

contaminated sediment dredged from the Chicago River, Chicago Harbor, and Calumet River and Harbor. The CDF was discussed in a Final Environmental Impact Statement released in May 1982.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith Ryder, 312/353-6400 ext. 2020; U.S. Army Corps of Engineers, Chicago District; 111 North Canal Street; Chicago, Illinois 60606-7206.

SUPPLEMENTARY INFORMATION: 1. The Supplement Environmental Impact Statement will document deviations (in construction and operation) from the project as it was discussed in the 1982 impact statement; proposed improvements to the project's operating plan (regarding water quality monitoring, vegetation control, sediment management, and endangered species); and interagency coordination during 1984-1996.

2. The SEIS is expected to be available to the public in June 1997.

Dated: March 26, 1997.

Roger A. Gerber,

Lieutenant Colonel, U.S. Army, District Engineer.

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DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent to Prepare a Draft Revised Final Supplement to the Environmental Impact Statement (DSEIS) for the St. Johns Bayou and New Madrid Floodway Project, East Prairie Phase

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent.

SUMMARY: The purpose of this reevaluation is to develop a plan that provides flood control in the St. Johns Bayou and New Madrid Floodway Basins, Missouri. This project was authorized for construction by the Water Resources Development Act of 1986 (P.L. 99-662), Section 401(a). The authorized project is based on the Report of the Chief of Engineers, dated January 4, 1983, which is part of the Phase I General Design Memorandum (GDM) documents prepared in response to Section 101(a) of the Water Resources Development Act of 1976 (P.L. 94-587). The Phase II GDM is based on the Phase I GDM project recommendations, and it was prepared under the Chief's authority for continuing planning and engineering studies on a viable project while awaiting project authorization.

Revisions were made in the Phase II GDM to indicate the non-Federal cost sharing requirements reflected in the authorizing Act PL 99-662. The original EIS was filed with the Council of Environmental Quality in 1976, and the supplement was filed in 1981. The purpose of this DSEIS is to revise and supplement previous environmental documentation. The recent designation of East Prairie, Missouri, as an Enterprise Community by the President has provided the momentum to move the East Prairie Phase of the overall project toward implementation.

FOR FURTHER INFORMATION CONTACT:

Mr. Eddie Belk, telephone (901) 544-3798, CELMM-DD-PM, 167 North Main Street B-202, Memphis, TN 38103-1894. Questions regarding the DSEIS may be directed to Mr. John Rumancik, telephone (901) 544-3975, CELMM-PD-R.

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The St. Johns Bayou Basin and New Madrid Floodway are located in southeast Missouri and include all or portions of New Madrid, Scott and Mississippi Counties. The basis are adjacent to the Mississippi River, extending from the vicinity of Commerce, Missouri, to New Madrid, Missouri. The recommended plan of improvement for the East Prairie Phase work, which this DSEIS will address, includes about 28 miles of channel modification, a 1,000 cfs pumping station for the St. Johns Bayou area, a 1,500 cfs pumping station for the New Madrid Floodway area, and a 1,500 foot closure levee at the southern end of the New Madrid Floodway.

2. Alternatives

Alternatives were evaluated in the previous EIS. The purpose of this DSEIS is to evaluate and provide updated documentation and coordination for the selected plan for flood control and compare it to the No Action alternative.

3. Scoping Process

An intensive public involvement program has been set up to (1) Solicit input from individuals and interested parties so that problems, needs, and opportunities within the project area can be properly identified and addressed and (2) provide status updates to concerned organizations and the public. Meetings with the local sponsor, public coordination meetings, interagency environmental meetings, and public project briefings/presentations have been conducted. A public scoping meeting will be scheduled for May 1997, and

interagency environmental meetings will continue to be held as needed. Significant issues being analyzed include potential project impacts (negative and positive) to fisheries, water quality, wetlands, waterfowl, endangered species, and cultural resources. It is anticipated that the DSEIS will be available for public review early 1998. A public meeting will be held during the review period to receive comments and address questions concerning the DSEIS.

Dated: April 4, 1997.

Gregory G. Bean,

Colonel, Corps of Engineers, District Engineer.

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DEPARTMENT OF EDUCATION

Arbitration Panel Decision Under the Randolph-Sheppard Act

AGENCY: Department of Education

ACTION: Notice of Arbitration Panel Decision Under the Randolph-Sheppard Act

SUMMARY: Notice is hereby given that on November 20, 1996, an arbitration panel rendered a decision in the matter of *Chester Smalley v. New York State Commission for the Blind and Visually Handicapped* (Docket No. R-S/95-7). This panel was convened by the U. S. Department of Education pursuant to 20 U.S.C. 107d-1(a), upon receipt of a complaint filed by petitioner, Chester Smalley.

FOR FURTHER INFORMATION CONTACT: A copy of the full text of the arbitration panel decision may be obtained from George F. Arsnow, U.S. Department of Education, 600 Independence Avenue, S.W., Room 3230, Mary E. Switzer Building, Washington D.C. 20202-2738. Telephone: (202) 205-9317. Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number at (202) 205-8298.

