



OFFICE OF THE
SECRETARY

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

April 21, 1982

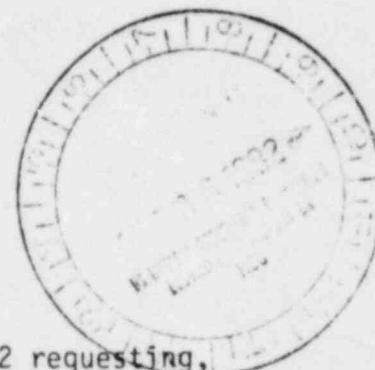
PBIL-016

cross-reference

50-275/323

Mr. David E. Hoffman
Correspondent
Knight-Ridder Newspapers
Washington Bureau
1195 National Press Building
Washington, D.C. 20045

Re: FOIA-82-159



Dear Mr. Hoffman:

This is in response to your letter of March 19, 1982 requesting, pursuant to the Freedom of Information Act (FOIA), access to transcripts of the Commission's closed meetings of November 16, 18, and 19, 1981 regarding the suspension of the fuel-loading and low power testing license for Diablo Canyon Nuclear Power Plant, Unit 1.

We previously denied you access to these transcripts because they reflected sensitive Commission discussions of matters subject to adjudication and possible regulatory action. Your letter cites the release of the transcripts of the Commission's January 21, 1982 meeting regarding an NRC staff investigative report concerning matters related to the ongoing Diablo Canyon seismic reverification program as the basis for your belief that the previously withheld transcripts should now be released. Though both discussions related to Diablo Canyon, the subject and nature of the deliberations were quite different. The November meetings resulted in the decision to suspend PG&E's license to load fuel and conduct low power tests. The January meeting concerned a different matter -- the investigation of possible misstatements made by representatives of PG&E regarding the development of the seismic reverification program. The sensitivity of the November meetings where the Commission was acting in its quasi-judicial capacity dictates holding the transcripts in confidence to protect the uninhibited exchange of ideas and opinions essential to the deliberative process. This decision is not affected by release of the January transcript.

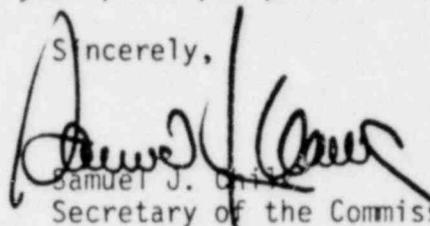
We have again reviewed the transcripts of the November meetings under the Government in the Sunshine Act (see 5 U.S.C. 552b(k)) and determined that they are exempt in their entirety from mandatory public disclosure. The discussions engaged in during these meetings focused upon, among other things, possible regulatory action by the Commission regarding Diablo Canyon's operating license. Sensitive Commission deliberations of this nature benefit from the uninhibited exchange of ideas and opinions. For this reason and because the subject of the discussions relates to ongoing litigation and adjudication, the Commission has determined that the public interest does not require release of these

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transcripts. The reasons for the order suspending PG&E's license to load fuel and conduct low power testing at Diablo Canyon are contained in the order itself.

Accordingly, the transcripts of the Commission meetings of November 16, 18, and 19, 1981 are being withheld in their entirety pursuant to exemptions 5 and 10 of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(5) and (10), and exemption 3 of the Freedom of Information Act, 5 U.S.C. 552(b)(3). Because the Commission itself addressed your request, an FOIA appeal would be redundant. Therefore, please consider this the final agency action on your request. I am the agency official responsible for the denial. Pursuant to the FOIA, 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,



Samuel J. O'Neil
Secretary of the Commission