

violated a drug certification and that this constituted unusual conduct tending to show he was not reliable or trustworthy. Following a hearing convened at the request of the individual, the Office of Hearings and Appeals Hearing Officer found in his Opinion that the individual had become severely addicted to methamphetamine and, despite the individual's candor and commendable recovery efforts since admitting his drug use, he was far from being rehabilitated. The Hearing Officer further disapproved the individual's assertion that he had not made a knowing decision when he signed the Drug Certification. Accordingly, the Hearing Officer concluded in the

Opinion that individual's access authorization should not be restored.

Refund Application

Gulf Oil Corp./Central Truck Lines, Inc.,
7/17/96, RF300-20692

The DOE issued a Decision and Order, denying a refund application filed on behalf of Central Truck Lines, Inc. (Central Truck) in the Gulf Oil Corporation refund proceeding. The applicant, Allan Day Musgrove, claimed the right to a refund as the owner of a dissolved corporation which owned the parent of Central Truck. In the Decision and Order, the DOE determined that the circumstances surrounding the acquisition and subsequent dissolution

of the corporations involved indicated that Mr. Musgrove was not injured by the alleged Gulf overcharges experienced by Central Truck. Accordingly, the DOE determined that Mr. Musgrove was not entitled to a Gulf refund for those alleged overcharges.

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.

BILLY J. TEMPLETON ET AL	RK272-02314	07/16/96
CRUDE OIL SUPPLE REF DIST.	RB272-00084	07/15/96
CRUDE OIL SUPPLEMENTAL REFUND	RB272-85	07/19/96
FRED CARLSON COMPANY, INC. ET AL	RG272-00761	07/15/96
GULF OIL CORPORATION/FLOWERS BAKING CO. OF BIRMINGHAM	RF300-16597	07/16/96
HOLSUM BAKERIES, INC.	RF300-16936	
UNITED TRUCK & BUS SERVICE	RR300-00285	
K.F. CROCKER TRANSPORTATION CO	RA272-69	07/19/96
K.F. CROCKER TRANSPORTATION CO	RA272-70	
KERR-MCGEE COAL CORP.	RG272-291	07/16/96
LIN-MOUR OIL & GAS CO. ET AL	RK272-3334	07/19/96
OUR LADY OF THE MOST BLESSED SACRAMENT ET AL	RK272-03174	07/15/96

Dismissals

The following submissions were dismissed:

Name	Case No.
BUCHANAN OIL CORPORATION	LEE-0114
HOLLAND FUELS, INC.	RF304-4871
KENNETH E. JONES, JR.	RF300-13193
PHILLIP REED MORRISON	RF300-19921
PORETSKY MANAGEMENT, INC	RG272-504
SUNY COBBLESKILL	RF272-90186
SUPERIOR FORWARDING CO.	RG272-558
THE CIRCLE K CORPORATION	RF272-98650

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Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of March 11 Through March 15, 1996

During the week of March 11 through March 15, 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, 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 24, 1996.
George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 963

Appeals

Helen Ruth Sutton-Pank, 3/11/96, VFA-0130

Helen Ruth Sutton-Pank (Sutton-Pank) filed an Appeal from a determination issued to her by the Albuquerque Operations Office (DOE/AL) of the Department of Energy (DOE). In her Appeal, Sutton-Pank asserted that DOE/AL improperly failed to provide her with medical records in the possession of Lockheed/Martin, the contractor operating Sandia National Laboratories, which she had requested pursuant to the FOIA. The DOE determined that the Lockheed/Martin

records were not agency records within the meaning of the FOIA and Sutton-Pank's Appeal was denied.

James E. Minter, 3/12/96, VFA-0132

James E. Minter filed an Appeal from a determination issued to him on January 9, 1996, by the Albuquerque Operations Office (Albuquerque) in response to a request for information Mr. Minter submitted under the Freedom of Information Act (FOIA). In that determination, Albuquerque stated that it could not find the information Mr. Minter requested, copies of statements or reports by Ray Parrett, Chief of the Transportation Safety Division at Oak Ridge Operations Office. Mr. Parrett recalled having taken the notes Mr. Minter was requesting, but the notes could not be located, Mr. Parrett having since retired. We determined that Albuquerque followed procedures which were reasonably calculated to uncover the information sought by Mr. Minter. Therefore, the Appeal was denied.

