

search for responsive documents was adequate.

Personnel Security Hearing

Oak Ridge Operations Office, 4/5/96, VSA-0057

The Director of the Office of Hearings and Appeals issued an Opinion regarding an individual's request for review of a Hearing Officer's adverse decision regarding his eligibility for access authorization under the provisions of 10 C.F.R. Part 710. After

considering the individual's arguments and the record, the Director found that: (i) the Hearing Officer had not showed bias and/or prejudice, (ii) the Hearing Officer had made a comprehensive, common-sense judgment, and (iii) the Hearing Officer did not incorrectly examine the case retrospectively to determine the possibility of coercion. Further, the Director upheld the Hearing Officer's refusal to give weight to letters submitted by the individual's former co-workers, under the circumstances presented in the case. Accordingly, the

Director recommended that the individual's access authorization should not be reinstated.

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/White Brothers, Inc. et al	RF300-15269	04/04/96
Wisener Farms	RJ272-0010	04/04/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Chey Anthony Temple	VFA-0133
Howeard Sober, Inc.	RF272-77539

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Notice of Issuance of Decisions and Orders During the Week of March 4 Through March 8, 1996

During the week of March 4 through March 8, 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, S.W., 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. 962

Week of March 4 Through March 8, 1996

Appeal

Kenneth H. Besecker, 3/4/96, VFA-0124

The Department of Energy (DOE) issued a Decision and Order granting a Freedom of Information Act Appeal that was filed by Kenneth H. Besecker. In his Appeal, Mr. Besecker contested the adequacy of the search for documents responsive to his request. In his request, Mr. Besecker sought access to the contract under which the investigation of a particular EEOC complaint was carried out. In his Appeal, Mr. Besecker contended that a portion of the contract called the "Statement of Work" was not included in the documents provided to him. In the Decision, the DOE found that there were two statements of work generated in connection with the contract in question, and that Mr. Besecker had been provided with only one. The DOE examined the second statement of work, found it to be responsive to the request and not exempt from mandatory disclosure under the FOIA, and released it to Mr. Besecker.

Personnel Security Hearings

Albuquerque Operations Office, 3/7/96, VSX-0020

Upon remand from the Director, an Office of Hearings and Appeals Hearing Officer issued an Opinion concerning the eligibility of an individual to hold an access authorization under 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material. The DOE had charged that the individual had (i) deliberately omitted significant information (concerning use of illegal drugs) from a Personnel Security Questionnaire, (ii) used illegal drugs, and (iii) engaged in conduct showing that he was not reliable (due to use of illegal drugs to allay panic attacks and anxiety). The individual failed to testify at his hearing or provide any other evidence to rebut the derogatory evidence of the DOE. Accordingly, the Hearing Officer found that the individual's access authorization should not be restored.

Pittsburgh Naval Reactors Office, 3/7/96, VSA-0041

Upon review, the Director, Office of Hearings and Appeals, concurred with the Hearing Officer's recommendation in Case No. VSA-0041 that access authorization not be restored to the appellant employee. The Director found that the employee had failed to mitigate valid security concerns raised by his pattern of financial irresponsibility.

*Richland Operations Office, 3/7/96,
VSA-0044*

An individual whose access authorization had been suspended filed a request for review of a DOE Hearing Officer's recommendation against its restoration. The individual's access authorization had been suspended by the Department of Energy's (DOE) Richland Operations Office (Richland) upon its receipt of derogatory information indicating that the individual was a habitual user of alcohol to excess, used illegal drugs and had deliberately provided DOE security officials with false or misleading information.

Upon review, the individual claimed that he had been rehabilitated. The Director found that while he might have been rehabilitated from his prior substance abuse, he had not demonstrated the high degree of candor expected of a holder of a DOE access authorization. Accordingly, the Director recommended that the individual's security clearance not be restored.

Refund Applications

*American Synthetic Rubber Corp., 3/7/
96, RF272-61843; RD272-61843*

The DOE issued a Decision and Order granting an Application for Refund filed by American Synthetic Rubber Corporation (ASR) in the crude oil overcharge refund proceeding. The DOE rejected the firm's claims for refunds based on purchases of butadiene, styrene, and gear compounds, finding that ASR had not shown that these products were purchased from a crude oil refinery. The DOE approved refunds for a number of other products purchased by the firm, which were products that were regulated during the refund period. These products included toluene, gasoline, staining and non-staining oils, and lubricating oils. ASR's total refund was \$47,077. The DOE denied a Motion for Discovery filed by a consortium of States.

*GS Roofing Products Co., Inc., 3/7/96
RR272-213*

The DOE issued a Decision and Order denying a Motion for Reconsideration filed by GS Roofing Products Co. in the Subpart V crude oil refund proceeding. GS Roofing had been granted an earlier refund based on all of the firm's purchases of petroleum products. GS later submitted additional information pertaining to other purchases after the filing deadline in the crude oil proceeding. Since these purchases were not included in its original claim and the firm did not have a good reason for omitting these purchases, the Motion was denied.

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.

138 Scap, Inc. et al	RK272-01153	03/04/96
Crude Oil Supple. Ref. Dist.	RB272-0069	03/04/96
Department of the Army—Corps of Engineers, Memphis	RF272-92574	03/04/96
Elizabethtown Gas Co.	RF272-78134	03/04/96
Fergus High School #1 et al	RF272-96231	03/04/96
Gulf Oil Corporation/Corkle & Fox Gulf et al	RF300-15046	03/04/96
Gulf Oil Corporation/Hodgson Gulf et al	RF300-16666	03/04/96
Gulf Oil Corporation/Road Builders, Inc.	RF300-21831	03/07/96
James T. Bolton et al	RK272-2464	03/04/96
P & G Motor Freight, Inc	RF272-97085	03/07/96
Silveria Land Leveling	RK272-0450	03/04/96
Steinberger Oil Company	RF272-78164	03/04/96
Suburban Mobility Authority for Regional Transportaion et al	RK272-02957	03/07/96
The Gilbert Spruance Co. et al	RK272-03214	03/04/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Bass Petroleum Co., Inc	RF300-20361
Bob's Gulf	RF300-17570
Burns Concrete, Inc	VFA-0127
Dewey Jackson, Inc	RF300-20450
Ellsworth Freight Lines	RR272-228
Gulf Tri City Oil Company	RF300-20301
Hiram Castilleja S.S	RF300-15283
Larry's Gulf	RF300-13326
Larry's Gulf	RF300-13327
Mystic Fuel, Inc	RF300-20396
Parton Oil Company	RF300-16768
Yates Gulf No. 1	RF300-17883
Yates Gulf No. 2	RF300-17884

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