

The DOE issued a Decision and Order denying a Freedom of Information Act (FOIA) Appeal that was filed by Bernice McCulloch. In her Appeal, Ms. McCulloch challenged the adequacy of the search for responsive documents performed by the Oak Ridge Operations Office. In the Decision, the DOE found that the search was adequate.

*HANFORD EDUCATION ACTION
LEAGUE, 8/17/98 VFA-0431*

The DOE's Office of Hearings and Appeals (OHA) granted an appeal of a determination in response to a request for documents from the DOE's Richland Operations Office (DOE/RL). While finding that DOE/RL conducted an adequate search for documents, the OHA remanded the matter to the DOE's FOI and Privacy Group for a search of offices at DOE Headquarters.

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.

Crude Oil Supple Refund Dist

RB272-00142

8/19/98

[FR Doc. 98-30394 Filed 11-12-98; 8:45 am]
BILLING CODE 6450-01-U

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of August 24 through August 28, 1998

During the week of September 24 through August 28, 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: November 3, 1998.

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

Decision List No. 100

Appeal

*Neutron Technology Corporation, 8/27/
98, VFA-0432*

The OHA denied an appeal of a determination in response to a request for documents from the DOE's Brookhaven National Laboratory (BNL). The OHA found that, pursuant to the contract under which the requested documents were created, the documents were the property of the contractor and thus not agency records subject to the FOIA.

Personnel Security

*Personnel Security Hearing, 8/24/98,
VSO-0207*

An OHA Hearing Officer issued an Opinion regarding the eligibility of an individual to maintain access authorization under the provisions of 10 C.F.R. Part 710. The Hearing Officer found the individual had not produced sufficient evidence to mitigate the security concern raised by a positive test result for marijuana. In particular, the Hearing Officer found that the individual's inconsistent statements regarding her knowledge and intention of marijuana use raised substantial doubt about whether she had falsified information that she provided in a Personnel Security Interview. On the basis of those unresolved security concerns, the Hearing Officer recommended that the individual's access authorization not be restored.

Refund Application

*Varity Kelsey-Hayes Company F/K/A
Fruehauf Corp., 8/26/98, RC272-
00391*

The DOE issued a Decision and Order rescinding half of a refund from one company and denying two Applications for Supplemental Refund and two

Applications for Refund from two other companies in the crude oil refund proceeding. The two latter companies, Fruehauf Trailer Corp. (FTC) and Fruehauf Trailer Services, Inc. (FTS) applied for refunds based on the original refund that the first company, Fruehauf Corp. (Fruehauf) had received. The OHA first found that FTC and FTS were ineligible for either supplemental or original refunds because those applicants were simply challenging the propriety of the grant of the original refund to Fruehauf. The OHA deemed this challenge to be untimely because FTS and FTC had failed to meet the June 30, 1995 crude oil proceeding filing deadline. Moreover, the OHA examined the material FTS and FTC submitted and found that Fruehauf had been ineligible to receive half the refund it had been granted. The OHA therefore rescinded half of Fruehauf's original refund. However, because the OHA also granted a supplemental refund based on the remaining gallonage, the successor corporation to Fruehauf was not required to repay any funds to the Department of Energy.

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.

Cherokee Brick Co. et al	RF272-98900	8/27/98
General Car & Truck Leasing	RF272-98964	8/28/98
Grumman Aerospace Corp.	RF272-52464	8/26/98
Grumman Aerospace Corp.	RD272-52464	
Ilene Deatherage et al	RK272-01586	8/28/98
Morton International et al	RK272-01965	8/28/98
Renaissance Westchester Hotel	RK272-04415	8/27/98
Twin County Service Co.	RG272-00151	8/27/98

Dismissals

The following submissions were dismissed.

Case No.	Name
Edna Schonhalter	RK272-01755
John Gilmore	VFA-0425
Jurischik Bros. Drywall, Inc.	RK272-04071
Montpelier Orchard Mgmt. Co.	RK272-04377
Star Foundation	VFA-0440
Watson & Watson	RK272-04572

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DEPARTMENT OF ENERGY**Office of Hearings and Appeals****Notice of Issuance of Decisions and Orders During the Week of October 5 through October 9, 1998**

During the week of October 5 through October 9, 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: November 3, 1998.

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

Decision List No. 106*Appeals*

Baker, Donelson, Bearman, & Caldwell,
10/9/98, VFA-0443

The Department of Energy's Office of Hearings and Appeals (OHA) issued a decision granting a Freedom of Information Act (FOIA) Appeal filed by the law firm of Baker, Donelson, Bearman, & Caldwell (Baker). Baker sought the release of information withheld under Exemption 4 of the FOIA by the Department's Golden Field Office (Golden). The OHA found that Golden had failed either to provide an adequate justification for withholding the requested document in its entirety, or to release segregable material. The matter was therefore remanded to Golden.

Missouri River Energy Services, 10/9/98,
VFA-0444

Missouri River Energy Services (Missouri) filed an Appeal from a determination issued by the Department of Energy's Western Area Power Administration (WAPA). WAPA denied a request for information that Missouri filed under the Freedom of Information

Act (FOIA). In its Appeal, Missouri asserted that WAPA failed to: (1) produce an index of the documents it provided and indicate whether it segregated non-exempt material from those documents; (2) specifically identify the exemption applicable to each withheld document; (3) provide an adequate justification for applying Exemptions 4 and 5 to each of the withheld documents; and (4) provide sufficient information in its determination to permit Missouri to make a meaningful appeal. The DOE found that WAPA failed to identify the exemption applicable to each withheld document and to provide an adequate justification for withholding documents under FOIA Exemptions 4 and 5. Consequently, the Appeal filed by Missouri was granted and remanded to WAPA to issue another, more detailed determination.

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.

CJC Leasing, Inc., et al	RC272-00393	10/5/98
Curtis Hoskins, Jr., et al	RF272-96326	10/5/98
Davis Paint Co.	RF272-53572	10/5/98
Eunice & Ronald Meilstrup, et al	RF272-95300	10/5/98
Highland Superstores	RK272-04846	10/8/98

Dismissals

The following submissions were dismissed.

Case No.	Name
City of Willoughby Hills	RF272-83042
Dakota Barge Service	RK272-04535
Dexter Corp.	RK272-04823
Gallup McKinley Cnty. Schools	RF272-83056
Granite Island Group	VFA-0442
Personnel Security Hearing	VSO-0228
Personnel Security Hearing	VSO-0235
Putnam Asphalt Co.	RK272-04824