James H. Stebbings, 3/11/96, VFA-0123

James H. Stebbings (Appellant) filed an Appeal from a determination issued by the Department of Energy's Argonne Group in response to a request under the Freedom of Information Act (FOIA). The DOE had forwarded the Appellant's request for documents relating to radiation level testing of human subjects who had been in Eastern Europe during the time of the Chernobyl nuclear incident to the Chicago Operations Office (COO), which in turn forwarded the request to the Argonne Group. The Argonne Group determined that no responsive documents existed at that location. The Appellant challenged the adequacy of the Argonne Group search, citing three responsive documents he had discovered in a commonly accessed internal Argonne bibliography. In the course of investigating the search, the Argonne Group decided that it would continue searching for documents. Further, although the Appellant had mentioned in his request that responsive documents might be found at Brookhaven National Laboratory (Brookhaven), COO failed to forward the response to that location. Therefore, the DOE granted the Appeal and remanded the matter to COO, in order that the request be forwarded to Brookhaven, and to the Argonne Group.

Janis C. Garrett, 3/11/96, VFA-0131

The DOE's Office of Hearings and Appeals (OHA) issued a determination denying a Freedom of Information Act

(FOIA) Appeal filed by Janis C. Garrett (Garrett). Garrett appealed the adequacy of a search conducted by the Western Area Power Administration (WAPA). OHA found that the search was adequate.

Personnel Security Hearings

Albuquerque Operations Office, 3/11/96, VSO-0073

Under the provisions set forth in 10 C.F.R. Part 710, the Department of Energy, Albuquerque Operations Office (DOE/AL) denied an individual's request for an access authorization ("Q" level security clearance), based upon derogatory information received by the DOE/AL which revealed illegal conduct and financial irregularities on the part of the individual. Following a personnel security interview and evaluation by a DOE consultant psychiatrist, DOE/AL denied the individual an access authorization under disqualifying criteria set forth in: (1) 10 C.F.R. § 710.8(h), that the individual has "[a]n illness or mental condition of a nature which, in the opinion of a board-certified psychiatrist . . . causes, or may cause, a significant defect in judgment or reliability," and (2) 10 C.F.R. § 710.8(1), that the individual has "[e]ngaged in [] unusual conduct or is subject to circumstances which tend to show that the individual is not honest, reliable, or trustworthy"

Following a hearing convened at the request of the individual, the Office of Hearings and Appeals Hearing Officer found in the Opinion that there was substantial evidence to support the diagnosis rendered by the DOE consultant psychiatrist that the individual has a mental disorder, Antisocial Personality Disorder, which has caused and may continue to cause a significant defect in his judgment and reliability. In addition, the Hearing Officer found that the individual had in a number of incidents demonstrated behavior which tended to show that he was not honest, reliable or trustworthy. Accordingly, the Hearing Officer concluded in the Opinion that the individual should not be granted an access authorization.

Pittsburgh Naval Reactors Office, 3/15/96, VSO-0069

An Office of Hearings and Appeals Hearing Officer issued an opinion concerning the continued eligibility of an individual for access authorization under 10 C.F.R. Part 710. The Hearing Officer found that the circumstances surrounding the late filing of the

individual's tax returns do not require the revocation of the individual's security clearance. The Hearing Officer found that the individual's failure to file these tax returns on time was not motivated by a desire to break the law or for personal gain as both the federal and the state government owed her money. The Hearing Officer determined that the individual was an honest person who had problems organizing her financial records and was rehabilitated because the overdue tax returns had been filed and steps had been taken to ensure that future tax returns would be filed on time. Thus, the Hearing Officer concluded that the individual had not engaged in conduct which tends to show that she is not honest, reliable or trustworthy. 10 C.F.R. § 710.8(1). Accordingly, the Hearing Officer found that restoration of the access authorization would not be contrary to the national interest or endanger the common defense and security and recommended restoration of the access authorization.

Implementation of Special Refund Procedures

Brio Petroleum Inc., VEF-0017; Merit Petroleum Co., VEF-0018; Transcontinental Energy Corp., VEF-0020; UTEX Oil Company, 3/14/96, VEF-0021.

