

**GOVERNMENT ACCOUNTABILITY PROJECT**

1555 Connecticut Avenue, N.W., Suite 202  
Washington, D.C. 20036

(202) 232-8550

May 2, 1985

APPEAL OF INITIAL FOIA DECISION

U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: FOIA-84-876

APPEAL FROM FINAL AGENCY FOIA DECISION

FOIA-85-A-19 **4C**  
(84-876)  
rec'd 5/3/85


To Whom It May Concern:

This is an appeal pursuant to subsection (a)(6) of the Freedom of Information Act (FOIA) as amended, 5 U.S.C. § 552. By letter dated November 20, 1984, the Government Accountability Project (GAP) requested documents relating to:

Dobie Hatley and her allegations concerning Comanche Peak, and Brown & Root.

In a letter dated April 3, 1985, M.R.J.M. Feltos was withholding in their entirety 20 categories of documents identified in Appendix B pursuant to exemptions 7(A), 5, 6, and 7(C). We are appealing the withholding of these documents. A legal memorandum outlining our position on the withholding of these documents is forthcoming.

Sincerely,

  
Steve Kohn  
Clinical Director

SK:ks

# GOVERNMENT ACCOUNTABILITY PROJECT

1555 Connecticut Avenue, N.W., Suite 202  
Washington, D.C. 20036

(202) 232-8550

November 20, 1984

Director  
Office of Administration  
Nuclear Regulatory Commission  
Washington, DC 20555

FREEDOM OF INFORMATION  
ACT REQUEST

FOIA-84-P76

Rec'd 11-26-84

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Government Accountability Project (GAP), requests copies of any and all agency records and information, including but not limited to notes, letters, memoranda, drafts, minutes, diaries, logs, calendars, tapes, transcripts, summaries, interview reports, procedures, instructions, engineering analyses, drawings, files, graphs, charts, maps, photographs, agreements, handwritten notes, studies, data sheets, notebooks, books, telephone messages, computations, voice recordings, computer run-offs, any other data compilations, interim and/or final reports, status reports, and any and all other records relevant to and/or generated in connection with: Dobie Hatley and her allegations concerning Comanche Peak and her employment discrimination case against Brown & Root under 42 U.S.C. 5851.

This includes, but is not limited to:

1. Dobie Hatley's substantive allegations about problems at Comanche Peak;
2. All files concerning Hatley's substantive allegations and 42 U.S.C. 5851 complaint in the possession of Richard Denise and Paul Chuck;
3. Copies of the actual tape recordings and transcripts made of said recordings, of all interviews conducted by Richard Denise and or Paul Chuck concerning the Hatley 42 U.S.C. 5851 complaint and her substantive quality control/health and safety allegations. This should include:
  - a) Interviews made with employer or former employer of Brown & Root;
  - b) Interviews conducted with Dobie Hatley on February 8, 1984 and in May-June 1984;
4. All reports, findings, letters, correspondence, agency records, etc. made by Richard Denise and Paul Chuck concerning the Dobie Hatley case and her allegations;
5. All files, records, letters, agency records, etc. concerning Dobie Hatley's 42 U.S.C. 5851 complaint against Brown & Root.

GAP requests that fees be waived, because "finding the information can be considered as primarily benefitting the general public," 5 U.S.C. 552(a)(4)(a). GAP is a non-profit, nonpartisan public interest organization concerned with

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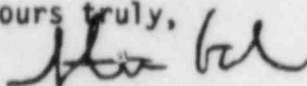
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honest and open government.

For any documents or portions that you deny due to a specific FOIA exemption, please provide an index itemizing and describing the documents or portions of documents withheld. The index should provide a detailed justification of your grounds for claiming each exemption, explaining why each exemption is relevant to the document or portion of the document withheld. This index is required under Vaughn v. Rosen (1), 484 F.2d 820 (D.C. Cir. 1973), cert. denied, 415 U.S. 977 (1974).

We look forward to hearing from you within 10 days as the law stipulates.

