

is no debt associated with these mergers.

*k. This notice also consists of the following standard paragraphs: B, C1, and D2.*

**B. Comments, Protests, or Motions to Intervene**—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

**C1. Filing and Service of Responsive Documents**—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

**D2. Agency Comments**—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96-27376 Filed 10-24-96; 8:45 am]

BILLING CODE 6717-01-M

**[Project No. 2663-004 Minnesota]**

**Minnesota Power & Light Company; Notice of Proposed Restricted Service List for a Programmatic Agreement for Managing Properties Included in or Eligible for Inclusion in the National Register of Historic Places**

October 21, 1996.

Rule 2010 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure provides that, to eliminate unnecessary expense or improve administrative efficiency, the Secretary may establish a restricted service list for a particular phase or issue in a proceeding.<sup>1</sup> The restricted service list should contain the names of persons on the service list who, in the judgment of the decisional authority establishing the list, are active participants with respect to the phase or issue in the proceeding for which the list is established.

The Commission is consulting with the Minnesota Historical Society (hereinafter, SHPO) and the Advisory Council on Historic Preservation (hereinafter, Council) pursuant to the Council's regulations, 36 CFR Part 800, implementing Section 106 of the National Historic Preservation Act, as amended (16 U.S.C. Section 470f), to prepare a programmatic agreement for managing properties included in, or eligible for inclusion in, the National Register of Historic Places at Project No. 2663-004.

The programmatic agreement, when executed by the Commission, the SHPO, and the Council, would satisfy the Commission's Section 106 responsibilities for all individual undertakings carried out in accordance with the license until the license expires or is terminated (36 CFR 800.13[e]). The Commission's responsibilities pursuant to Section 106 for the above project would be fulfilled through one programmatic agreement for comments under Section 106. The executed programmatic agreement would be incorporated into any order issuing license.

Minnesota Power & Light Company, as prospective licensee for Project No. 2663-004, is invited to participate in consultation to develop the programmatic agreement and to sign as a concurring party to the programmatic agreement.

For purposes of commenting on the programmatic agreement, we propose to restrict the service list for Project No. 2663-004 as follows:

Ms. Nina Archabal, Director, Minnesota Historical Society, 345 Kellogg Blvd. West, St. Paul, MN 55102

Dr. Robert D. Bush, Advisory Council on Historic Preservation, The Old Post Office Building, Suite 809, 1100 Pennsylvania Ave., NW., Washington, D.C. 20004

Mr. Christopher D. Anderson, Attorney, Minnesota Power & Light Company, 30 West Superior Street, Duluth, MN 55802

Any person on the official service list for the above-captioned proceedings may request inclusion on the restricted service list, or may request that a restricted service list not be established, by filing a motion to that effect within 15 days of this notice date.

An original and 8 copies of any such motion must be filed with the Secretary of the Commission (888 First Street, N.E., Washington, D.C. 20426) and must be served on each person whose name appears on the official service list. If no such motions are filed, the restricted service list will be effective at the end of the 15 day period. Otherwise, a further notice will be issued ruling on the motion.

Lois D. Cashell,

*Secretary.*

[FR Doc. 96-27377 Filed 10-24-96; 8:45 am]

BILLING CODE 6717-01-M

**Office of Hearings and Appeals**

**Notice of Issuance of Decisions and Orders During the Week of September 9 Through September 13, 1996**

During the week of September 9 through September 13, 1996, 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, S.W., 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>.

<sup>1</sup> 18 CFR 385.2010.

Dated: October 17, 1996.

George B. Breznay,  
Director, Office of Hearings and Appeals.

Decision List No. 989

### Appeals

*Cindy David, 9/12/96, VFA-0204*

Cindy David filed an Appeal from a partial denial by the Western Area Power Administration (WAPA) of a Request for Information which Ms. David had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that material which WAPA withheld by claiming the protection of Exemption 4, overhead expense and general and administrative expense data, was indeed exempt from disclosure as proprietary commercial information. The DOE concluded that release of the withheld material would cause competitive harm to the submitter, Salazar Associates International. Accordingly, the Appeal was denied.

*Dennis J. McQuade, 9/9/96, VFA-0200*

Dennis J. McQuade filed an Appeal from a determination by the DOE's Oak Ridge Operations Office (OR), which denied a request for information he had filed under the Freedom of Information Act (FOIA). OR stated that it conducted a search of its files which included the Office of Assistant Manager for Defense Programs, the Quality and Reliability Division, the Safeguards and Security Division, and the Office of Chief Counsel. OR stated that the only record which could be located was a record which responded to item 2 of Mr. McQuade's request. OR provided that record to Mr. McQuade, but stated that no documents could be located in response to item 1 and item 3 of his request. The Appeal challenged the adequacy of the search conducted by OR. In considering the Appeal, the DOE found that OR conducted an adequate search which was reasonably calculated to discover documents responsive to Mr. McQuade's Request. Accordingly, the Appeal was denied.

