

Name	Case No.
UNITED TRUCK & BUS SERVICE	RF300-21715
WASHINGTON PARISH	RF272-97762

[FR Doc. 96-24294 Filed 9-20-96; 8:45 am]
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Notice of Issuance of Decisions and Orders; Week of August 26 Through August 30, 1996

During the week of August 26 through August 30, 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, 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: September 11, 1996.
George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 987

Appeal

*Carolina Power & Light Co., 8/28/96,
VEA-0005*

Carolina Power & Light Co. filed an Appeal from a determination by the DOE's Office of Environmental Management of CP&L's assessment for the Uranium Enrichment Decontamination and Decommissioning Fund (D&D Fund). CP&L argued that its assessment should not include DOE enrichment services associated with (1) leased enriched uranium, (2) a waste stream purchased from a foreign utility, or (3) fabrication allowances. After considering CP&L's arguments, the DOE determined that the requested exclusions would be inconsistent with the statute establishing the D&D Fund and the implementing regulations. Accordingly, the Appeal was denied.

Refund Applications

Fairmont Foods, Inc., 8/29/96, RF272-92292

The DOE issued a Decision and Order concerning one Application for Refund filed by Fairmont Foods, Inc. In the Subpart V crude oil overcharge refund proceeding, the DOE determined that Fairmont Foods, Inc. was not entitled to a refund since it had filed a Reseller's Escrow Settlement Claim Form and Waiver. In that filing, Fairmont Foods, Inc. had requested a Stripper Well refund from the Reseller's escrow, thereby waiving its right to a Subpart V crude oil refund. Accordingly, the DOE denied the Application for Refund.

Franklin Oil Corp., 8/29/96, RF272-98162

The Department of Energy (DOE) issued a Decision and Order denying an Application for Refund that was filed by

Franklin Oil Corp. (Franklin) in the crude oil refund proceeding. In the Decision, the DOE concluded that Franklin was a refiner of petroleum products, and therefore was required to show that it was injured as a result of the alleged crude oil overcharges. Because Franklin failed to make such a showing, its application was denied.

H&D Excavating, Inc., 8/30/96, RC272-348

The DOE issued a Supplemental Order to H&D Excavating, Inc. rescinding a part of a Decision and Order that granted the application of 15 claimants in the Subpart V crude oil refund proceeding. See *Burnup & Sims, Inc.*, Case No. RF272-92013 (December 19, 1994). In that Decision, the DOE granted H&D Excavating, Inc. (Case No. RF272-92350), a refund of \$88 based on its purchases of 110,050 gallons of refined petroleum products. The United States Post Office returned as undeliverable the refund check mailed to H&D Excavating, Inc. Since the DOE was also unable to contact or locate H&D Excavating, Inc., the DOE rescinded the refund approved for H&D Excavating, Inc.

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.

CLAIRMONT TRANSFER COMPANY	RC272-349	08/29/96
COMMERCIAL TRUCK CO., LTD	RF272-97307	08/26/96
GREENWOOD MOTOR LINES, INC. ET AL	RF272-75953	08/28/96
IES INDUSTRIES INC	RF272-98185	08/28/96
MERCER MOTOR FREIGHT, INC. ET AL	RF272-97332	08/28/96
NASHVILLE ELECTRIC SERVICE ET AL	RF272-99115	08/28/96
NORTHEAST PETROLEUM INDUSTRIES/HUCKINS OIL COMPANY, INC.	RR264-1	08/29/96

Dismissals

The following submissions were dismissed:

NAME	CASE NO.
ALMEIDA BUS LINES, INC.	RG272-0080
ASHCRAFT'S MARKETS, INC.	RF272-97807
BAKER AVIATION, INC.	RF272-98023
BARKER TIMBER COMPANY	RF272-95155
CHRYSLER TRANSPORT	RF272-97934
COCA-COLA BOTTLING CO	RF272-90191
DOLE FRESH VEGETABLES, INC	RF272-95152
ESTATE OF R.E. WILLIAMS	RF272-97906

NAME	CASE NO.
MCNAMARA MOTOR EXPRESS, INC	RF272-97068
QUALITY SEAFOODS, INC.	RF272-95157
STATE COMPENSATION INSURANCE FUND	RF272-92741
STATE OF VERMONT	RF272-97901

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Notice of Issuance of Decisions and Orders Week of July 31 Through August 4, 1995

During the week of July 31 through August 4, 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.

