

First Piedmont Corp. et al	RF272-89011	07/03/96
Gulf Oil Corporation/Dearman's Grovery & Service Station et al	RF300-13743	07/02/96
Gulf Oil Corporation/Union Petroleum	RF300-17257	07/03/96
Kimboob, Inc. et al	RG272-00607	07/02/96
Montgomery Farmers Coop et al	RF272-94512	07/01/96
Virgin Air, Inc. et al	RF272-97969	07/03/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Allied Oil Company	RF339-14
Darigold, Inc.	RG272-368
Denholm Ship Management Ltd.	RG272-618
Heber Elementary	RF272-87065
Valley Materials Transport	RF272-98118

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Notice of Issuance of Decisions and Orders During the Week of April 8 through April 12, 1996

Office of Hearings and Appeals

During the week of April 8 through April 12, 1996, 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, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585-0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., 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: August 30, 1996.

Richard W. Dugan,
Acting Director, Office of Hearings and Appeals.

Decision List No. 967

Week of April 8 through April 12, 1996
Appeals

A. Victorian, 4/11/96, VFA-0142

Dr. A. Victorian filed an Appeal from a denial by the Office of Defense Programs of a request for information that he filed under the Freedom of

Information Act. Defense Programs responded by stating that it could neither confirm nor deny the existence of records responsive to Dr. Victorian's request. Based on its review of the nature of the request, and after considering the arguments that Dr. Victorian raised on appeal, the DOE determined that Defense Programs' Glomar response was appropriate. Accordingly, the Appeal was denied.

Petrucelli & Nadler, 4/11/96, VFA-0143

Petrucelli & Nadler (Petrucelli) filed an Appeal from a denial by the Oak Ridge Operations Office (DOE/OR) of the Department of Energy of a Request for Information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the documents requested by Petrucelli, information on all persons involved in radiation experiments performed on students at the Fernald State School in Massachusetts, could possibly have been located in a search of either another relevant DOE office or the DOE Archives. Thus, the Appeal was granted.

Personnel Security Hearing

Pittsburgh Naval Reactors Office, 4/12/96, VSA-0048

The Director of the Office of Hearings and Appeals issued an Opinion regarding a Request for Review of a Hearing Officer Opinion which recommended against restoring the level "L" access authorization of the Respondent seeking review of the matter. The Respondent had requested that the Director examine two issues: (1) Whether the Respondent's failure to file state and federal income taxes and pay miscellaneous local taxes raises a legitimate security concern; and (2) whether promises to repay loans to the Respondent and the Respondent's opportunity to satisfy his mortgage mitigate some of the DOE's security

concerns. With regard to the first issued, after reviewing the record regarding the Respondent's tax situation and considering the Respondent's purported efforts to take corrective action with respect to some of his tax liabilities, the Director found no reason to disturb the Hearing Officer's Opinion. As for the second issue raised on review, the Director first opined that the new evidence suggesting that some of the Respondent's relatives might repay the Respondent some time in the future is not sufficient to overcome the security concern raised by the DOE regarding the Respondent's financial problems. Moreover, the Director observed that the Respondent has not demonstrated that he will be able to satisfy his entire mortgage debt within the time frame prescribed by the Respondent's lending institution. In sum, the Director refused to conclude that the new evidence tendered by the Respondent regarding his attempt to redress his mortgage problems mitigates the DOE's security concerns regarding the Respondent's judgement in managing his financial affairs.

After carefully considering the record, the Director opined that the Respondent's access authorization should not be restored.

Refund Applications

Charter Co./Mississippi—RQ23-601
Standard Oil Co. (Indiana)/
Mississippi—RQ251-602

OKC Corp./Mississippi, 4/11/96, RQ13-603

The DOE issued a Decision and Order granting a second-stage refund application filed by the State of Mississippi. Mississippi requested that all remaining funds allocated to it in the Charter Company, Standard Oil Co. (Indiana), and OKC Corp. Special refund proceedings be used to fund the state's Energy-Efficient, Affordable Housing and Energy in Agriculture Programs. As

of March 31, 1996, the allocation totaled \$856,829 (\$372,150 in principal and \$484,679 in interest), but the allocation will be slightly higher at the time of disbursement due to interest earned between March 31, 1996 and the date of disbursement. The DOE found that Mississippi's proposal would provide timely restitutionary benefits to injured consumers of refined petroleum products. Accordingly, Mississippi's second-stage refund application was granted.

Gulf Oil Corp./Victoria Guernsey, Inc., 4/11/96, RF300-18821

The DOE issued a Decision and Order granting a refund application filed by Victoria Guernsey, Inc. in the Gulf Oil Corporation special refund proceeding. The DOE found that Victoria Guernsey made a reasonable demonstration that it purchased the claimed amount of Gulf

product through two suppliers, Parton Oil Co. and Armour Oil Co. Because there was no affirmative evidence that either supplier absorbed the alleged Gulf overcharges, the DOE determined that Victoria Guernsey should be considered for a refund under the standards applicable to direct purchasers. Accordingly, the DOE granted Victoria Guernsey a \$23,981 refund based on the medium range presumption of injury.

Valley Line Co., 4/12/96, RC272-337

The DOE issued a Decision and Order rescinding a refund granted to The Valley Line Co. in the Subpart V crude oil refund proceeding. The DOE was informed by The Valley Line that Chromalloy American Corporation, the former parent company of The Valley Line, had received a refund from the Rail & Water Transporters Escrow, one

of the eight escrows established by the final Settlement Agreement in the Stripper Well Exemption Litigation. In order to receive a refund from a Stripper Well escrow, a claimant was required to waive its right and the rights of its affiliates to participate in any future refund proceeding based on crude oil overcharges. Therefore, The Valley Line was ineligible to receive a refund in the crude oil proceeding.

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.

Gulf Oil Corporation/Ed & Ray's Gulf et al	RF300-13549	04/08/96
Heartland Co-op et al	RK272-03205	04/11/96
Hereford Independent School District et al	RF272-86302	04/09/96
Mueller Industries, Inc	RC272-00336	04/08/96
Rick Rush	RJ272-9	04/11/96
Ricky Timmons Estate et al	RK272-01106	04/08/96
Woods Research & Development Corp. et al	RK272-03328	04/11/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Air Ontario Limited	RF272-98755
Arundel Asphalt Products	RD272-74858
Arundel Asphalt Products, Inc.	RF272-74858
Bouchard Transportation Co., Inc.	RF272-74311
Bouchard Transportation Co., Inc.	RD272-74311
Dianna McNew	VFA-0146
Dispatch Distribution Line, Inc.	RF272-77995
Leotal, Inc. for Northeast Tool and Engineering	RG272-00102
Liberty Express	RF272-98705

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Notice of Issuance of Decisions and Orders During the Week of April 1 through April 5, 1996

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0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., 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: August 28, 1996.
Thomas O. Mann,
Acting Director, Office of Hearings and Appeals.

Decision List No. 966
Week of April 1 through April 5, 1996
Appeal

David K. Hackett, 4/3/96, VFA-0135

The Department of Energy (DOE) issued a Decision and Order (D&O) denying a Freedom of Information Act (FOIA) Appeal that was filed by David K. Hackett. In the Decision, the DOE found that the Oak Ridge Operations Office properly applied Exemption 4 of the FOIA in withholding portions of one of the documents provided to Mr. Hackett. The DOE further found that the