The DOE issued a Decision and Order implementing procedures for the distribution of \$420,922.73 plus accrued interest in alleged overcharges obtained from Brio Petroleum Inc., Merit Petroleum Company, Transcontinental Energy Corporation and Utex Oil Company. 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 Overcharges. Under that policy, 20% will be divided among injured purchasers of refined products, 40% to the federal government, and 40% among 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.

CRUDE OIL SUPPLE REF DIST	RB272-0068	03/12/96
DOROTHY BARBEN ET AL	RK272-1107	03/14/96
EARL OVERMOE ET AL	RK272-02900	03/12/96
EVELYN WURDEMAN ET AL	RK272-2065	03/14/96
GULF OIL CORPORATION/C.B. HUGHES ET AL	RF300-16893	03/12/96
GULF OIL CORPORATION/HICKS & RAPELYE GULF ET AL	RF300-19604	03/14/96
LONE STAR INDUSTRIES ET AL	RK272-2669	03/14/96
TMBR/SHARP DRILLING, INC. ET AL	RK272-2621	03/11/96

Dismissals

The following submissions were dismissed:

Name	Case No.
AHLHORN GROCERY & SERVICE STATION	RF300-16262
BOB'S GULF	RF300-13249
C&C COLA	RF272-78276
GIL TAYLOR GULF	RF300-16368
IGERT, INC.	RF300-16721
KOBI GULF	RF300-20245
RESTON'S GULF SERVICE CENTER	RF300-16449

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-5619-3]

Agency Information Collection Activities Under OMB Review; NSPS for Grain Elevators (OMB No. 2060-0082; EPA ICR No. 1130.05); NSPS for Petroleum Dry Cleaning Facilities (OMB No. 2060-0079; EPA No. 0997.05)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507 (a)(1)(D), *et seq.*), this notice announces that the following Information Collection Requests (ICRs) have been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS for Grain Elevators, Subpart DD, EPA ICR Number 1130.05, OMB Control Number 2060-0082; and NSPS for Petroleum Dry Cleaning Facilities, Subpart III, OMB NO. 2060-0079, EPA NO. 0997.05, both expiring November 30, 1996. The ICRs describe the nature of the information collection and their expected burdens and costs.

DATES: Comments must be submitted on or before November 1, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260-2740, and refer to the appropriate EPA ICR No. 1130.05, or 997.05.

SUPPLEMENTARY INFORMATION:

Title: New Source Performance Standards (NSPS) for grain elevators, Subpart DD, OMB Control Number 2060-0082, EPA ICR Number 1130.05,

expiring November 30, 1996. This is a request for an extension of a currently approved collection.

Abstract: Owners or operators to NSPS Subpart DD must make the following one time-only reports: notification of the date of construction or reconstruction; notification of the anticipated and actual dates of startup; notification of any physical or operational change to an existing facility that may increase the rate of emission of the regulated pollutant; notification of the date of the initial performance test; and the results of the initial performance test, including information necessary to determine the conditions of the performance test and performance test measurements and results, including particulate matter concentration and opacity.

Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, as well as the nature and cause of the malfunction (if known) and corrective measures taken. These notifications, reports and records are required, in general, of all sources subject to NSPS. Without such information, enforcement personnel would be unable to determine if the standards are being met on a continuous basis, as required by the Clean Air Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d),

soliciting comments on this collection of information was published on June 11, 1996 (61 FR 29551). One commentor telephoned to say he thought EPA's estimate of one new source annually was low. After consulting with Regions and AIRS, EPA has decided not to adjust its estimate. The available data do not indicate the startup of more than one Subpart DD source in the average year.

The required information consists of emissions data and other information that have been determined not to be private. However, any information submitted to the Agency for which a claim of confidentiality is made will be safeguarded according to the Agency policies set forth in Title 40, Chapter 1, Part 2, Subpart B—Confidentiality of Business Information (see 40 CFR 2; 41 FR 36902, September 1, 1976; amended by 43 FR 40000, September 8, 1978; 43 FR 42251, September 20, 1978; 44 FR 1764, March 23, 1979).

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average one hour for each of the estimated 63 established sources, and 42.6 hours for the estimated one new source every year. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the