

(246-I)

SURVEY FORM 11: REFUSALS TO APPEAR AND TESTIFY

Date of Request (1)	To whom addressed, and agency represented (2)	Person requested to testify (3)	Nature of testimony requested, nature of hearings, or other reason for which requested. (4)	Date of refusal (5)	Person authorizing refusal (6)	Reason given for refusal, documentation of refusal as available, and other remarks. (7)
December 13, 1972 (letter from Chairman Reuss attached)	Mr. Peter M. Flanigan, Assistant to the President	Mr. Peter M. Flanigan	Request to testify about conflict in testimony of Justice Department representative at Subcommittee hearings of November 5, 1971, and subsequently - disclosed departmental memorandum of September 30, 1971, concerning Administration's role in modification of Federal District Court order of September 17, 1971, that Armco Steel Corp., Sheffield, Texas, plant halt discharges of toxic wastes into Houston Ship Channel. Hearings, "Mercury Pollution and Enforcement of the Refuse Act of 1899", Dec. 21, 1972, Part 3, (See Form 1 dated Nov. 15, 1972.)	12/18/72 (letter attached)	John W. Dean, III, Counsel to the President	"...as a matter of long established principle and precedent, members of the President's immediate staff do not appear before congressional committees to testify regarding the performance of their duties on behalf of the President."

Separation of Powers Subcommittee Survey  
U. S. Senate, March 5, 1973  
Contact: Joe L. Pecore, Asst. Counsel  
225-8421, 8422

FILE 246

Submitted by: (Comm/SubComm) Conservation and Natural Resources Subcommittee of House Committee Government Operations

By: Phineas Indritz  
Title: Chief Counsel, Conservation and Natural Resources Subcommittee Extension 56427

HOUSE OF REPRESENTATIVES,  
CONSERVATION AND NATURAL RESOURCES  
SUBCOMMITTEE OF THE COMMITTEE ON  
GOVERNMENT OPERATIONS,  
Washington, D.C., December 13, 1972.

MR. PETER M. FLANIGAN,  
Assistant to the President, Executive Office of the President,  
Washington, D.C.

DEAR MR. FLANIGAN: The Conservation and Natural Resources Subcommittee of the House Committee on Government Operations will hold hearings on December 21, 1972, at 10:00 A.M., in Room 2247, Rayburn House Office Building, concerning the renegotiation in the fall of 1971 by the Justice Department of a court order issued on September 17, 1971, in the Government's action against the ARMCO Steel Company of Houston, Texas.

During our hearings on November 5, 1971, Justice Department officials indicated that there had been no direct communication between the White House and the Justice Department concerning the court order. On Nov. 15, 1972, it was revealed that a memorandum prepared by Mr. Martin Green—a section chief in the Justice Department's Lands and Natural Resources Division—disclosed that White House employees working under you had close contact with Justice Department officials concerning the court order.

In order that you may have an opportunity to comment on this matter, we invite you to testify at these hearings.

We would appreciate receiving, by December 18, confirmation that you will testify on December 21.

We shall welcome your views.  
Sincerely,

HENRY S. REUSS,  
Chairman, Conservation and  
Natural Resources Subcommittee.

THE WHITE HOUSE,  
Washington, December 18, 1972.

HON. HENRY S. REUSS  
Chairman, Conservation and Natural Resources Subcommittee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge receipt and thank you for your letter of December 13, 1972 inviting Mr. Peter Flanigan to appear before your Committee on December 21 and testify at its hearings regarding the Government's action against ARMCO Steel Company.

As noted in my letter to you of October 20, 1971 in response to a similar invitation to Mr. Flanigan to testify on this subject, as a matter of long established principle and precedent members of the President's immediate staff do not appear before Congressional committees to testify regarding the performance of their duties on behalf of the President.

Therefore, Mr. Flanigan must respectfully decline your invitation to appear before the Conservation and Natural Resources Subcommittee.

With kind regards,  
Sincerely,

JOHN W. DEAN, III,  
Counsel to the President.