

Commission Orders attributable to royalty payments in the 1983 to 1988 period unrecoverable. The Producers state that any attempts by first sellers to seek such recovery now violates Kansas law. The Producers argue that the standard for uncollectibility under *Wylee* has now been met, and the Commission has the authority to grant adjustment relief in the form of a waiver of uncollectible refunds.

Using procedures described by the Commission in its order, the Producers claim they implemented efforts over the past six months to recover Kansas *ad valorem* tax refunds from the royalty owners during the 1983–88 period. However, Kansas House Bill No. 2419 now legally bars such efforts by the Producers to recover refunds attributable to royalties. The Producers state that under Section 7(b) of the law:

No first seller of natural gas shall maintain any action against royalty interest owners to obtain refund of reimbursements for *ad valorem* taxes attributable to royalty interests, ordered by the Federal Energy Regulatory Commission.

Further, the Producers state that Sections 7(c)(1) and (c)(2) provide:

It is hereby declared under Kansas law:

(1) The period of limitation of time for commencing civil actions to recover such refunds attributable to reimbursements of *ad valorem* taxes on royalty interests during the years 1983 through 1988 has expired and such refunds claimed to be owed by royalty interest owners are uncollectible;

(2) first sellers of natural gas are prohibited from utilizing billing adjustments or other set-offs as a means of recovering from royalty owners any such claimed refunds . . .

The Producers contend that the language of Section 7 of the Kansas House Bill No. 2419 provides that the statute of limitations prevents any recover of *ad valorem* tax refunds for the 1983–88 period which are attributable to royalties. In addition, the Producers state that the Bill prohibits producers from taking any action (through set-offs or deductions from future royalties) to recover such refunds.

Each of the Producers requests that the Commission recognize that passage of Kansas House Bill No. 2419 prohibits any ability of producers to recover *ad valorem* tax reimbursements refunds from royalty owners. It is stated that the Kansas Bill meets the test under *Wylee* and a waiver is appropriate and necessary. In addition, the Producers contend that they should not be required to expend further resources and monies in seeking to recover payments which are not recoverable under the Kansas law. The Producers argue that none of them should continue to be at risk for such refunds.

Accordingly, they ask that the Commission expeditiously grant to each named Producer a waiver of refunds as to royalties finding that, based upon the Kansas House Bill No. 2419, such refunds are collectible.

In the alternative, the Producers request that the Commission grant a generic waiver of refunds attributable to royalties. It is stated that such a generic ruling would avoid the duplication of expense and administrative burdens of having the same issue considered on a case-by-case basis.

If a waiver of royalty refunds is granted as requested, the Producers request that any producer which has paid royalty refunds to the pipeline is entitled to recovery of such amounts plus interest for the period the pipeline (or its customers) held such monies.

Any person desiring to be heard or to make any protest with reference to said motion should on or before June 22, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.W. Washington, D.C. 20436, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the Protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14968 Filed 6–4–98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2696–004]

Niagara Mohawk Power Corporation; Notice of Availability of Environmental Assessment

June 1, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's Regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Commission's Office of Hydropower Licensing has reviewed the license surrender application for the Stuyvesant Falls Project, No. 2696–004. The

Stuyvesant Falls Project is located on Kinderhook Creek in Columbia County, New York. The licensee is applying for a surrender of the license due to leaks in the pipelines that are uneconomical to repair for safe and effective operation of the project. A Final Environmental Assessment (FEA) was prepared for the application. The FEA finds that approving the application would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the FEA are available for review in the Commission's Reference and Information Center, Room 2A, 888 First Street, N.E., Washington, D.C. 20426. For further information, please contact Ms. Hillary Berlin, at (202) 219–0038.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–14965 Filed 6–4–98; 8:45 am]

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DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of March 9 Through March 13, 1998

During the week of March 9 through March 13, 1998, 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, 950 L'Enfant Plaza, SW, Washington, D.C. 20585–0107, Monday through Friday, 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 20, 1998.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Decision List No. 76; Week of March 9 Through March 13, 1998

Appeals

*Dr. Nicolas Dominguez, 313/10/98,
VFA–0377, VFA–0378, VFA–0379*

Dr. Nicolas Dominguez filed three Freedom of Information Act (FOIA) Appeals requesting that the Office of Hearings and Appeals of the Department of Energy (DOE) order a new search for responsive documents and release documents withheld from three FOIA requests. In considering the Appeal, the DOE determined that additional responsive documents may exist and that other documents were not "agency records." Thus, the DOE remanded the Appeal to the Oak Ridge Operations Office.

