Commissioner, and release of these documents could inhibit future votes. Release could also tend to confuse the public, as the reasons and rationale reflected on these vote sheets do not necessarily reflect the reasons and rationale which ultimately formed the basis for final agency action on this particular matter.

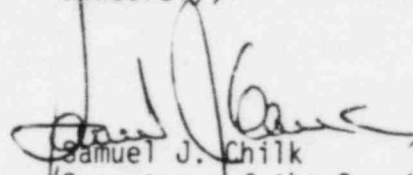
Documents 11 through 13 reflect the predecisional exchange of ideas, concerns and opinions among the Commissioners themselves, and are clearly an essential part of the open and frank exchange of ideas necessary in making sound judgments. Release of these documents could inhibit future deliberations of a similar nature.

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None of the withheld documents contain reasonably segregable factual portions, and the Commission has determined that these documents should continue to be withheld in their entirety pursuant to Exemption 5 of the FOIA, 5 U.S.C. 552(b)(5) and the Commission's regulations 10 CFR 9.5(a)(5).

This letter represents final agency action on your undated FOIA appeal (85-A-18C). Judicial review of this decision is available in a federal district court in the district in which you reside or have your principal place of business, or in the District of Columbia.

Sincerely,

A handwritten signature in dark ink, appearing to read "Samuel J. Chilk", written over a horizontal line.

Samuel J. Chilk
Secretary of the Commission

Enclosures:

1. Appendix
2. Released Documents

APPENDIXWithheld Documents-Ex. 5

1. Undated - Draft Order - Enclosure 1 to SECY-84-322. (4 pages)
2. 10/5/84 - Memo (SECY-84-322A) from M. Malsch, Deputy General Counsel, and J. Zerbe, Director, Office of Policy Evaluation, to the Commissioners, subject: Aamodt Motion for Investigation of Radioactive Releases During the TMI-2 Accident. (4 pages)
3. Undated - Draft memorandum from S. Chilk, Secretary, to W. Dircks, EDO, re: Health effects resulting from TMI-2 accident. (2 pages) [Note: This document is Enclosure 3 to SECY-84-322A]
4. Undated - Draft Commission Order with handwritten notes from Commissioner Asselstine. (5 pages)
5. 8/20/84 - Vote Sheet of Commissioner Zech on SECY-84-322 - Aamodt Motion for Investigation of Radioactive Releases During the TMI-2 Accident. (1 page)
6. 8/28/84 - Vote Sheet from Commissioner Roberts on SECY-84-322 - Aamodt Motion for Investigation of Radioactive Releases During the TMI-2 Accident. (1 page)
7. 10/21/84 - Vote Sheet of Chairman Palladino on SECY-84-322A - Aamodt Motion of Investigation of Radioactive Releases During the TMI-2 Accident. (1 page)
8. 10/23/84 - Vote Sheet of Commissioner Roberts on SECY-84-322A - Aamodt Motion for Investigation of Radioactive Releases During the TMI-2 Accident. (1 page)
9. 10/24/84 - Vote Sheet of Commissioner Zech on SECY-84-322A - Aamodt Motion for Investigation of Radioactive Releases During the TMI-2 Accident. (1 page)
10. 10/30/84 - Vote Sheet of Commissioner Bernthal on SECY-84-322A - Aamodt Motion for Investigation of Radioactive Releases During the TIM-2 Accident. (2 pages)
11. 11/14/84 - Memo from Commissioner Bernthal to Commissioners, "Aamodt Motion and Commission Order (SECY-84-322). (1 page)

12. 11/26/84 - Memo from Chairman Palladino to Commissioner Bernthal, "SECY-84-322 - Aamodt Motion for Investigation of Radioactive Releases During the TMI-2 Accident. (1 page)
13. 12/13/84 - Affirmation Memo with attached draft Order from S.J. Chilk, "SECY-84-322/322A - Aamodt Motion for Investigation of Radioactive Releases During the TMI-2 Accident." (8 pages.)