Yours truly,



Stephen Kohn  
Clinical Director

Kendra Morris  
Staff Associate



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

APR 03 1985

Mr. Stephen Kohn  
Clinical Director  
Government Accountability Project  
1555 Connecticut Avenue, NW  
Suite 202  
Washington, DC 20036

IN RESPONSE REFER  
TO FOIA-84-876

Dear Mr. Kohn:

This is in further response to your letter dated November 20, 1984, in which you requested, pursuant to the Freedom of Information Act (FOIA), documents concerning Dobie Hatley and her allegations concerning Comanche Peak and her employment discrimination case against Brown & Root.

The documents listed on the enclosed Appendix B are being withheld in their entirety pursuant to Exemption (7)(A) of the FOIA (5 U.S.C. 552(b)(7)(A)) and 10 CFR 9.5(a)(7)(i) of the Commission's regulations because disclosure of these documents would interfere with an ongoing enforcement proceeding. Disclosure of this information could allow those being investigated to learn the scope, direction, and focus of investigatory efforts, and thus could possibly allow them to take action to shield potential wrongdoing or a violation of NRC requirements from investigators.

In addition, documents 4 and 5 are being withheld from public disclosure pursuant to Exemption (5) of the FOIA (5 U.S.C. 552(b)(5)) and 10 CFR 9.5(a)(5) of the Commission's regulations. These documents are drafts containing preliminary advice, opinions, and recommendations of members of a Field Office to the Director, Office of Investigations. Disclosure would inhibit the frank and candid exchange of communications in future deliberations and thus would not be in the public interest.

In addition, documents 2, 8, 10, 13, 14, 15, 17, 18, 19, and 20 contain information, the disclosure of which could cause a clearly unwarranted invasion of the personal privacy of several individuals. This information is being withheld from public disclosure pursuant to Exemptions (6) and (7)(C) of the FOIA (5 U.S.C. 552(b)(6) and (7)(C)) and 10 CFR 9.5(a)(6) and (7)(iii) of the Commission's regulations.

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. Ben B. Hayes, Director, Office of Investigations.

85-0615-0255 PDR

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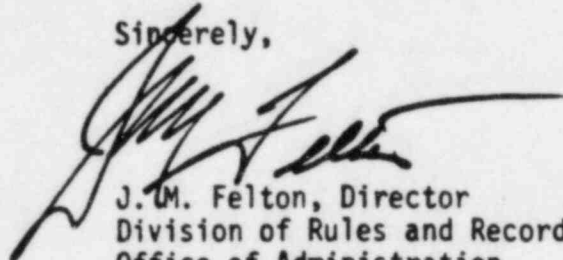
Mr. Stephen Kohn

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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, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision."

This completes action on your request.

Sincerely,

A handwritten signature in dark ink, appearing to read "J. M. Felton", is written over the typed name and title.

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

Enclosure:  
As stated



APPENDIX B

1. Undated Allegation Data Form (1 page)
2. Undated Affidavit of Allegor (7 pages)
3. Undated Division of Licensing Letter (3 pages)
4. Undated OI Investigation Case Transmittal Letter (Draft)  
(2 pages)
5. Undated Report of Investigation No. 4-84-025 with related  
exhibits (Draft) (848 pages)
6. 2/7/84 Investigation Status Record (2 pages)
7. 2/13/84 Memorandum to File from Ben B. Hayes re: Comanche Peak  
(3 pages)
8. 3/9/84 Memorandum to R. K. Herr from D. D. Driskill re: Dept. of  
Labor receipt of complaints by two individuals (1 page)
9. 3/16/84 OI Headquarters Memorandum to File (1 page)
10. 3/16/84 Complaint Filed with U.S. Department of Labor (3 pages)
11. 3/19/84 Letters from an organization (10 pages)
12. 3/19/84 ASLB document (9 pages)
13. 3/20/84 Affidavit of an individual (11 pages)
14. 3/20/84 Affidavit of an individual (6 pages)
15. 3/20/84 Affidavit of an individual (10 pages)
16. 3/27/84 Memorandum to Chairman Palladino from Ben B. Hayes re:  
Notification of Opening of OI Investigation (1 page)
17. 3/29 - U.S. Departments of Justice and Labor Letters (13 pages)  
8/27/84
18. 4/16 - Investigator's handwritten notes (94 pages)  
9/3/84
19. 6/27/84 Letter to U.S. Department of Labor from a law firm with  
enclosures (73 pages)
20. 7/5/84 Letter to U.S. Department of Labor from a law firm with  
enclosure (3 pages)