

GOVERNMENT ACCOUNTABILITY PROJECT

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March 19, 1986

Victor Stello
Executive Director for Operations
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

APPEAL OF INITIAL FOIA DECISION

86-A-38E(85-614)

APPEAL OF FOIA # 85-614 Rec'd 3-25-86

Dear Mr. Stello:

This is an appeal, pursuant to subsection (a)(6) of the Freedom of Information Act as amended (5 U.S.C. 552), of the Commission's actual denial of access to records requested by the Government Accountability Project (GAP) regarding the Comanche Peak nuclear power plant.

On August 29, 1985, GAP requested records relating to the Staff's determination of Applicant's potential material false statement on U-Bolt sample (BN-85-077 issued August 20, 1985), including any OI investigations of the issue.

By letter dated October 1, 1985, J.M. Felton, Director of the Division of Rules and Records, informed us of one document being released which was responsive to our request. That letter also informed us of other records available in the Comanche Peak hearing section of the PDR.

On March 4, 1986 we wrote Donnie Grimsley, Director of the Division of Rules and Records, requesting an index of the documents available in the Comanche Peak hearing section of the PDR which were responsive to our request.

By letter dated March 7, 1986 Mr. Grimsley advised us of 42 documents being released to the PDR and of four documents containing predecisional advice, opinions and recommendations which were being withheld in their entirety pursuant to FOIA Exemption 5 because their release would tend to inhibit the open and frank exchange of ideas essential to the deliberative process. Release of these documents was denied by Mr. Grimsley and Mr. James Taylor.

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We believe we are entitled to access to the withheld documents. At a minimum we believe there must be reasonably segregable portions of the records which are releasable.

We expect your response within 20 days of your receipt of this appeal so that we can determine whether to pursue this matter in court.

Thank you for your attention to this appeal.

Sincerely,

Billie Pirner Garde
Billie Pirner Garde
Director, Environmental
Whistleblower Clinic