



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

August 16, 1982

OFFICE OF THE
SECRETARY

Ms. Ellyn R. Weiss
Harmon & Weiss
1725 I Street, N.W.
Suite 506
Washington, D.C. 20006

IN RESPONSE REFER
TO 82-A-13(82-236)

Dear Ms. Weiss:

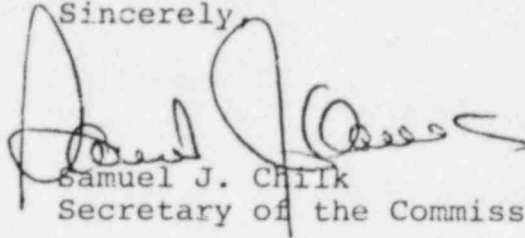
This is in response to your Freedom of Information Act (FOIA) appeal, on behalf of Mr. Steven C. Sholly, of the decision to withhold the February 25, 1981 memorandum from J. A. Martin, Jr. to M. Chopko commenting on the brief dealing with the 15-minute warning rule. The Commission has determined that this document is exempt from mandatory public release and that its release would be contrary to the public interest. Your appeal is accordingly denied.

This memorandum was written by Mr. Martin in anticipation of oral argument in Duke Power Co. v. NRC (D.C. Cir. No. 80-2253). It contains the advice, opinions and analysis of Mr. Martin on the issues in that case, e.g., considerations if there were no 15-minute rule, and was prepared for the guidance of the NRC attorney handling Duke Power. It thus clearly constitutes attorney work-product, see, e.g., Exxon Corp. v. Federal Trade Commission, 663 F.2d 120 (D.C. Cir. 1980), and is withholdable under Exemption 5 of the FOIA and the Commission's regulations. 10 CFR 9.5(a)(5). Furthermore, this document contains no segregable factual material. Any factual statements are inextricably intertwined with exempt portions so that either the factual material would be unintelligible after the exempt material is deleted or release of the factual material would compromise the remainder of the document. Accordingly, pursuant to 10 CFR 9.15(a), the Commission has determined that this memorandum should continue to be withheld in its entirety.

This letter represents the final agency action on your FOIA appeal regarding the February 25, 1981 memo from James A. Martin, Jr., to M. Chopko. Judicial review of the decision

is available in a federal district court in the district in which Mr. Sholly resides or has his principal place of business, or in the District of Columbia.

Sincerely,

A handwritten signature in black ink, appearing to read "Samuel J. Chilk". The signature is fluid and cursive, with a long horizontal stroke at the end.

Samuel J. Chilk
Secretary of the Commission

Union of
**CONCERNED
SCIENTISTS**

FRANK KARAS

82-236

17 May 1982

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RESPOND DATE

Mr. James M. Felton, Director
Division of Rules and Records
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Felton:

Pursuant to the Freedom of Information Act (FOIA), please place copies of the following documents in the NRC's Public Document Room at 1717 H Street, Washington, D.C.:

- A. All documents related to evacuation time estimate studies prepared by Parsons, Brinckerhoff, Quade & Douglas or CONSAD Research Corporation. Such documents include, but are not necessarily limited to, the original evacuation time estimate studies themselves, evaluations of the studies by the NRC, by NRC contractors, or by any other person or entity, comments on the evacuation time estimates by any person or entity, and calculations or studies performed to confirm the accuracy of the results of the original evacuation time estimates, whether these calculations or studies were performed by NRC, its consultants, or other persons or entities.
- B. All documents discussing or related to an analysis of evacuation time estimates for the Indian Point Nuclear Plant Emergency Planning Zone using the CLEAR code or any other form of analysis, and any comments on that evaluation or analysis.
- C. All documents providing meteorological information related to the Indian Point Nuclear Plant, including wind roses, wind direction and persistence data, precipitation frequency and persistence data, precipitation amount data, and dominant wind trajectories.
- D. All documents discussing the use of evacuation time estimate studies for any purpose by either the NRC, utilities, and/or local and state emergency planning personnel.
- E. All documents discussing the establishment and/or use of Emergency Action Level (EAL) criteria at nuclear power plants, including regulatory criteria, evaluation criteria, standard lists of events to

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17 May 1982

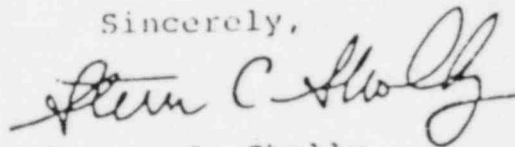
be considered in establishing EALs, and evaluations of the adequacy of EALs for any nuclear power plant.

