

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Project No. 4908-011]

Tannery Island Power Company; Notice of Availability of Environmental Assessment

May 23, 1997.

An environmental assessment (EA) for an application to amend the exemption for the Tannery Island Project is available for public review. The amendment application concerns the installation of seasonal, notched flashboards across the project's Big and Little Spicer dams. The EA finds that approval of the application would not constitute a major Federal action significantly affecting the quality of the human environment. The Tannery Island Project is located on the Black River in Jefferson County, New York.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA are available for review at the Commission's Reference and Information Center, Room 2-A, 888 First Street, NE, Washington, D.C. 20426. Additional information can be obtained by calling the project manager, Joe Cofrancesco at (202) 219-0079.

Linwood A. Watson, Jr.,*Acting Secretary.*

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DEPARTMENT OF ENERGY**Office of Hearings and Appeals****Notice of Issuance of Decisions and Orders During the Week of March 31 Through April 4, 1997**

During the week of March 31 through April 4, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management*:

Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: May 21, 1997.

George B. Breznay,*Director, Office of Hearings and Appeals.***Decision List No. 27***Appeals**Daniel J. Bruno, 4/1/97, VFA-0277*

The DOE's Office of Hearings and Appeals (OHA) issued a decision denying a Freedom of Information Act (FOIA) Appeal filed by Daniel J. Bruno. Bruno sought a copy of a written statement allegedly submitted pursuant to an EEO investigation. In its decision, OHA found that the DOE's finding that the statement had never been submitted met its obligations under the FOIA. Accordingly, the Appeal was denied.

Glen Milner, 4/4/97, LFA-0159

Glen Milner filed an Appeal from a denial by the Albuquerque Operations Office of a request for information that he filed under the Freedom of Information Act (FOIA). Because the withheld information was produced under the joint authority of the DOE and various elements of the Department of Defense, the DOE provided the DOD with an opportunity to review the documents at issue. In considering the information that was withheld, the DOD determined that the majority of the information must be withheld under Exemptions 2 and 3 of the FOIA. However, title pages and pages containing purely administrative matters could be released. Accordingly, the Appeal was granted in part.

Glen Milner, 4/4/97, VFA-0278

Glen Milner (Appellant) filed an Appeal of a determination issued to him by the Albuquerque Operations Office (AOO) of the Department of Energy (DOE) in response to a request under the Freedom of Information Act. That determination followed the remand from the Office of Hearings and Appeals (OHA) which determined that the Appellant should be given a fee waiver for documents generated after January 1992 concerning specifically fitted railcars for the transport of nuclear weapons. In its determination, AOO released only one responsive document to the Appellant. On appeal, the OHA found that AOO had interpreted OHA's fee waiver grant too narrowly and remanded the case for a further search. The OHA also found that AOO should search for documents generated up until the time of the new search because

AOO's original search was substantially delayed. Accordingly, the DOE granted the Appeal and remanded the matter to AOO for further action.

Richard J. Levernier, 4/1/97, VFA-0274

Richard J. Levernier (Levernier) filed an Appeal from a determination issued to him by the Office of the Inspector General (OIG) of the Department of Energy (DOE). In his Appeal, Levernier asserted that the OIG improperly withheld names and other identifying information contained in two documents requested pursuant to the FOIA. The DOE determined that OIG had correctly applied Exemption 7(C) to the information and Levernier's Appeal was denied.

Terry J. Fox, 4/4/97, VFA-0276

Terry J. Fox filed an Appeal from a determination issued to him by the Bonneville Power Administration (BPA) of the Department of Energy (DOE) in response to a Request for Information submitted under the Freedom of Information Act (FOIA). Mr. Fox's request sought records of outgoing telephone calls from a particular BPA telephone belonging to his brother who Mr. Fox suspects of spying on and harassing him. BPA stated that it had no documents listing outgoing calls from any telephone having the same prefix as Mr. Fox's brother's BPA telephone number. In considering the Appeal, the DOE determined that the search performed by BPA was adequate and complied with the requirements of the FOIA. In particular, BPA computerized telephone records only list general switchboard numbers as the outgoing telephone number. Thus, no match can be made with particular BPA telephones. In addition, BPA found no record of any telephone calls being placed from BPA to Mr. Fox's home telephone number. Accordingly, the Appeal was denied.

