

[FR Doc. 97-9519 Filed 4-11-97; 8:45 am]  
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## DEPARTMENT OF ENERGY

### Office of Hearings and Appeals

#### Notice of Cases Filed: Week of December 02 Through December 06, 1996

During the week of December 02 through December 06, 1996, the appeals,

and applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Submissions inadvertently omitted from earlier lists have also been included.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be

filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585-0107.

Dated: April 4, 1997.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

### LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of December 2 through December 6, 1996]

Date	Name and location of applicant	Case No.	Type of submission
09/07/94 .....	Douglas County School District Rel, Castle Rock, Colorado.	RR272-269	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The July 12, 1994 Dismissal, Case No. RF272-82729, issued to Douglas County School District Rel regarding the firm's application for refund submitted in the Crude Oil refund proceeding would be modified.
12/02/96 .....	Keci Corporation, Walnut Creek, California ...	VFA-0246	Appeal of an Information Request Denial. If granted: The September 25, 1996 Freedom of Information Request Denial issued by the Office of the Inspector General would be rescinded, and Keci Corporation would receive access to certain Department of Energy information.
12/02/96 .....	Ezra A. Beattie, Sr., Amarillo, Texas .....	VFA-0247	Appeal of an Information Request Denial. If granted: The October 29, 1996 Freedom of Information Request Denial issued by the Office of the Inspector General would be rescinded, and Ezra A. Beattie, Sr. would receive access to certain DOE information.
12/04/96 .....	Champion Spark Plug Co., Toledo, Ohio .....	RR272-270	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The September 15, 1994 Dismissal, Case No. RF272-93723, issued to Champion Spark Plug Co. Regarding the firm's application for refund submitted in the Crude Oil refund proceeding would be modified.
12/04/96 .....	West Building Materials/Associated Distributors.	RR272-268	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If granted: The November 15, 1996 Dismissal, Case No. RG272-790, issued to West Building Materials/Associated Distributors regarding the firm's application for refund submitted in the Crude Oil refund proceeding would be modified.

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## DEPARTMENT OF ENERGY

### Office of Hearings and Appeals

#### Notice of Issuance of Decisions and Orders; Week of March 3 Through March 7, 1997

During the week of March 3 through March 7, 1997, 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: April 4, 1997.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

#### Decision List No. 23—Week of March 3 Through March 7, 1997

##### Appeals

*Sheet Metal Workers' International Association, 3/5/97, VFA-0268*

Sheet Metal Workers' International Association (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 the request, the Appellant asked for apprentice registration forms and certified payroll records generated in connection with a contract to build a Clean Room. In its Determination, Oak Ridge Operations Office (Oak Ridge) found that the DOE

did not have any responsive documents in its possession. On appeal, the Appellant argued that the DOE must possess such documents because the Clean Room contract was a construction contract and under the Davis-Bacon Act, the agency was required to keep such records. The Office of Hearings and Appeals (OHA) found that the Clean Room contract had been classified as a service contract not covered by the Davis-Bacon Act. Therefore, OHA upheld Oak Ridge's Determination that the agency did not possess responsive documents. The OHA also found that the agency did not own any responsive documents under contract. Therefore, the DOE denied the Appeal.

**Personnel Security Hearings**

*Personnel Security Hearing, 3/5/97, VSO-0114*

A Hearing Officer found that an individual had not successfully mitigated security concerns arising from

his providing false information and his pattern of keeping certain of his behavior secret. These behaviors tended to show that the individual was not honest, reliable, and trustworthy. Accordingly, the Hearing Officer recommended in the Opinion that the individual's access authorization not be restored.

*Personnel Security Hearing, 3/6/97, VSO-0115*

A Hearing Officer found that an individual had not successfully resolved security concerns arising from her mental illness. The behavior associated with her mental illness, including an attempted suicide, indicated that the mental illness causes a significant defect in the individual's judgment and reliability. Although the individual is now participating in a therapeutic program, she has not participated long enough to provide assurance that defects in her judgment and reliability

will not recur. Accordingly, the Hearing Officer recommended in the Opinion that the individual's access authorization not be restored.

**Refund Application**

*Kathleen Lanier, 3/7/97, RK272-4201*

The DOE denied a supplemental crude oil refund application filed by Kathleen Lanier. The OHA determined that Ms. Lanier had no legally cognizable relationship to the original refund applicant, Golden Dawn Foods, 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.

Apex Oil Co/Clark Oil Co/et al/Wright Industries, Inc .....	RF342-00047	3/7/97
Brink's Incorporated .....	RF272-86049	3/7/97
Crude Oil Supple Ref Dist .....	RB272-00102	3/3/97
Daniel Ruiz .....	RJ272-31	3/3/97
Effingham Equity et al .....	RG272-3	3/3/97
Indiana Brass, Incorporated .....	RK272-04127	3/3/97
J.B. Talley & Co., Inc. et al .....	RK272-4093	3/4/97
Nora Lee Elkins et al .....	RK272-4064	3/3/97
V.F. Warner & Son et al .....	RF272-97275	3/7/97
Virgil's, Inc. et al .....	RF272-86613	3/3/97
W.E. Bartholow & Son Const .....	RJ272-26	3/3/97
W.E. Bartholow & Son Const .....	RJ272-27	3/3/97
W.E. Bartholow & Son Const .....	RJ272-28	3/3/97
W.E. Bartholow & Son Const .....	RJ272-29	3/3/97
W.E. Bartholow & Son Const .....	RJ272-30	3/3/97

**Dismissals**

The following submissions were dismissed.

Name	Case No.
Borough of Cornwall .....	RF272-86140
Brader Hauling Service, Inc .....	RR272-283
Citizen Action .....	VFA-0269
City of Bedford Heights .....	RF272-86092
Owen's Oil Service .....	RF342-225
Ramsey Trucking, Inc .....	RK272-4038
Rio Stores, Inc .....	RK272-3824

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**DEPARTMENT OF ENERGY**

**Office of Hearings and Appeals**

**Notice of Issuance of Decisions and Orders; Week of March 10 Through March 14, 1997**

During the week of March 10 through March 14, 1997, the decision and order summarized below was issued with respect to appeal 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 this decision and order 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. The decision is also available in *Energy Management:*

*Federal Energy Guidelines*, a commercially published loose leaf reporter system and on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: April 4, 1997.

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

**Decision List No. 24—Week of March 10 Through March 14, 1997**

**Appeals**

*Quivira Mining Company, 3/13/97, VEA-0007*