

[FR Doc. 96-26597 Filed 10-16-96; 8:45 am]
BILLING CODE 6450-01-P

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of July 10 Through July 14, 1995

During the week of July 10 through July 14, 1995, 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.o.ha.doe.gov>.

Dated: October 7, 1996.

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

Decision List No. 928

Week of July 10 Through July 14, 1995
Appeals

Albuquerque Journal, 7/11/95, LFA-0182

The Albuquerque Journal filed an appeal from a denial by the Office of Arms Control and Nonproliferation Technology Support of a request for information that it submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the initial determination did not consider all responsive documents.

Accordingly, the Appeal was granted in part and the matter was remanded for a new determination regarding additional responsive material.

Murray, Jacobs & Abel, 7/11/95, VFA-0050

Murray, Jacobs & Abel appealed the Inspector General's denial of its request for documents pertaining to an ongoing investigation into allegations that Technology Management Services, Inc., a government contractor, engaged in improper activities. The Office of the Inspector General had withheld the information under Exemption 7(A). In considering the Appeal, the DOE found that the OIG's determination did not contain sufficient specificity in its explanation for withholding the requested documents under Exemption 7(A) and the case was remanded for a new determination.

Interlocutory Order

Benton County, Washington, 7/11/95, VPZ-0002

Benton County, Washington filed a Motion to Strike certain portions of a post-hearing brief filed by the Department of Energy DOE Richland Operations Office (DOE/RL). The contested portions of the brief contained citations to the discovery depositions of four major Benton County witnesses who testified during the January 1995 hearing on the county's appeal of the amount of Payments-Equal-To-Taxes (PETT) it would receive under the Nuclear Waste Policy Act of 1982 for site characterization at the Basalt Waste Isolation project on the Hanford reservation. DOE/RL alleged that all depositions were a part of the evidentiary record of the proceeding, and requested that the deposition of the Benton County Assessor be considered that of a party pursuant to Fed. R. Civ. P. 32(a)(2). OHA granted the motion in part. The parties held supplemental telephone hearings to properly enter the contested references into the record. DOE/RL was given an opportunity to submit an amended post-hearing brief to

incorporate the new materials generated in the supplemental telephone hearings. OHA ruled that the discovery depositions at issue were not part of the evidentiary record, and denied the requests to admit the Assessor's deposition under Rule 32.

Refund Applications

Allegheny Power Service Corporation, 7/14/95, RF272-97910

The DOE issued a Decision and Order concerning an Application for Refund in the Subpart V crude oil overcharge refund proceeding filed by the Allegheny Power Service Corporation. The DOE determined that the Allegheny Power Service Corporation was not entitled to a crude oil refund since it had filed a Utilities Escrow Settlement Claim Form and Waiver, thereby waiving its right to a Subpart V crude oil refund. Accordingly, the Application for Refund was denied.

Texaco Inc./Jimco Truck Plaza, 7/14/95, RF321-21065

The Department of Energy granted a refund to Jimco Truck Plaza in the Texaco refund proceeding despite the fact that Jimco did not inform the OHA that its bankruptcy proceeding was still pending at the time that the application was filed. The DOE determined that Mildred Pumphrey, who signed the application, did not know at that time that the bankruptcy proceeding involving her late husband's company was still pending. Furthermore, it appeared from the record that all of Jimco's creditors had been satisfied. The Decision also concerned the proper distribution of the refund among the members of the Pumphrey family.

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.