*Personnel Security Hearing**Personnel Security Hearing, 4/4/97, VSO-0125*

An Office of Hearings and Appeals Hearing Officer issued an opinion regarding the eligibility of an individual employed by a contractor at a DOE facility to maintain an access authorization under the provisions of 10 C.F.R. Part 710. The individual's access authorization had been suspended because he had filed a false report with the local police, lied to law enforcement personnel, lied to the DOE in a Personnel Security Interview, and filed falsified evidence with the local traffic court. The Hearing Officer found that the individual failed to present any

evidence to mitigate the falsification charges against him, and that he had engaged in conduct that tends to show that he is not honest, reliable or trustworthy. Accordingly, the Hearing Officer recommended that the individual's access authorization not be restored.

Request for Exception

Laney Oil Company, Inc., 4/4/97 VEE-0028

Laney Oil Company, Inc. of Monroe, North Carolina filed an Application for Exception requesting that it be relieved of the requirement to file Form EIA-782B, entitled "Resellers/Retailers" Monthly Petroleum Products Sales Report" because the firm had replaced

the employee with the responsibility for collecting the information contained in the Form. The DOE found that the filing requirement did not constitute a special hardship, inequity or unfair distribution of burdens and denied the firm's request that it be relieved of its obligation to file the Form. However, DOE also found that it would be difficult for the firm to file these Forms on time. As such, DOE granted the firm an extension of time to file the Forms required for April through December of 1996.

Refund Application

Crude Oil Supplemental Refund Distribution, 4/2/97 RB272-00104

The DOE granted supplemental refunds to 17 applicants. The applicants

were represented by a filing service in the crude oil refund proceeding. Because the filing agent did not send refund checks granted in previous decisions to applicants in a timely manner, the DOE decided to send the checks directly to the applicants.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Apex Oil Co/Clark Oil Co/et al/Charlie's Clark Super 100	RF342-180	3/31/97
Apex Oil Co/Clark Oil Co/et al/Jack's Clarksuper 100	RF342-166	4/1/97
Atlantic Richfield Co./Joe's Arco et al	RF304-15202	3/31/97
Big Pine Trucking Co., Inc	RG272-89	4/2/97
Cassell Truck Lines, Inc. et al	RF272-85640	4/1/97
Colonial Trailways, Inc. et al	RG272-100	4/1/97
Continental Grain Co	RR272-00225	4/1/97
Crude Oil Supple Ref Dist	RB272-00105	4/4/97
Crude Oil Supple Ref Dist	RB272-00100	4/1/97
Douglas Cnty Farmers Coop et al	RF272-99117	4/2/97
Gulf Oil Corporation/United Refining Co	RF300-17886	4/1/97
Karnak Corporation	RG272-00864	4/4/97
Pharmhouse, Inc. et al	RF272-97796	4/2/97
Village of Sturtevant et al	RF272-83027	4/1/97
W.E. Bartholow & Son Construction	RJ272-39	3/31/97

Dismissals

The following submissions were dismissed:

Name	Case No.
Coastal Air	RF272-98713
Colony Oaks Associates	RF272-98787
Farm Bureau Driveway	RF272-98749
Harran Transportation Co., Inc	RF272-95755
Interlake Steel Corporation	RF272-88837
Kenton County Schools	RF272-79646
Moore McCormack, Inc	RF272-98745
National Steel Corporation	RR272-287
National Steel Corporation	VEG-0003
New Brunswick Township, NJ	RF272-88749
Personnel Security	VSO-0145
Richard W. Ghilotti	RG272-814
Sutherland Products, Inc	RG272-00143
W V Northern Railroad, Ltd	RK272-3951

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DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Issuance of Decisions and Orders During the Week of March 24 Through March 28, 1997

During the week of March 24 through March 28, 1997, the decisions and

orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

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