

February 11, 1998, the PSE&G request was dismissed.

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 Supplemental Refund Dist.	RB272-0133	2/27/98
Crude Oil Supplemental Refund Dist.	RB272-0134	2/27/98
Tejas Trucking, Inc. et al	RK272-04704	2/27/98
The Augsburg Organization, Inc	RK272-3844	2/24/98
The Augsburg Organization, Inc	RF304-15515
The Augsburg Organization, Inc	RC272-379

Dismissals

The following submissions were dismissed.

Name	Case No.
American Aggregates Corp.	RF272-98820

[FR Doc. 98-15953 Filed 6-15-98; 8:45 am]
BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

Office of Hearing and Appeals

Notice of Issuance of Decisions and Orders; Week of April 13 Through April 17, 1998

During the week of April 13 through April 17, 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 decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, D.C., 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: June 4, 1998.

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

Decision List No. 81: Week of April 13 Through April 17, 1998

Appeals

FAS Engineering, Inc., 4/14/98, VFA-0375

FAS Engineering, Inc. filed an Appeal from a determination by the Department of Energy's (DOE) Golden Field Office,

denying a request for information under the Freedom of Information Act (FOIA). In its Appeal, FAS contended that Golden improperly withheld the requested information from disclosure under the deliberative process privilege of FOIA Exemption 5. The DOE found that Golden properly applied the threshold requirements of Exemption 5 to the requested documents. However, the DOE remanded this matter to Golden to issue a new determination, either releasing reasonably segregable factual material or explaining the reasons for withholding any factual material contained in the requested documents. Consequently, the Appeal was granted.

FAS Engineering, Inc., 4/17/98, VFA-0400, VFA-0401

FAS Engineering Inc. filed two Freedom of Information Act (FOIA) Appeals requesting that the Office of Hearings and Appeals of the Department of Energy (DOE) release documents it withheld from two FOIA requests pursuant to Exemption 5 of the FOIA. In considering the Appeals, the DOE determined that many of the documents contained segregable factual information that should not have been withheld pursuant to Exemption 5. For these reasons, the DOE directed the FOIA Official to review all of its withheld information again and either release factual information, such as "rating guidelines," headings, names of contractor employees and bid proposal submissions contained in these documents, or provide a detailed explanation for withholding any such information. Thus, the DOE remanded the Appeal to the Idaho Operations Office.

Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P., 4/15/98, VFA-0396

Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P. (Appellant), filed an Appeal of a determination issued to it by the Department of Energy (DOE) in response to a request under the Freedom of Information Act (FOIA). In its request to the Federal Energy Technology Center (FETC), the Appellant asked for information concerning a Request for Proposal. FETC forwarded the request to the Rocky Flats Field Office (RFFO). In its determination, RFFO found that it possessed no responsive documents. On appeal, the Appellant argued that the search by RFFO had been inadequate. The DOE first found that RFFO had never been responsible for overseeing the RFP at issue and therefore, possessed no responsive documents. The DOE further noted that FETC had conducted a further search for documents once FETC realized that it had overseen the RFP at issue. Finally, the DOE noted that RFFO was only required to search for documents possessed as of the date of the FOIA request. Since the management and operating contractor had come into possession of responsive documents after the request date, the Appellant could make a new FOIA request for those documents. Accordingly, the Appeal of the adequacy of RFFO's search was denied.

Moore Brower Hennessy & Freeman, P.C., 4/16/98, VFA-0393.

Moore Brower Hennessy & Freeman, P.C. (Moore) filed an Appeal of a determination issued to it by the Department of Energy (DOE) in response to a request under the Freedom of Information Act (FOIA). In the request, Moore asked for copies of records relating to a construction contract that

Lockheed Martin Information Technologies Company (LMITCO), the management and operating contractor of the Idaho National Engineering Laboratory, awarded to a construction company. In its determination, the Idaho Operations Office (Idaho) stated that it could not release the responsive material because the responsive documents were in LMITCO's possession. The DOE found that, even though in LMITCO's possession, the documents in the current request were nonetheless subject to release under the DOE regulations. Accordingly, the Appeal was granted.