*Diane C. Larson, 9/9/96, VFA-0199*

Diane C. Larson filed an Appeal of a determination issued to her in response to a request under the Freedom of Information Act (FOIA) and the Privacy Act. In the determination, the DOE's Richland Operations Office (DOE/RL) stated that most of the requested documents were the property of Westinghouse Hanford Company (WHC) and were not agency records, not subject

to the FOIA under 10 C.F.R. § 1004.3(e), and not subject to the Privacy Act. DOE/RL also released some documents which were under the control of the DOE, but redacted the names and lengths of service of WHC employees, under Exemption 6 of the FOIA. In considering the Appeal, the DOE first determined that WHC was not an agency and therefore not subject to the Privacy Act. The DOE also found that the requested documents were not agency records, and that those documents belonged under contract to WHC. The DOE then concluded that Exemption 6 did not protect the material withheld by DOE/RL. Neither length of service nor general age are the type of personal information usually protected by Exemption 6. Accordingly, the DOE granted the Appeal in part and remanded the matter to DOE/RL for further action.

*Mary Towles Taylor, 9/9/96, VFA-0201*

Mary Towles Taylor filed an Appeal from a determination by the DOE's Freedom of Information Office that no records exist which would indicate whether her father had been exposed to radiation during his employment at the Oak Ridge Operations Office. After considering the Appeal, the DOE remanded the matter so that an additional search for responsive documents could be conducted. Accordingly, the Appeal was granted in part.

*National Security Archive, 9/13/96, VFA-0033*

The National Security Archive filed an Appeal from a denial by the DOE's Oakland Operations Office of a request for information that it filed under the Freedom of Information Act (FOIA). In considering the information that was withheld, pursuant to a review by the Director of Security Affairs, as National Security Information and Restricted Data under Exemptions 1 and 3 of the FOIA, the DOE determined that all of the material previously identified as withholdable must continue to be withheld. However, more precise deletions now permit additional portions of the requested information to be released. Accordingly, the Appeal was granted in part.

*US Solar Roof, 9/12/96, VFA-0203*

US Solar Roof (USSR) filed an Appeal from a determination by the DOE's Golden Field Office GFO (Manager). In that determination, the GFO denied a request for information filed by USSR under the Freedom of Information Act

(FOIA). In considering the Appeal, the DOE confirmed that the GFO followed procedures reasonably calculated to uncover the requested information. Accordingly, the Appeal was denied.

*William Donnelly, 9/11/96, VFA-0202*

The DOE issued a Decision and Order denying a Freedom of Information Act Appeal that was filed by William Donnelly. In his Appeal, Mr. Donnelly contested the adequacy of the search for responsive documents performed by the DOE's Pittsburgh Energy Technology Center. In the Decision, the DOE found that the search for responsive documents was adequate.

### Personnel Security Hearing

*Oak Ridge Operations Office, 9/11/96, VSO-0096*

An Office of Hearings and Appeals Hearing Officer issued an opinion under 10 C.F.R. Part 710 concerning the eligibility of an individual for access authorization. After considering the testimony at the hearing convened at the request of the individual and all other information in the record, the Hearing Officer found that the individual (i) deliberately omitted significant information from his Questionnaire for Sensitive Positions, which is derogatory information under 10 C.F.R. § 710.8(f), (ii) been diagnosed by a board-certified psychiatrist as suffering from alcohol abuse, which is derogatory information under 10 C.F.R. § 710.8(j), and (iii) been arrested on a variety of charges, including three recent arrests for driving while under the influence of alcohol, and had a number of longstanding delinquent financial obligations, all of which tend to show that the individual is not reliable, and thus constitute derogatory information under 10 C.F.R. § 710.8(l). The Hearing Officer further found that the individual failed to present sufficient evidence to mitigate the derogatory information. Accordingly, the Hearing Officer recommended that the individual not receive access authorization.