Atlantic Richfield Company/B & N Arco et al	RF304-13748	07/11/95
C.M. Caraway & Sons, Inc. et al	RF272-94129	07/10/95
Columbia LNG Corporation	RF272-97572	07/11/95
Crude Oil Supplemental Refund Distribution	RB272-11	07/10/95
Crude Oil Supplemental Refund Distribution	RB272-7	07/11/95
Crude Oil Supplemental Refund Distribution	RB272-15	07/14/95
Crude Oil Supplemental Refund Distribution	RB272-22	07/14/95
Crude Oil Supplemental Refund Distribution	RB272-13	07/14/95
Farmers Union Oil Co. et al	RF272-86748	07/11/95
Gardner Asphalt Corporation	RF272-94635	07/10/95
Texaco Inc./Clem's Texaco Gasoline Mart & Service et al	RF321-20283	07/14/95
Texaco Inc./Cullum's Texaco	RF321-21076	07/14/95
Texaco Inc./Energy Delivery Systems, Inc	RF321-10872	07/14/95
Texfi Industries, Inc. et al	RF272-77338	07/14/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Ideal Fuel Company	RF321-14143
Johnston Burane Company	RF304-14155
K-Mechanical Services, Inc.	RF272-94211
Munia A. Malik	VFA-0057
Olmsted County, MN	RF272-89078
R and G Services Ltd.	RF321-14154
Suffolk County, NY	RF272-86594

[FR Doc. 96-26598 Filed 10-16-96; 8:45 am]
BILLING CODE 6450-01-P

Issuance of Decisions and Orders; Week of February 19 Through February 23, 1996

During the week of February 19 through February 23, 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: October 7, 1996.

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

Decision List No. 960

Week of February 19 Through February
23, 1996

Appeals

Archie M. LeGrand, Jr., 2/20/96, VFA-0120

Archie M. LeGrand, Jr., filed an Appeal from a determination by the Department of Energy's FOIA/Privacy Act Division (FOIA Division). Mr.

LeGrand sought records of investigations conducted regarding his suitability for a security clearance. The FOIA Division stated that a search of the records in the DOE's Office of Safeguards and Security and the Savannah River Operations Office was conducted and no records were found responsive to the request. In his Appeal, Mr. LeGrand argued that the DOE conducted an inadequate search for records. In considering the Appeal, the DOE found that because Mr. LeGrand's employment at the Savannah River Site ended over 25 years ago, any security clearance records maintained regarding Mr. LeGrand would no longer exist. Under these circumstances, the DOE concluded that a search of a microfiche index of all DOE and DOE contractor employees who had held security clearances in the past was an adequate search reasonably calculated to discover documents responsive to Mr. LeGrand's request. Accordingly, the Appeal was denied.

Eugene Maples, 2/23/96, VFA-0122

Eugene Maples (Maples) filed an Appeal from a determination issued to him by the Department of Energy's Office of the Inspector General (OIG) in response to a request for information submitted by him under the Freedom of Information Act (FOIA). Maples sought a copy of a final report issued by the OIG which summarized an investigation into the misuse of oil overcharge funds by the State of South Carolina conducted by the Savannah River Site during 1993-94. The OIG issued a determination denying Maples request in its entirety pursuant to Exemption 7(A). The OIG stated that it had not reached a final resolution of the investigation; therefore, release could prematurely disclose enforcement efforts and interfere with its ongoing investigation. In considering the

Appeal, the Office of Hearings and Appeals found that release of the final report could interfere with the investigation. The Office of Hearings and Appeals concluded that the OIG properly applied Exemption 7(A) to the responsive document. Therefore, the Department of Energy denied Maples' Appeal.

Refund Applications

George, Victor & Bernard Didinsky, 2/21/96, RJ272-6

This Supplemental Order modifies a supplemental crude oil overcharge refund granted to Fallsburg Bottling Works, Inc. The applicant submitted evidence that the corporation had been dissolved in 1988 and requested that the supplemental refund be issued to the successor partnership that had been formed by the three equal shareholders of the corporation. The request was approved and the DOE directed that a new refund check be issued to the partnership.

Texaco Inc./Chain Oil Co., 2/21/96, RR321-194

The Department of Energy issued a Decision and Order denying a Motion for Reconsideration filed by Chain Oil Co. (Chain) and its owner, Donald Foster in the Texaco refund proceeding. The Motion was denied because Mr. Foster had again failed to demonstrate that his acquisition of Chain included Chain's right to the refund.

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.

Bemis Company, Inc.	RF272-17760	02/21/96
	RF272-20188	
	RD272-17760	
	RD272-20188	
Davis Trucking Company et al	RK272-2252	02/21/96
Syar Industries, Inc. et al	RF272-73595	02/21/96