



OFFICE OF THE  
SECRETARY

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

PDR-016

December 20, 1983

Ms. Ann C. Yahner, Attorney  
Kohn, Milstein, Cohen & Hansfeld  
1776 K Street, N.W.  
Washington, D.C. 20006

IN RESPONSE REFER  
TO 83-A-27(83-320)

Dear Ms. Yahner:

This is in response to your October 3, 1983 Freedom of Information Act (FOIA) appeal of the decision in FOIA-83-320 to withhold several transcripts of Nuclear Regulatory Commission ("NRC" or "Commission") meetings held between August 21, 1981 and May 10, 1983 at which the Commission discussed the restart of Three Mile Island, Unit 1 (TMI-1). These transcripts are listed in the Appendix to this letter. The Commission has determined that except for portions of the first part of transcript 15, these transcripts are exempt from mandatory public release and that their release would be contrary to the public interest. Accordingly, your appeal is denied in part. A copy of the released transcript is enclosed.

Transcripts 1 through 4, 9 and 11 through 14 and the withheld parts of transcripts 7, 8, 10 and 15 (including the discussion in transcript 15 from page 14, line 7 to page 16, line 25 that originally was withheld under Exemptions 5 and 7 of the Government in the Sunshine Act) deal primarily with the Commission's pending decision on whether, based on the Licensing Board's decisions, to lift the immediate effectiveness of the orders shutting down TMI-1. These transcripts contain discussions about the substantive matters at issue in this adjudication and about scheduling and procedural matters concerning the adjudication. These Commission discussions occurred as part of the formal agency adjudication regarding TMI-1 restart. Thus, they are withholdable under Exemption 10 of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(10) and the Commission's regulation, 10 C.F.R. 9.104(a)(10).

The proceeding in which these discussions occur is an enforcement proceeding. Accordingly, the transcripts of these discussions are also withholdable under Exemption 5 of the Government in the Sunshine Act, 5 U.S.C. 552b(c)(5) and the Commission's regulations, 10 C.F.R. 9.104(a)(5).

Release of these transcripts would inhibit future candid discussions that are an ordinary and essential part of the decisional process, and could prejudice the Commission's litigative position should litigation arise from the restart proceedings.

Accordingly, pursuant to 10 C.F.R. 9.15(a), the NRC has determined that the withheld material is exempt from public disclosure and that such

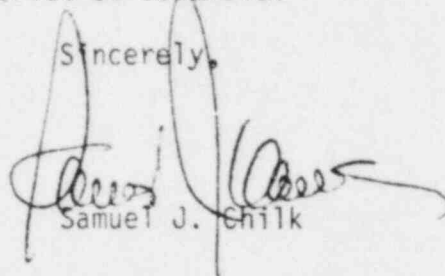
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disclosure would be contrary to the public interest. Other than the enclosed part of transcript 15, therefore, the NRC has determined that the transcripts should continue to be withheld.

The investigation that provided the basis for withholding a portion of transcript 15 has been completed. Thus, the portions of that transcript from page 6, line 20 to page 14, line 6 and from page 17, line 1 to page 17, line 20 that originally were withheld under Exemptions 5 and 7 of the Sunshine Act are now being released.

This letter represents the final agency action on your FOIA appeal regarding the transcripts of TMI-1 restart meetings. Judicial review of the decision is available in a federal district court in the district in which you reside, or in the District of Columbia.

Sincerely,



Samuel J. Chilk

Enclosure:  
Released Transcript

APPENDIX

LIST OF CLOSED COMMISSION MEETINGS

TMI-1 RESTART

	<u>Date</u>	<u>Title</u>
1.	10/6/81	TMI-1 Restart
2.	11/6/81	TMI-1 Restart
3.	12/9/81	Discussion of Scheduling Matters Regarding TMI-1 Restart Proceeding
4.	12/21/81	Briefing on Contested Matters in TMI-1 Restart Proceedings
5.	12/22/81	Affirmation/Discussion Session TMI-1 Restart Order
6.	1/20/82	Discussion of TMI-1 Restart Court Litigation
7.	3/10/82	Discussion of TMI Restart Proceeding
8.	9/10/82	Discussion of Contested Issues on TMI-1 Restart Proceeding
9.	12/1/82	Discussion of Immediate Effectiveness Issues in TMI-1 Restart Proceeding
10.	12/6/82	Discussion of Immediate Effectiveness Issues in TMI-1 Restart Proceeding
11.	12/9/82	Discussion of Immediate Effectiveness Issues in TMI-1 Restart Proceeding
12.	12/10/82	Discussion of Immediate Effectiveness Issues in TMI-1 Restart Proceeding
13.	12/17/82	Discussion of Immediate Effectiveness Issues in TMI-1 Restart Proceeding
14.	1/3/82	Discussion of Immediate Effectiveness Issues in TMI-1 Restart Proceeding
15.	4/15/83	Discussion of Steps to Decision in TMI-1 Restart Proceeding