



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Mr. John Barth
Law Office of John M. Barth
P.O. Box 409
Hygiene, CO 80533

Re: Freedom of Information Act Request 09-FOI-00412-10

Dear Mr. Barth:

This is in response to your Freedom of Information Act request of July 22, 2010 concerning the Four Corners APS facility. As you know, Water Division provided you with a number of documents the week of August 9, 2010 when you came to the Region 9 office to review responsive documents. Following that visit, the Office of Regional Counsel contacted you by telephone to further clarify the scope of your request and identify other potentially responsive documents within Water Division and the Office of Regional Counsel.

In an email dated September 20, 2010, we confirmed that you wanted to review the following: (1) any additional documents concerning inspection of the facility; (2) any documents that may address seepage from surface impoundments at the facility; (3) a copy of the application for reissuance of the current NPDES and any related documents that address Morgan Lake in relation to the permit reissuance; and (4) EPA's decision document approving the Navajo Nation's application for Treatment As a State (TAS) for CWA purposes. We also confirmed that you were not interested in deliberative materials and/or documents to be withheld under FOIA. We agreed to provide you with any additional responsive documents during your visit to the Region 9 office on October 4, 2010.

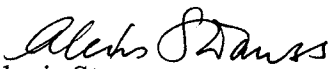
We identified additional responsive documents, which you reviewed on October 4, 2010. At that time, we provided you with items (1), (2) and (4), as well as a copy of the application for reissuance of the current NPDES permit. Enclosed are copies of the additional documents concerning item (3) that you reviewed during the visit.

On October 4, you also provided us with another list of additional documents that you are seeking, namely: (1) all attachments to a January 4, 2005 letter from APS to EPA; (2) a 2005 fish impingement study done by APS referenced in an April 2005 APS Proposal for Collection of Information Report; (3) an evaluation of water intake structure options referenced in the April 2005 APS Proposal for Collection of Information Report; and (4) any correspondence or reports since 2007. We are enclosing documents related to item (4) with this letter. However, after conducting a thorough search of our files, we wish to advise you that Region 9 has no records responsive to your request concerning items (1) to (3).

You may appeal this no records determination to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20004. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit. The appeal may include as much or as little related information as you wish, as long as it clearly identifies the determination being appealed (including the assigned FOIA request number 09-FOI-00412-10). For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

If you have any questions, please contact David Smith of this office at (415) 972-3464 and/or Hugh Barroll of the Office of Regional Counsel at 415-972-3895.

Sincerely,

 15 Nov. 2010
Alexis Strauss
Water Division Director

cc: Regional FOIA Office
FOIA Coordinator (Ivry Johnson)