

**DEPARTMENT OF EDUCATION****Office of Special Education and Rehabilitative Services; List of Correspondence**

**AGENCY:** Department of Education.

**ACTION:** List of Correspondence from July 1, 2004 through September 30, 2004.

**SUMMARY:** The Secretary is publishing the following list pursuant to section 607(d) of the Individuals with Disabilities Education Act, as amended (IDEA). Under section 607(d) of the IDEA, the Secretary is required, on a quarterly basis, to publish in the **Federal Register** a list of correspondence from the Department of Education received by individuals during the previous quarter that describes the interpretations of the Department of Education (Department) of the IDEA or the regulations that implement the IDEA.

**FOR FURTHER INFORMATION CONTACT:** Melisande Lee or JoLeta Reynolds. Telephone: (202) 245-7459 (press 3).

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain a copy of this notice in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** The following list identifies correspondence from the Department issued from July 1, 2004 through September 30, 2004.

Included on the list are those letters that contain interpretations of the requirements of the IDEA and its implementing regulations, as well as letters and other documents that the Department believes will assist the public in understanding the requirements of the law and its regulations. The date and topic addressed by a letter are identified, and summary information is also provided, as appropriate. To protect the privacy interests of the individual or individuals involved, personally identifiable information has been deleted, as appropriate.

**Part B—Assistance for Education of All Children With Disabilities***Section 611—Authorization; Allotment; Use of Funds; Authorization of Appropriations*

*Topic Addressed:* Use of funds.

- Letter dated August 17, 2004 to Washington Office of Public Instruction

Director of Agency Financial Services Renée Lewis, regarding the treatment of program income, generated from registration fees charged to participants at professional development conferences

- Letter dated July 22, 2004 to individual (personally identifiable information redacted), regarding whether a local educational agency (LEA) can use funds under Part B of IDEA to pay the salary of a reading specialist, who may or may not meet the State qualification standards for employment, to provide direct instruction to students with disabilities.

*Topic Addressed:* Subgrants to local educational agencies.

- Letter dated September 13, 2004 to Ohio Department of Education Associate Director of Federal and State Grants Management Jeffrey M. Jordan, responding to a specific request for guidance, pursuant to 34 CFR 81.33 of the Education Department General Administrative Regulations, for clarification on how a State educational agency (SEA) satisfies the requirement under Part B of IDEA relating to the portion of its grant that must flow through to its LEAs.

*Section 612—State Eligibility*

*Topic Addressed:* Procedural safeguards.

- Letter dated July 13, 2004 to individual (personally identifiable information redacted), clarifying that Part B of IDEA does not provide for the Office of Special Education Programs' review of individual State-level complaint decisions or due process hearings, and that depending on State law, a complainant may be able to appeal a State complaint decision to an appropriate State court.

*Topic Addressed:* Confidentiality.

- Letter dated August 13, 2004 to individual (personally identifiable information redacted), from Family Policy Compliance Office Director LeRoy S. Rooker, regarding the applicability and scope of hearing procedures under the Family Educational Rights and Privacy Act (FERPA) and Part B of IDEA for parents seeking to challenge the content of the education records of a student with a disability and clarifying that a public agency may not bypass a parent's right to a hearing under FERPA by requiring the parent to request an impartial due process hearing under Part B of IDEA.

*Section 613—Local Educational Agency Eligibility*

*Topic Addressed:* Schoolwide programs.

- Letter dated August 24, 2004 to Washington, DC Attorney Leigh M. Manasevit, regarding the use of funds awarded under Part B of IDEA for a schoolwide program under Title I of the Elementary and Secondary Education Act of 1965, as amended, and clarifying the requirements that apply if Part B of IDEA funds are not consolidated with other funds in a schoolwide plan.

*Section 614—Evaluations, Eligibility Determinations, Individualized Education Programs, And Educational Placements*

*Topic Addressed:* Evaluations and reevaluations.

- Letter dated July 14, 2004 to Santa Monica, California Attorney Howard J. Fulfrost, regarding a parent's refusal to consent to the initial provision of special education and related services, including the relationship of the requirements of Part B of IDEA to California law, and clarifying (1) how a school district can meet its obligation to make a free appropriate public education (FAPE) available and protect itself against possible future claims of a denial of FAPE; and (2) that a student with a disability whose parent has refused consent is not provided the discipline protections under Part B of IDEA and may be disciplined in the same manner as nondisabled students.

- Letter dated July 19, 2004 to Washington, DC Attorney Leigh M. Manasevit, written on behalf of the North Carolina Department of Public Instruction, regarding a parent's refusal to consent to the initial provision of special education and related services and clarifying (1) how a school district can meet its obligation to make FAPE available and protect itself against possible future claims of a denial of FAPE; and (2) that a student with a disability whose parent has refused consent does not have the right under Part B of IDEA to compensatory services, is not provided the discipline protections under Part B of IDEA, and may be disciplined in the same manner as nondisabled students.

*Section 615—Procedural Safeguards*

*Topic Addressed:* Appeals.