### 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.

BUCKEYE COOP ELEVATOR CO., ET AL .....	RG272-4	09/12/96
CITY OF ST. PAUL .....	RJ272-00021	09/09/96
CLIFFORD COHEN, ET AL .....	RF272-85021	09/11/96

CRUDE OIL SUPPLE REF DIST .....	RB272-00086	09/12/96
GENERAL MOTOR LINES, INC. ....	RF272-97362	09/12/96
GULF OIL CORPORATION/LEO & GLEN COMBS, INC. ....	RF300-21834	09/09/96
S.T. WOOTEN CONSTRUCTION CO. ....	RR272-238	09/11/96
SPIVEY, INC. ....	RC272-350	09/09/96
SPIVEY, INC. ....	RC272-351	

## Dismissals

The following submissions were dismissed:

Name	Case No.
BLUE RIDGE TRUSS & SUPPLY, INC. ....	RG272-736
E.D. FEE TRANSFER, INC. ....	RF272-95260
KEWAUNEE COOPERATIVE .....	RG272-695
MIKE HILL FARMS, INC. ....	RK272-820
NATIONAL ENTERPRISES .....	RK272-854

[FR Doc. 96-27419 Filed 10-24-96; 8:45 am]  
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### Notice of Issuance of Decisions and Orders During the Week of August 19 Through August 23, 1996

During the week of August 19 through August 23, 1996, 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, S.W., 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: October 17, 1996.

George B. Breznay,  
Director, Office of Hearings and Appeals.

Decision List No. 986

#### Appeals

*Barton J. Bernstein, 8/23/96, LFA-0108*

Professor Barton J. Bernstein of Stanford University filed an Appeal of a determination issued to him by the Albuquerque Operations Office of the Department of Energy (DOE) in response to a Request for Information submitted under the Freedom of Information Act (FOIA). Professor Bernstein had requested information related to the

creation of the "super" (also known as the "hydrogen" or "thermonuclear") bomb and the creation of the "second lab" (Lawrence-Livermore National Laboratory). After review by the DOE Office of Classification, the Albuquerque Operations Office withheld all or part of forty-seven responsive documents under Exemption 3 as containing nuclear weapons design or stockpile information that qualified as "Restricted Data" or "Formerly Restricted Data" within the meaning of the withholding statute, the Atomic Energy Act of 1954. Professor Bernstein appealed the withholdings in eight documents. After considering the matter, the DOE determined that some additional material now could be declassified in six documents. The DOE found the deletions in two of the documents were proper. Accordingly, the Appeal was denied in part and granted in part, and properly declassified information was released to Professor Bernstein.

*Cincinnati Gas & Electric Co., 8/19/96, VEA-0002*

Cincinnati Gas & Electric Co. filed an Appeal from a determination issued by the Department of Energy's (DOE) Office of Environmental Management (OEM). CG&E claimed that: (i) the OEM erroneously determined its liability for payment into the Uranium Enrichment Decontamination and Decommissioning Fund (the D&D Fund) established under the Energy Policy Act of 1992; (ii) Ohio state law would prohibit CG&E from passing through its assessment to its ratepayers; (iii) the assessment of utilities for payment into the D&D Fund was an unconstitutional taking of property. The DOE found that: (i) the firm was properly assessed for uranium enrichment services that it purchased from the DOE and did not sell in the secondary market; (ii) Ohio state law would be preempted by the federal

Energy Policy Act; and (iii) while the DOE will ultimately defer to the rulings of the federal courts, the collection of assessments will continue while the courts are considering the constitutionality of the relevant provisions of the Energy Policy Act. Accordingly, CG&E's Appeal was denied.

*David L. Anderson, 8/20/96, VFA-0197*

David L. Anderson filed an Appeal from a denial by the Department of Energy's Bonneville Power Administration (BPA) of a request for information which he had submitted under the Freedom of Information Act (FOIA). Anderson sought copies of officially written statements, complaints and depositions made by certain individuals. BPA identified as responsive a report of an investigation conducted on behalf of the BPA Office of General Counsel by an outside investigator between September 14, 1995, and November 20, 1995. BPA withheld the report in its entirety, including the exhibits to the report, pursuant to the attorney work product privilege of FOIA Exemption 5. In considering the Appeal, the DOE found that: (i) The report in question is precisely the type of document meant to be protected by the work product privilege; (ii) the existence of tangible risks to the interests protected by the work product privilege satisfies the reasonably foreseeable harm standard set forth by the Attorney General in 1993; but (iii) to identify and, if not otherwise exempt, release certain intra-agency documents responsive to the request without indicating which of those documents became exhibits to the report will not violate the work product privilege. Accordingly, the matter was remanded in part to BPA to conduct a search for concerning the appellant and authored by the individuals named in his request, and to issue a new