

Name	Case No.
Foia Group, Inc	VFA-0165
Fort Recovery Equity Exc	RG272-774
Honeywell, Inc	VFA-0149
Minden Oil, Inc	RF300-19560
Pomeroy Grange Supply Co., Inc	RG272-773
Ray Bell	RG272-971
Scotty's Contracting and Stone	RG272-771

[FR Doc. 96-23885 Filed 9-17-96; 8:45 am]

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Office of Hearings and Appeals**Notice of Issuance of Decisions and Orders From the Week of November 6 Through November 10, 1995**

During the week of November 6 through November 10, 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, 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: September 6, 1996.

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

Appeals

Long Island Lighting Company, 11/8/95,
VFA-0003

Atlantic Richfield Company/Alfred Lowry & Bros et al RF304-12892

11/08/95

Dismissed

The following submissions were dismissed:

Name	Case No.
Alabama Electric Cooperative, Inc.	RG272-00887
Albuquerque Operations Office	VSO-0062
Clay Hyder Trucking Lines	RF272-78171
Commercial Carrier Corporation	RF272-78169
Jim Beam Brands Co.	RF272-98777

The Office of Hearings and Appeals denied an appeal filed by the Long Island Lighting Company under 10 C.F.R. Part 766. LILCO had claimed that the DOE erroneously determined its special assessment for payment into the Uranium Decontamination and Decommissioning Fund established under the Energy Policy Act of 1992. In its Appeal, LILCO challenged DOE's accounting of a series of secondary market transactions in which LILCO had divested itself of enriched uranium fuel which it no longer needed due to the closing of its Shoreham New York reactor plant.

William H. Payne, 11/8/95, VFA-0091

William H. Payne filed an Appeal from a determination issued by the Office of Intergovernmental and External Affairs of the Department of Energy's Albuquerque Field Office (DOE/AL), in response to a request he submitted for information under the Freedom of Information Act (FOIA). In his request, Payne sought the names and dates of employment of all retired military personnel who were hired by Los Alamos National Laboratory between October 1, 1979, and September 12, 1995. In considering the Appeal, the DOE found that: (i) the University of California, a DOE contractor that possessed the records sought by Payne, is not an "agency" as defined in the FOIA; (ii) the records had not been obtained by the DOE and were not in the agency's control at the time of the appellant's request; and (iii) under the contract between the DOE and the University, the records requested by Payne were not agency records subject

to the FOIA. Accordingly, the DOE found that the records sought were not "agency records," and the Appeal was denied.

Implementation of Special Refund Procedures

Malcolm M. Turner, Revere Petroleum Corp., Granite Petroleum Corp., Dalco Petroleum Corp., 11/6/95, VEF-0013, VEF-0014, VEF-0015, VEF-0016

The DOE implemented procedures for the distribution of \$4,567,399.72 plus accrued interest in alleged overcharges obtained from Malcolm Turner, Revere Petroleum Corporation, Granite Petroleum Corporation and Delco Petroleum Corporation. These funds were remitted by each firm to the DOE to settle possible pricing violations with respect to sales of crude oil. The DOE has determined that these monies will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharge. Under that policy, 20 percent will be divided among injured purchasers of refined products, 40 percent to the federal government, and 40 percent to the states.

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.

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Notice of Issuance of Decisions and Orders From the Week of November 13 Through November 17, 1995

During the week of November 13 through November 17, 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, SW., Washington, DC 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: September 5, 1996.

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

Appeal

Knolls Action Project, 11/13/95, VFA-0093

Axtell-Bern Summerfield Schls. et al	RF272-96238	11/14/95
Bear River Valley Coop. et al	RF272-97054	11/14/95
Ferraro Transportation Co. Inc et al	RF272-89202	11/14/95
Gulf Oil Corporation/The Kiesel Co.	RF300-16954	11/14/95
Joed, Inc.	RF300-16973

Dismissals

The following submissions were dismissed:

Name	Case No.
A.M. Devencenzi	RF272-98261
Bacon County, GA	RF272-86198
Gordon Transport, Inc.	RF300-12748
Hartnell Plaza Texaco	RF321-20554
Idaho Operations Office	VSO-0058
Phoenix Steel Corp.	RF272-92152
Victor B. Skaar	VFA-0012
Warwick Public Schools	RF272-97913
Watonga, OK	RF272-86205

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Knolls Action Project (KAP) filed an Appeal from a determination issued to it by the Office of Naval Reactors (NR) of the Department of Energy (DOE). In its Appeal, KAP asserted that NR improperly failed to grant it a fee waiver regarding documents it requested pursuant to four Freedom of Information Act (FOIA) Requests it submitted. In its Requests, KAP requested various documents pertaining to the shipment and management of spent nuclear fuels from U.S. Naval vessels and that it be granted a fee waiver for the costs associated with the processing of its Requests. In its determination letter, NR denied KAP's fee waiver Request. In its Appeal, KAP argued that it fully met each of the requirements for a fee waiver. After a *de novo* review, the DOE determined that KAP was eligible for a fee waiver regarding certain portions of one of its FOIA Requests and was properly denied a fee waiver regarding the remainder of its Requests.

Personnel Security Hearing

Albuquerque Operations Office, 11/14/95, VSA-0023

Upon review, the Director, Office of Hearings and Appeals, concurred with the Hearing Officer's recommendation in Case No. VSA-0023 that access authorization not be restored to the appellant employee due to his use of marijuana and subsequent concealment of a history drug use. The employee claimed that 1) he was not notified of the results of a drug test; 2) that the drug test violated provisions of the Drug Free

Workplace Act; and 3) that his concealment of drug use was due to immaturity or poor memory. The Director found that the employee had failed to mitigate valid security concerns. The Director also denied a motion for discovery of ethnicity of persons subject to administrative review by the Department of Energy.

Refund Application

Maritime Overseas Corporation, 11/14/95, RF272-97921

The DOE issued a Decision and Order concerning one Application for Refund in the Subpart V crude oil overcharge refund proceeding. The refund application was filed by the Maritime Overseas Corporation. The DOE determined that the Maritime Overseas Corporation was not entitled to a refund since it had filed a Rail and Water Transporters Escrow Settlement Claim Form and Waiver. In that filing, the Maritime Overseas Corporation had requested a Stripper Well refund from the Rail and Water Transporters escrow, thereby waiving its right to a Subpart V crude oil refund. Accordingly, the DOE denied the Application for 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.