Janice C. Curry, 13/10/98, VFA-0370

The DOE issued a decision granting in part a Freedom of Information Act (FOIA) Appeal filed by Janice C. Curry. Curry sought the release of documents withheld under FOIA Exemptions 6, 7(C), and 7(F) by the Office of Minority Affairs of the Environmental Management Division (EM/MA). In its decision, OHA found that withholding

under Exemption 6 was proper, but EM/MA had made no attempt to disclose non-exempt segregable information. Because the DOE did not have evidence of the law enforcement authority of the ombudsman of EM/MA, withholding under Exemption 7 was denied. Accordingly, the Appeal was granted in part, denied in part, and remanded to EM/MA for a new determination.

Masako Matsuzaki, 3/12/98, VFA-0381

The DOE issued a decision denying a Privacy Act Appeal filed by Masako Matsuzaki. Matsuzaki sought the release of documents confirming that she was exposed to radiation while serving in the military and stationed at the Hanford Site in Richland, Washington. In its decision, the DOE found that its Richland Operations Office performed an adequate search for responsive information under the Privacy Act and the Freedom of Information Act. Accordingly, the Appeal was denied.

Stand of Amarillo, 3/10/98, VFA-0374

The DOE granted an appeal of a FOIA determination from the DOE's Albuquerque Operations Office (AOO). In the determination, AOO released what it stated were all materials responsive to the appellant's request. In the appeal, the appellant included information from the transcript of a hearing conducted by the Department of Labor indicating that additional responsive documents might exist. The matter was therefore remanded to AOO to search for the documents indicated in the appeal.

Refund of 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.

HAHN TRUCK LINE, INC	RF272-95302	3/10/98
OGALLALA PUBLIC SCHOOLS	RF272-79795	3/12/98
OGLE SERVICE COMPANY	RG272-00198	3/10/98
R.C. GERLACH	RK272-01820	3/12/98
STROEHMANN BAKERIES, L.C	RK272-4642	3/12/98
EASTERN FINE PAPER, INC	RJ272-54	
EASTERN FINE PAPER, INC	RC272-382	
NATIONAL TEA CO	RJ272-53	
NATIONAL TEA CO	RC272-381	
STROEHMANN BROS CO., INC	RC272-380	

Dismissals

The following submissions were dismissed.

Name	Case No.
PATRICIA MCCracken	VFA-0385

[FR Doc. 98-14971 Filed 6-4-98; 8:45 am]
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DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of January 19 Through January 23, 1998

During the week of January 19 through January 23, 1998, 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, 950 L'Enfant Plaza, SW, Washington, DC 20585-0107, Monday through Friday, 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 20, 1998.

Thomas O. Mann,
Acting Director, Office of Hearings and Appeals.

Decision List No. 69; Week of January 19 Through January 23, 1998

Appeal

Charlene Pazar, 1/20/98, VFA-0364

Charlene Pazar (Appellant) filed an Appeal of a Determination issued to her by the Rocky Flats Field Office (RFFO)

of the Department of Energy (DOE) in response to a request under the Freedom of Information Act (FOIA). In its determination, RFFO withheld the sole requested document under Exemption 5 of the FOIA. RFFO claimed that the document was protected under the attorney work-product privilege. The Office of Hearings and Appeals determined that the document was protected by the attorney-work product privilege. Although the litigation which had led to the creation of the withheld document had ended, other ongoing litigation involved the same set of facts. Therefore, release of the document could compromise DOE's strategy and tactics. Accordingly, the DOE denied the Appeal.

Ruth Towle Murphy, 1/23/98, VFA-0360