

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS, DEPARTMENT OF ENERGY—Continued
[Week of April 14 through April 18, 1997]

Date	Name and location of applicant	Case No.	Type of submission
4/18/97	Sandra Clayton, Morrison, Colorado	VFA-0289	Appeal of an Information Request Denial. If Granted: The Freedom of Information Request Denial issued by the Western Area Power Administration would be rescinded, and Sandra Clayton would receive access to certain DOE information.

[FR Doc. 97-12359 Filed 5-9-97; 8:45 am]

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DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of April 14 Through April 18, 1997

During the week of April 14 through April 18, 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, SW, 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: May 5, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 29; Week of April 14 Through April 18, 1997

Appeals

Information Focus on Energy, Inc.,
4/17/97, VFA-0280

Information Focus on Energy, Inc. (IFE) filed an Appeal from a determination by the Assistant Inspector General for Resource Management of the Office of Inspector General (Assistant IG) of the Department of Energy (DOE). In that determination, the Assistant IG partially granted a request for information filed by IFE. In considering the Appeal, the DOE ordered the Assistant IG to search for and release documents containing titles, report numbers, and issue dates of all DOE Inspector General Reports, including inspection reports, for the years 1988 through September 1996, or provide a detailed explanation for withholding any such information.

Nancy Donaldson, 4/14/97, VFA-0271

Nancy Donaldson filed an Appeal challenging the adequacy of a search for documents conducted by the Bonneville Power Administration (BPA) in connection with a request she filed under the Freedom of Information Act (FOIA). Specifically, Ms. Donaldson claimed that she should have been provided with the results of asbestos testing that was done prior to 1985 at BPA locations, and with documents having to do with the presence of transite paneling at those locations. In considering the Appeal, the Department of Energy found that the absence of pre-1985 test data was not evidence of an inadequate search. However, the matter was remanded to the BPA so that a search for documents having to do with the presence of transite paneling at BPA locations could be performed.

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.

Aurora Casket Company	RG272-604	4/16/97
Crude Oil Supple Ref	RB272-00101 ..	4/17/97
Herring Farm et al	RK272-01792 ..	4/17/97
Horn Trucking Co. et al	RK272-02263 ..	4/17/97
Legler Farms, Inc. et al	RK272-01330 ..	4/18/97
Minnie Dyk et al	RK272-2002	4/16/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Northern Farmers Cooperative Society	RG272-00717
OSU Motor Pool	RF272-86826
Personnel Security Hearing	VSO-0134

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DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of April 21 Through April 25, 1997

During the week of April 21 through April 25, 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, SW, 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: May 5, 1997.

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

Decision List No. 30; Week of April 21 Through April 25, 1997

Appeals

Information Focus on Energy, 4/25/97, VFA-0281

The DOE issued a decision denying in part and granting in part a Freedom of Information Act (FOIA) Appeal filed by Information Focus on Energy (IFOE). IFOE sought Internet access to records of occurrence reports contained in a DOE database. The DOE's FOIA/Privacy Act Division (HQ) denied access to the database, but released some responsive records to the requester. In its decision, the DOE found that HQ did not release all responsive records to IFOE, and granted this portion of the Appeal. However, the DOE found that HQ had no obligation to provide the responsive

records on the Internet, and accordingly denied this portion of the Appeal.

Research Information Services, Inc., 04/25/97, VFA-0283

Research Information Services, Inc. (RIS) filed an Appeal from a determination issued by the Office of Arms Control and Nonproliferation (OACN). In that determination, OACN furnished RIS with lists of information that had been forwarded to other agencies and the DOE Office of Declassification. In its Appeal, the RIS contended that it was entitled to a list of information available in the FOIA Reading Room. The DOE rejected that contention, holding that it was not required to compile a list of the publicly available material. The RIS also contended that OACN had not released all responsive information. OACN determined that some information had not been released and requested that the matter be remanded to it for a new determination either justifying the withholding of that information under Exemption 4 or releasing it. Therefore, the Appeal was denied in part and granted in part.

Richard J. Levernier, 04/25/97, VFA-0282

The DOE issued a decision granting in part a Freedom of Information Act (FOIA) Appeal filed by Richard J. Levernier. Levernier sought documents concerning certain investigations by the DOE's Office of Inspector General (IG). In its decision, the DOE found that the IG's search for responsive documents was adequate and that the IG's withholdings under FOIA Exemptions 6, 7(C) and 7(D) were appropriate. However, the DOE questioned some of the IG's withholdings under Exemption 5. Accordingly, the Appeal was remanded to the IG and denied in all other aspects.

Robert B. Freeman, 04/24/97, VFA-0279

The DOE granted in part and denied in part an appeal of a determination withholding documents under Section 552a(d)(5) of the Privacy Act. The DOE found that certain records were not subject to the exemption set forth in 5 U.S.C. § 552a(d)(5), that information in these records must be released to the appellant unless it is exempt from disclosure under both the Privacy Act and Freedom of Information Act (FOIA), and that certain other records in the possession of a private physician were

not subject to the provisions of the Privacy Act or FOIA.

Supplemental Order

C. Lawrence Cornett, 4/24/97, VWX-0010

This Order supplements an Initial Agency Decision, dated December 19, 1996, issued by a DOE Hearing Officer involving a "whistleblower" complaint filed by C. Lawrence Cornett under the DOE Contractor Employee Protection Program, 10 C.F.R. Part 708. In the December 19 Decision, the Hearing Officer recommended that Cornett be awarded back pay lost as a result of the reprisals taken against him, as well as all costs and expenses reasonably incurred by him in bringing his complaint. Subsequently, Cornett submitted documentation pertaining to his claimed back pay, attorney fees and costs. In the Supplemental Order, the Hearing Officer awarded Cornett back pay of \$161,864 and interest of \$33,543. With regard to attorney fees, the Hearing Officer proportionally reduced Cornett's attorney fee claim because of duplication of effort and inefficiencies of the multiple attorneys involved in the case. The Hearing Officer awarded Cornett \$76,230 for attorney fees. After making reductions for costs not reasonably related to the bringing of his complaint, the Hearing Officer awarded Cornett \$8,963 for costs. In total, the Hearing Officer awarded Cornett \$280,600.

Refund Application

U.S. Department of Agriculture, 4/21/97, RF272-76126, RF272-78732

The DOE issued an order approving two Applications for Refund filed by the U.S. Department of Agriculture in the DOE's Subpart V crude oil refund proceeding. The DOE determined that the claimed volumes were not purchased through the Defense Logistics Agency (DLA) and, therefore, were not covered by the refund granted DLA in a separate case. The total refund granted to USDA was \$127,733.

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.

Beatrice M. Ferron et al	RK272-01603	4/24/97
Dart Trucking	RG272-43	4/22/97
Defiance Landmark et al	RG272-11	4/21/97
Lewis Coal & Coke Co., Inc. et al	RK272-03649	4/22/97