

DEPARTMENT OF ENERGY**Office of Hearings and Appeals****Notice of Issuance of Decisions and Orders During the Week of June 1 Through June 5, 1998**

During the week of June 1 through June 5, 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 decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, 950 L'Enfant Plaza, SW, Washington, D.C. 20585-0107, 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>.

Date: July 20, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 88**Appeals**

David E. Ridenour, 6/4/98, VFA-0411

David E. Ridenour (Ridenour) filed an Appeal from a determination issued to him by the Office of Inspector General (OIG) of the Department of Energy (DOE). The determination concerned Ridenour's request for information pursuant to the Freedom of Information Act (FOIA). In his Appeal, Ridenour asserted that OIG failed to conduct an adequate search for documents

pertaining to a 1997 complaint he had filed with OIG. Additionally, Ridenour asserted that OIG had improperly withheld information pursuant to Exemptions 5, 6 and 7(C) and that OIG had failed to provide him with copies of 18 responsive documents (authored by Ridenour himself) which OIG identified. After reviewing the search that was conducted for responsive documents, the DOE determined that OIG had performed an adequate search. The DOE also held that while OIG properly invoked Exemptions 6 and 7(C), OIG had improperly withheld information pursuant to Exemption 5. Additionally, DOE held that OIG should issue a determination regarding the 18 responsive documents it did not provide to Ridenour. Consequently, Ridenour's Appeal was granted in part.

Gary S. Foster, 6/1/98, VFA-0413, VFA-0414, VFA-0415, VFA-0416, VFA-0417

Gary S. Foster (Foster) filed five Appeals from five determinations issued to him by the Oak Ridge Operations Office (Oak Ridge) of the Department of Energy (DOE) in response to requests filed pursuant to the Freedom of Information (FOIA). In his Appeals, Foster asserted that Oak Ridge failed to conduct an adequate search for certain documents pertaining to beryllium transactions between Oak Ridge and five companies that supplied Oak Ridge with beryllium in the past. After reviewing the search that was conducted for responsive documents, the DOE determined that Oak Ridge had performed an adequate search. Consequently, Foster's Appeals were denied.

Personnel Security Hearing

Personnel Security Hearing, 6/2/98, VSO-0186

An OHA Hearing Officer issued an opinion recommending against

restoration of the security clearance of an individual, which had been suspended because the DOE had obtained derogatory information that fell within 10 CFR § 710.8 (f), (j), and (l). In reaching his conclusion, the Hearing Officer found that the individual suffered from alcohol abuse and had a pattern of lying about whether he drank. The Hearing Officer concluded that the individual is not sufficiently honest, reliable and trustworthy within the meaning of 10 CFR § 710.8(l) to hold an access authorization.

Whistleblower Hearing

Carlos M. Castillo, 6/1/98, VWA-0021

Carlos M. Castillo (Castillo) filed a complaint under the DOE's Contractor Employee Protection Program, 10 CFR Part 708, contending that reprisals were taken against him after he raised concerns relating to health and safety to Kiewit Construction Company (Kiewit). These alleged reprisals included the complainant's wrongful termination from employment and, after he had been rehired, being improperly selected for a company layoff. After a preliminary investigation of this matter by the DOE Office of Inspector General, Castillo and Kiewit exercised their option for an expedited hearing under 10 CFR § 708.9. In considering the transcript of testimony taken at the hearing and the submissions of the parties, the Hearing Officer determined that although Castillo had made a protected disclosure relating to health or safety, he failed to carry his burden to show by a preponderance of the evidence that such disclosure was a contributing factor in the personnel actions taken against him by Kiewit. 10 CFR § 708.9(d). Accordingly, in the DOE's Initial Agency Decision, Castillo's request for relief under Part 708 was denied.

Dismissals

The following submissions were dismissed.

Name	Case No.
Farmers Union Oil Company	RF272-94241
Karen Coleman Wiltshire	VFA-0410
Stand of Amarillo, Inc	VFA-0409

[FR Doc. 98-20125 Filed 7-27-98; 8:45 am]

BILLING CODE 6450-01-P