

Name	Case No.	Date
Hart Well Drilling Co .....	RG272-00876	.....
P.Q. Corporation .....	RG272-00941	.....
Mrs. Annabelle Bressler et al .....	RK272-01328	5/19/97
Nortar, Inc. (F/K/A/ American Tar Co) .....	RC272-00364	5/23/97
Nortar, Inc .....	RK272-03941	.....
Pioneer Talc Co./Zemex .....	RK272-04426	5/23/97
Schaeffer Trucking, Inc .....	RG272-93	5/20/97
Township of Montclair et al .....	RF272-86026	5/19/97
Yvonne Van Pembroke et al .....	RK272-01753	5/19/97

### Dismissals

The following submissions were dismissed.

Name	Case No.
Empire Drilling Company .....	RD272-65942
Emulsion Products .....	RD272-67919
Gardner Industries .....	RD272-67920
Honeywell, Inc .....	RD272-67216
Lock Joint Tube, Inc .....	RK272-4341
Morgan County, Missouri .....	RF272-86015
Nox-Crete, Inc .....	RR272-00101

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## DEPARTMENT OF ENERGY

### Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of August 25 Through August 29, 1997

During the week of August 25 through August 29, 1997, 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: November 26, 1997.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

### Decision List No. 48

Week of August 25 through August 29, 1997

#### Appeal

*Burlin McKinney, 8/28/97, VFA-0322*

The DOE granted in part and denied in part an appeal of withholding of documents at DOE's Y-12 plant in Oak Ridge, Tennessee that relate to beryllium. The DOE found that the determination of DOE's Oak Ridge Operations Office, that it could not justify the high costs and burdensome effort to review the records, was inadequate in light of the requirements of the Freedom of Information Act and the DOE regulations. The DOE therefore remanded the case to the Oak Ridge Operations Office for a new determination releasing the documents or explaining the basis for withholding information with specific reference to one or more FOIA exemptions.

#### Personnel Security Hearing

*Personnel Security Hearing, 8/29/97, VSO-0147*

An Office of Hearings and Appeals Hearing Officer issued an opinion against restoring the security clearance of an individual whose clearance had been suspended because the Department of Energy had obtained derogatory

information that fell within 10 CFR 710.8(k)(1). In reaching his conclusion, the Hearing Officer found that the individual had used methamphetamine and had not shown reformation. In addition, the Hearing Officer found that current inconsistencies in the individual's testimony support the charge that the individual is not being honest, reliable and trustworthy within the meaning of 10 CFR 710.8(1).

#### Refund Application

*Vessels Gas Processing Co./Farmland Industries, Inc., 8/27/97, RF354-00009*

The DOE issued a Decision and Order concerning an Application for Refund filed by Farmland Industries, Inc. (Farmland), an agricultural cooperative. Farmland sought a portion of the settlement fund obtained by the DOE through a Consent Order settlement with Vessels Gas Processing Co. The DOE granted Farmland a total refund of \$338,343 (\$217,221 principal plus \$121,122 interest).

#### 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.

Name	Case No.	Date
Cape Ann Tool Co. et al .....	RF272-94520	8/28/97
City of Orlando et al .....	RF272-76387	8/25/97
Farmer's Oil Co. of Outlook et al .....	RF272-94783	8/29/97
M.R. Paving & Excavating .....	RK272-04016	8/25/97
United Cooperative Assoc. et al .....	RK272-01507	8/29/97
Vessels Gas Processing Co./Williams Energy .....	RF354-00010	8/29/97

### Dismissals

The following submissions were dismissed.

Name	Case No.
Farmers Elevator Co-op. Assn .....	RF272-98982
Five Star Moving & Storage .....	RK272-4503

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## DEPARTMENT OF ENERGY

### Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of August 18 Through August 22, 1997

During the week of August 18 through August 22, 1997, 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: November 26, 1997.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

### Decision List No. 47, Week of August 18 Through August 22, 1997

#### Appeals

*Curry Contracting Co., Inc., 8/18/97 VFA-0321*

Curry Contracting Co., Inc., appealed a determination issued to it by the Oak Ridge Operations Office. In its Appeal, Curry asserted that Oak Ridge failed to

conduct an adequate search for OSHA reports, award and incentive fee contracts at the Office of Scientific and Technical Information Building, and reports pertaining to itself that it requested pursuant to the FOIA. The DOE determined that Oak Ridge had performed an adequate search. Consequently, Curry's Appeal was denied.

#### *Information Focus on Energy, 8/19/97 VFA-0310*

Information Focus on Energy, Inc. (IFE) appealed a determination by the Albuquerque Operations Office that partially denied IFE's request for information. In considering the Appeal, the DOE ordered the Director to either release names withheld pursuant to Exemption 6 or provide a detailed explanation for withholding any such information. Thus, the DOE granted IFE's Appeal.

#### *Los Alamos Study Group, 8/18/97 VFA-0316*

The Los Alamos Study Group appealed a determination by the Albuquerque Operations Office (AO) that denied a request for information made under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE confirmed that the AO correctly determined that the records the LASG sought are neither "agency records" within the meaning of the FOIA nor subject to release under the DOE regulations. Accordingly, the DOE denied the Appeal.

#### *William H. Payne, 8/18/97, VFA-0315*

The Department of Energy granted in part a Privacy Act Appeal that was filed by William H. Payne. The Director of the Freedom of Information and Privacy Acts Division (the Director) had denied a request for amendment that Mr. Payne filed pursuant to the Privacy Act because the document that Mr. Payne wished to amend is the property of a DOE contractor. In the Decision, the

DOE concluded that if the document were located in a "Privacy Act system of records" pursuant to the contractor's agreement with the DOE, the document would be subject to the Act, and a decision on the merits of Mr. Payne's Appeal should be issued. The OHA, therefore, remanded the matter to the Director for a search of the Privacy Act systems of records.

#### Refund Application

*Enron Corporation/, Amerigas Propane, Inc., RF340-23; Field & McGrady Special, RF340-177; Larry's Bottled Gas Co., 8/21/97, RF340-71*

The DOE granted an Application for refund filed on behalf of Field & McGrady Special in the Enron Corporation special refund proceeding. The DOE found that Field & McGrady was the proper recipient of a refund based on petroleum purchases made by Val-Cap, Inc., a dissolved corporation. The partners in Field & McGrady are the same people who were the shareholders of Val-Cap at the time of Val-Cap's dissolution.

#### 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.

Name	Case No.	Date
Northeast Cooperative et al.	RK272-01486	8/21/97
Prince Bros., Inc. et al.	RK272-02259	8/21/97

### Dismissals

The following submissions were dismissed.