



## ADJUDICATORY ISSUE

November 2, 1983

(Affirmation)

SECY-83-447

COMMISSION LEVEL  
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For: The Commissioners  
From: Martin G. Malsch  
Deputy General Counsel  
Subject: COMMISSION REVIEW OF ALAB-714  
Facility: Comanche Peak Steam Electric Station  
Purpose: E S

Discussion: On June 30, 1983 the Commission granted staff's petition for review of ALAB-714 on the issue of interviewee confidentiality, but deferred action on the review proceeding pending further development. CLI-83-18, 17 NRC (1983). [OGC has reviewed recent developments and, for the reasons stated below, recommends that EX-5

In ALAB-714, the Appeal Board sustained the Licensing Board's order requiring the staff to reveal the identities of its interviewees in an investigation

Contact:  
Sheldon L. Trubatch, GC  
X-43224

9404010265 930608  
PDR FOIA  
OILINSK92-436 PDR

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Act, exemptions 5  
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into the alleged improper firing of a quality control inspector.<sup>1</sup>

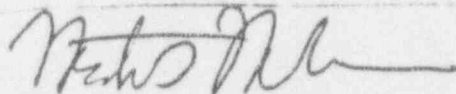
Since the issuance of CLI-83-18, which took review of ALAB-714, the Comanche Peak Licensing Board has informed the Commission that the issue of IE interviewees' identities will not be pursued. The Licensing Board has also concluded that part of the proceeding involving the alleged improper firing giving rise to the IE investigation at issue in ALAB-714. LBP-83-84, 17 NRC \_\_\_\_ (1983). Accordingly, the issue of interviewees' identities is no longer alive in this proceeding.<sup>2</sup>

For this reason, OGC recommends that

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<sup>1</sup>The factual background of this matter is discussed in SECY-83-155.

<sup>2</sup>On September 13, 1983 the Commission received the Report of the Advisory Committee for Review of Investigation Policy on Rights of Licensee Employees Under Investigation ("Report"). The answers to question 4 address interviewee confidentiality. Those answers do not resolve conclusively the issue in this proceeding, i.e. how to treat requests for confidentiality solicited from the interviewees by the staff after the interviewees made their statements.



Martin G. Malsch  
Deputy General Counsel

Attachment:  
Order

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Friday, November 18, 1983.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Thursday, November 10, 1983, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is tentatively scheduled for affirmation at an Open Meeting during the Week of November 21, 1983. Please refer to the appropriate Weekly Commission Schedule, when published, for a specific date and time.

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