SUPPLEMENTARY INFORMATION: Pursuant to the Randolph-Sheppard Act (20 U.S.C. 107d-2(c)), the Secretary publishes in the **Federal Register** a synopsis of each arbitration panel decision affecting the administration of vending facilities on Federal and other property.

Background

Mr. Chester Smalley, complainant, has operated a vending facility at the Roswell Park Cancer Institute, Buffalo, New York, from January 1981 to the present. Until September 1993, complainant's vending facility operation

at the hospital consisted of a dry stand in the main building and approximately 24 satellite vending machines located in other buildings throughout the hospital complex.

The machines were provided by a commercial vending company, and Mr. Smalley restocked some of the machines and received a monthly commission. In June 1993, the hospital undertook an extensive construction and renovation program resulting in the hospital administration requesting additional vending machines from the New York Commission for the Blind and Visually Handicapped, the State licensing agency (SLA). The SLA provided those machines at a new leased building located at Main and Virginia Streets. Previously when additional machines were provided, Mr. Smalley received commissions from the vending machines. However, with respect to the machines at the new leased building, Mr. Smalley did not receive commissions.

In September 1993, the Tower Building, which previously housed vending machines operated by the complainant, was demolished. Complainant alleged that he lost income from those machines.

In October 1993, vending machines were placed in the new leased building at Main and Virginia Streets. At that time, the SLA determined that the income from those machines would accrue directly to the SLA. The SLA determined that the new leased building was geographically separate from Mr. Smalley's vending facility. Consequently, Mr. Smalley would not be receiving the commissions from the machines since, in the opinion of the SLA, the machines in the new leased building were not in direct competition with his operation.

The complainant objected to this new arrangement. He made inquiries to the SLA regarding the matter and received a written explanation from the SLA on February 3, 1994, concerning the placement of the new machines at the leased building and the reassignment of the commissions. Mr. Smalley requested and received an administrative review of the matter. The SLA, in a decision dated April 29, 1994, affirmed its earlier determination. Subsequently, complainant requested and received a State fair hearing on June 30, 1994. By decision rendered August 4, 1994, the New York Department of Social Services upheld the Commission for the Blind and Visually Handicapped decision concerning the allocation of the vending machine income. Mr. Smalley requested the Secretary of Education to convene a Federal arbitration panel to hear this

grievance. An arbitration hearing was held on August 13, 1996.

Arbitration Panel Decision

The issue heard by the arbitration panel as stipulated by the parties was as follows: Whether the determination of the New York State Department of Social Services confirming the action of the Commission for the Blind and Visually Handicapped with respect to the allocation of vending machine income at leased property on Main and Virginia Streets was arbitrary, capricious, or unlawful; and if so, what should the remedy be?

The majority of the panel ruled that the scope of Chester Smalley's vending operation on the Roswell Park property was defined in the license granted to him by the SLA in 1986. The complainant's vending facility at that time included the newsstand and vending machines in five "free standing" buildings. The panel noted that these properties continue to be within the scope of Mr. Smalley's facility and will also continue when the construction project has been completed and personnel returned from the leased property at Main and Virginia Streets to the Roswell Park complex.

The panel further ruled that the SLA erred in its interpretation of Federal regulations in 34 CFR 395.1(f) and (h) and 395.32 regarding the definition of "individual location, installation or facility" and the definition of "direct competition." Specifically, the panel ruled that the SLA's interpretation of these definitions to determine that the leased space at Main and Virginia Streets was a separate individual location or facility and that the commissions from the vending machines should accrue to the SLA was arbitrary.

The panel stated that under the Federal regulations, in order for the revenues from the vending machines at the leased building to accrue to the SLA, the SLA would have to show that there was no blind vendor on that property. The panel ruled that Chester Smalley's original and longstanding license included the outlying buildings on Roswell Park property. Therefore, the panel found that the determination of the New York State Department of Social Services confirming the action of the SLA to allocate the vending machine income from the leased property at Main and Virginia Streets to the SLA was arbitrary.

Based upon the foregoing, the panel reversed the decision of the New York State Department of Social Services.

Additionally, the majority of the panel ordered the SLA to make

complainant whole for the vending machine commissions from the leased site during the period of October 1, 1993, to the date of the decision and prospectively. The panel also directed the SLA to pay complainant the cost of bringing this action and attorney's fees. One panel member dissented.

The views and opinions expressed by the panel do not necessarily represent the views of the Department of Education.

Dated: April 9, 1997.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP-97-319-000]

ANR Pipeline Company; Notice of Application

April 9, 1997.

Take notice that on March 31, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP97-319-000 an application pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of a total of approximately 73 miles of mainline looping and additional compression, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that the proposed facilities are designed to increase its transmission capacity by up to 750,000 Mcf per day (Mcf/d) to provide additional west to east transportation service on its mainline between the Chicago area and western Ohio. ANR further states that the proposed expansion is a companion to, and is filed concurrently with, the new pipeline system being proposed by Independence Pipeline (Independence) in Docket No. CP97-319-000 to provide additional new capacity to the eastern United States (from western Ohio to central Pennsylvania). It is stated that the additional capacity being proposed by ANR will link the Independence project with the recent pipeline expansion proposals designed to bring new pipeline capacity primarily from Canadian producing regions into the Midwest.

Specifically, ANR proposes to construct new pipeline looping facilities