Nuclear Control Institute, 4/15/98, VFA-0395

The DOE issued a decision granting in part a Freedom of Information Act (FOIA) Appeal filed by the Nuclear Control Institute (NCI). NCI sought the release of information withheld by the Oak Ridge and Oakland Operations Offices. In its decision, the DOE found that the Operations Offices failed to consider the public interest in disclosure and had not articulated any foreseeable harm that would result from the release of several documents withheld under FOIA Exemption 5. The DOE also found that the Operations Offices had not segregated releasable information. Accordingly, the Appeal was remanded to Oak Ridge and Oakland.

The National Security Archive, 4/16/98, VFA-0196

The National Security Archive filed an Appeal from a denial by the

Department of the Air Force of a request for information that it filed under the Freedom of Information Act (FOIA). Because the withheld information was identified as classified under the Atomic Energy Act, the Air Force withheld it at the direction of the DOE under Exemption 3 of the FOIA. In considering the information that was withheld, the DOE determined on appeal that a small portion of the document must continue to be withheld under Exemption 3, but the remainder could be released. Accordingly, the Appeal was granted in part and a newly redacted version of the requested information was ordered to be released.

Whistleblower Hearing

Timothy E. Barton, 4/13/98 VWA-0017

A Hearing Officer issued an Initial Agency Decision concerning a whistleblower complaint. The decision found that, while the employee proved that disclosures he had made were protected under 10 C.F.R. Part 708 and contributed to his termination, the employer demonstrated by clear and convincing evidence that it would have terminated the complainant in the absence of the protected disclosures.

Personnel Security Hearing

Personnel Security Hearing, 4/17/98, VSO-0179

A Hearing Officer found that an individual had shown that he is not currently suffering from the "mental illness," dysthymia, or from any

"mental condition" that would cause a defect in his judgment or reliability. Accordingly, the Hearing Officer recommended in the Opinion that the individual be granted an access authorization.

Refund Application

Enron Corp./Solar Gas, Inc., 4/17/98, RF340-55

The DOE granted an Application for Refund submitted by Solar Gas, Inc. (Solar Gas) in the Enron Corporation (Enron) special refund proceeding. The DOE excluded from Solar Gas' claim the volume of propane relating to exchange or buy/sell transactions between Solar Gas and Enron. With respect to the firm's other purchases from Enron, the DOE found that Solar Gas had demonstrated that the prices it paid to Enron for propane resulted in some economic injury to Solar Gas, but not a level of injury sufficient to qualify Solar Gas for a full volumetric refund. The DOE therefore limited this refund to the 81.5 percent of the firm's volumetric refund. Accordingly, the DOE granted Solar Gas a refund, including interest, of \$521,622.

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.

Imogene R. Owens	RK272-01777	4/14/98
Two F Company, L.L.C. ET AL	RK272-04788	4/15/98
Union County, NJ	RC272-00389	4/14/98

Dismissals

The following submissions were dismissed.

Name	Case No.
Personnel Security Hearing	VSO-0188

[FR Doc. 98-15954 Filed 6-15-98; 8:45 am]
BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-6111-1]

Revision to Addendum to Mobile Source Enforcement Memorandum 1A; Revised Tampering Enforcement Policy for Alternative Fuel Conversions

A. Purpose

The purpose of this document is to revise the tampering enforcement policy

for alternative fuel conversions as currently provided in the U.S. Environmental Protection Agency's (EPA) Addendum to Memorandum 1A in response to comments and suggestions received by the regulated community and other stakeholders.

B. Background

EPA issued an Addendum to Mobile Source Enforcement Memorandum 1A (Addendum) on September 4, 1997, to address emissions increases that resulted from the conversion of gasoline powered vehicles and engines to operate on compressed natural gas (CNG) and

liquefied petroleum gasoline (LPG or propane). The background and basis for the issuance of the Addendum and the contents of the new policy are fully contained in the Addendum. Since issuance of the Addendum, EPA has received a number of inquiries and recommendations that certain revisions to the policy would be in the public interest while not jeopardizing the