- Letter dated August 12, 2004 to individual (personally identifiable information redacted), regarding the appeal rights that Part B of IDEA affords to any party aggrieved by the findings and decisions of a hearing in a one-tier system, and clarifying that certain provisions in the Florida statute and regulations giving an aggrieved party the right to appeal to a specific State court are inconsistent with section 615(i)(1) and (2) of IDEA because that State court

does not have authority to hear additional evidence at the request of a party.

- Letter dated July 22, 2004 to California Assembly Legislative Director David Heckler, regarding proposed legislation that would impose conditions other than those contained in Part B of IDEA that would limit the ability of a court or a hearing officer to fashion appropriate relief, including awarding full reimbursement for a nonpublic placement where FAPE is not made available to a child with a disability in a timely manner.

#### *Part C—Infants And Toddlers With Disabilities*

##### *Section 635—Requirements For Statewide System*

###### *Topic Addressed: Child find.*

- Letter dated July 12, 2004 to California Department of Developmental Services Part C Coordinator Rick Ingraham, clarifying that Part C does not set forth any specific percentage of children that each State must serve in its Part C program, but that States that establish numerical goals must ensure that only eligible children are identified and that eligible children and families are not denied services under Part C of IDEA.

#### **Part D—National Activities To Improve Education of Children With Disabilities**

##### *Subpart 2—Coordinated Research, Personnel Preparation, Technical Assistance, Support, and Dissemination of Information*

##### *Section 687—Technology Development, Demonstration, and Utilization; and Media Services*

###### *Topic Addressed: Captioning.*

- Letter dated August 30, 2004 from U. S. Secretary of Education Rod Paige to U.S. Congressman Maurice Hinchey and other members of Congress, regarding the Department's decision to use IDEA funds to support captioning and video description only for programming that clearly fits within the "educational, informational, and news" categories.

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888–293–6498; or in the Washington, DC, area at (202) 512–1530.

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(Catalog of Federal Domestic Assistance Number 84.027, Assistance to States for Education of Children with Disabilities)

Dated: December 20, 2004.

**John H. Hager,**

*Assistant Secretary for Special Education and Rehabilitative Services.*

[FR Doc. E4–3798 Filed 12–22–04; 8:45 am]

**BILLING CODE 4000–01–P**

## **DEPARTMENT OF ENERGY**

### **Bonneville Power Administration, Hopkins Ridge Wind Interconnection Project**

**AGENCY:** Bonneville Power Administration (BPA), Department of Energy (DOE).

**ACTION:** Notice of availability of Record of Decision (ROD).

**SUMMARY:** This notice announces the availability of the ROD to interconnect the proposed Hopkins Ridge Wind Energy Project into the Federal Columbia River Transmission System, as requested by RES America Developments. Transmission services would be provided for 150 megawatts of the output of the proposed wind project. This decision is consistent with and tiered to BPA's Business Plan Final Environmental Impact Statement (DOE/EIS–0183, June 1995), and the Business Plan Record of Decision (August 1995). The proposed interconnection project involves constructing a switching substation adjacent to an existing BPA transmission line near the wind project. The switching substation would be located on a 5-acre parcel of land currently used for wheat farming, immediately east of the intersection of Hartsock Grade Road and Lewis Gulch Road, Columbia County, Washington. BPA would construct the substation from March 1, 2005 through the fall of 2005.

**ADDRESSES:** Copies of the ROD and EIS may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. The ROD and EIS Summary are also available on our Web site, <http://www.efw.bpa.gov>.

#### **FOR FURTHER INFORMATION CONTACT:**

Kimberly St. Hilaire, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon, 97208–3621; toll-free

telephone number 1–800–282–3713; fax number 503–230–5699; or e-mail [ksthilaire@bpa.gov](mailto:ksthilaire@bpa.gov).

Issued in Portland, Oregon, on December 20, 2004.

**Stephen J. Wright,**

*Administrator and Chief Executive Officer.*

[FR Doc. 04–28100 Filed 12–22–04; 8:45 am]

**BILLING CODE 6450–01–P**

## **DEPARTMENT OF ENERGY**

### **Federal Energy Regulatory Commission**

#### **Notice of Application for Non-Project Use of Project Lands and Soliciting Comments, Motions To Intervene, and Protests**

December 15, 2004.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands.

b. *Project No.:* 1490–036.

c. *Date Filed:* November 24, 2004.

d. *Applicant:* Brazos River Authority.

e. *Name of Project:* Morris Sheppard Project.

f. *Location:* The project is located on the Possum Kingdom Reservoir on the Brazos River in Palo Pinto County, Texas. This project does not occupy any federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Phillip J. Ford, General Manager/CEO, Brazos River Authority, 4600 Cobbs Drive, P.O. Box 7555, Waco, TX 76714–7555, (254) 761–3100.

i. *FERC Contacts:* Any questions on this notice should be addressed to Mrs. Jean Potvin at (202) 502–8928, or e-mail address: [jean.potvin@ferc.gov](mailto:jean.potvin@ferc.gov).

j. *Deadline for filing comments and/or motions:* January 4, 2005.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–1490–036) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages e-filings.

k. *Description of Request:* Brazos River Authority (Authority) is seeking