- F. All documents discussing or evaluating work, publications, testimony, or other presentations on emergency planning by Dr. Donald Ziegler, Dr. Stanley Brunn, Dr. James Johnson, Dr. Jan Beyea, or Dr. Frank von Hippel.
- G. A copy of Meteorology and Atomic Energy by Slade, as well as any draft or final version(s) of any update or revision to this document, including comments on such draft or final version(s).
- H. All documents discussing the use of ad hoc respiratory protection during radiological emergencies, including copies of any contracts to evaluate such respiratory protection and any documents generated as a result of such contracts.
- I. All correspondence to or from or routed to or from NRC personnel in Region I to NRC headquarters, or from NRC personnel in Region I to FEMA, or from NRC personnel in NRC headquarters to FEMA, or from FEMA to NRC personnel in either Region I or headquarters, which discusses in any way emergency planning at Indian Point. Such correspondence includes any documents related to the plans of Consolidated Edison Company, PASNY, the counties of Rockland, Putnam, Westchester, and Orange, and the State of New York or any of its agencies.
- J. All evaluations of the consequences of accidents at Indian Point Units 2 and 3 using the CRAC or CRAC2 codes or any versions thereof.

In all cases, provide the documents requested as well as any and all attachments, appendices, or any other documents sent originally with the requested documents.

Should you or your staff have questions regarding this request, please contact me after May 24, 1982, at 202-296-5600. In responding to this request, reasonable extensions will be granted; however, these materials are needed as soon as possible. Therefore, it is requested that you provide whatever documents are available when the statutory time limit for your response has expired, and contact me regarding the need for extensions.

Sincerely,



Steven C. Sholly
Technical Research Assistant

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



June 22, 1982

Mr. Steven Sholly
Union of Concerned Scientists
1346 Connecticut Avenue, N.W.
Suite 1105
Washington, DC 20036

IN RESPONSE REFER
TO FOIA-82-236

Dear Mr. Sholly:

This is in further response to your letter dated May 17, 1982, in which you requested, pursuant to the Freedom of Information Act, that ten categories of documents, as described in your letter, be placed in the NRC Public Document Room (NRC PDR) located at 1717 H Street, N.W., Washington, D.C.

In further response to your request, document (a) A Note, undated, to B. Grimes from H. J. McGurran, Subject: Preservation of Documents Concerning the Indian Point Emergency Planning Exercise Held On March 3, 1982, (1 page), is released in its entirety, and document (b) [A Memorandum dated February 25, 1981 to M. Chopko, from J. A. Martin, Jr., Subject: Comments On Your Brief, Re: 15 Minute Warning (4 pages), contains information which constitutes a legal work product, and it is being withheld from public disclosure pursuant to Exemption (5) of the Freedom of Information Act (5 U.S.C. 552(b)(5)) and 10 CFR 9.5(a)(5).]

Pursuant to 10 CFR 9.15 of the Commission's regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The person responsible for this denial is Mr. Leonard Bickwit, General Counsel of the Commission.

This denial may be appealed to the Commission within 30 days from the receipt of this letter. Any such appeal must be in writing, addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

Further, we offer the following comments on specific lettered paragraphs contained in your request:

- A. See, at least, documents A-9 and A-16, as well as NUREG/CR-1856, Volumes 1 and 2 on file in the NRC PDR.
- B. See, at least, Appendix A documents A-2 and A-63, as well as NUREG/CR-1856 on file in the NRC PDR.

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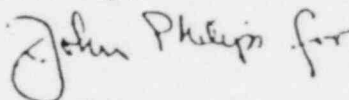
- C. See, at least, Appendix A document A-19, as well as Section 6.3 of the FSAR on file in the NRC PDR. Meteorological data for the Indian Point Site is contained on magnetic tape used for CRAC analysis provided by the licensee's contractors. These data can be made available for inspection by appointment only by telephoning Mr. Frank W. Karas at (301)492-8133.
- D. See, at least, Appendix A document A-1, A-3, A-17, A-68, A-78, as well as the Emergency Plans, and the Indian Point Probabilistic Safety Study which are on file in the NRC PDR.
- E. See, at least, Appendix A documents A-14, A-15, A-73, A-75, A-76, and A-77, as well as the Emergency Plan, and NUREG-610, NUREG-654, and NUREG-818 on file in the NRC PDR.
- F. No specific comments to offer.
- G. This published document, Meteorology and Atomic Energy (1968) by Slade, TID-24190, may be obtained from the National Technical Information Service, Springfield, Virginia 22161 at its published price.
- H. See, at least, Appendix A documents A-26, A-33, A-43, and A-79 on file in the NRC PDR.
- I. This information is available from the PDR and L'DR under Emergency Preparedness.
- J. Concerning computer-printouts of CRAC runs for Indian Point Units 2 & 3, a voluminous output of several feet thick can be made available for inspection by appointment only by telephoning Mr. Frank W. Karas at (301)492-8133.

Concerning microfiche of CRAC runs completed or aborted, the NRC's records are not yet sorted or identified, and they can be made available for inspection by appointment only by telephoning Mr. Frank W. Karas at (301)492-8133.

Other documents which fall within the scope of your request relate to the TMI Re-start proceeding, and Diablo Canyon. For the Re-start proceeding, all documents are either already in your hands or are in the NRC PDR. A listing of those documents is enclosed as Appendix B.

This completes action on your request.

Sincerely,



J. M. Felton, Director
Division of Rules and Records
Office of Administration

Enclosure: Appendix B