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Dated: September 10, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 931

Appeal

Esther Lyons, 8/3/95, VFA-0056

Esther Lyons (Lyons) filed an Appeal from a determination issued to her by the Oak Ridge Operations Office (Oak Ridge) of the Department of Energy (DOE). In her Appeal, Lyons asserted that Oak Ridge failed to perform an adequate search for responsive documents in its possession regarding a Freedom of Information Act (FOIA) Request she submitted. In her Request, Lyons requested copies of all documents containing information pertaining to her father, Michael D. Lyons. In its determination letter, the Oak Ridge stated that it could not find any documents which were responsive to her Request. In her Appeal, Lyons argued that Oak Ridge conducted an inadequate search for responsive

documents and asserted that responsive documents must exist since her father operated various companies which did business with the Atomic Energy Commission. The DOE determined that Oak Ridge conducted an adequate search for responsive documents in light of the fact that the Lyons' Request only contained her father's name and none of the information provided in her subsequent Appeal. However, Oak Ridge agreed to conduct another search for responsive documents using the additional information provided in Lyons' Appeal. Consequently, the DOE remanded the matter to Oak Ridge so that it could conduct a further search for responsive documents.

Personnel Security Hearing

Albuquerque Operations Office, 8/3/95, VSO-0028

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 had obtained derogatory information that fell within 10 CFR 710.8 (k) and (l). In reaching his conclusion, the Hearing Officer found that the individual had possessed and used marijuana after signing a certification that he would not use illegal drugs. 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(l).

Supplemental Order

THE 341 TRACT UNIT OF THE CITRONELLE FIELD, 8/1/95, VFX-0003

The DOE issued a Decision and Order directing payment to a mediator for his services in connection with negotiations to settle litigation over the escrow funds concerning The 341 Tract Unit of the Citronelle Field. The DOE directed that \$12,063.25 of the mediator's fee should be taken from the Citronelle escrow account. The remaining \$4,461.75 of his fee is to be paid directly by the DOE.

Refund Applications

CITRONELLE-MOBILE GATHERING/ GLOBE MANUFACTURING CO., ET AL., 8/3/95, RR336-75, ET AL.

The DOE issued a Decision and Order directing payment of refunds to 37 applicants in the Citronelle-Mobile Gathering (Citronelle) special refund proceeding. These funds had been collected from Citronelle pursuant to a March 17, 1988, a decision of the United States District Court for the Southern District of Alabama. On August 12, 1992, the court ordered the transfer of the Citronelle overcharges funds from the registry of the court to the DOE deposit escrow fund account, and ordered the transfer of any additional payments into the registry to the DOE escrow account on a quarterly basis. The court directed the DOE Office of Hearings and Appeals (OHA) to make payments to the claimants, in proportion to the number of gallons of eligible refined petroleum products purchased by each claimant, whenever the amount in the DOE escrow account exceeds \$1,000,000, and no less often than once every two years. Two years had passed since the most recent disbursement of funds on August 3, 1993. Accordingly, the DOE directed that the funds in the Citronelle account be disbursed to the 37 eligible claimants.

NATIONAL HELIUM CORP./OREGON RM3-289; TIME OIL COMPANY/ OREGON RM334-290; COLINE GASOLINE CORP./OREGON RM2-291; BELRIDGE OIL COMPANY/ OREGON RM8-292; PERRY GAS PROCESSORS/OREGON RM183-293; PALO PINTO OIL AND GAS/ OREGON, 7/31/95, RM5-294

The DOE issued a Decision and Order granting a Motion for Modification filed by the State of Oregon in the National Helium Corp., Time Oil Company, Coline Gasoline Corp., Belridge Oil Company, Perry Gas Processors, and Palo Pinto Oil and Gas special refund proceedings. Oregon requested permission to modify its second-stage refund plan after the telecommuting program approved in *National Helium/ Oregon*, 25 DOE ¶ 85,017 (1995) failed to win approval from the Oregon state legislature. Oregon wished to reallocate the \$500,000 previously intended for that program to its Public Buildings Energy Savings Program, which was approved in the same decision. The DOE determined that increased funding would extend the benefits of the Public