

Name	Case No.	Date
Cape Ann Tool Co. et al .....	RF272-94520	8/28/97
City of Orlando et al .....	RF272-76387	8/25/97
Farmer's Oil Co. of Outlook et al .....	RF272-94783	8/29/97
M.R. Paving & Excavating .....	RK272-04016	8/25/97
United Cooperative Assoc. et al .....	RK272-01507	8/29/97
Vessels Gas Processing Co./Williams Energy .....	RF354-00010	8/29/97

### Dismissals

The following submissions were dismissed.

Name	Case No.
Farmers Elevator Co-op. Assn .....	RF272-98982
Five Star Moving & Storage .....	RK272-4503

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## DEPARTMENT OF ENERGY

### Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of August 18 Through August 22, 1997

During the week of August 18 through August 22, 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: November 26, 1997.

**George B. Breznay,**

*Director, Office of Hearings and Appeals.*

### Decision List No. 47, Week of August 18 Through August 22, 1997

#### Appeals

*Curry Contracting Co., Inc., 8/18/97 VFA-0321*

Curry Contracting Co., Inc., appealed a determination issued to it by the Oak Ridge Operations Office. In its Appeal, Curry asserted that Oak Ridge failed to

conduct an adequate search for OSHA reports, award and incentive fee contracts at the Office of Scientific and Technical Information Building, and reports pertaining to itself that it requested pursuant to the FOIA. The DOE determined that Oak Ridge had performed an adequate search. Consequently, Curry's Appeal was denied.

#### *Information Focus on Energy, 8/19/97 VFA-0310*

Information Focus on Energy, Inc. (IFE) appealed a determination by the Albuquerque Operations Office that partially denied IFE's request for information. In considering the Appeal, the DOE ordered the Director to either release names withheld pursuant to Exemption 6 or provide a detailed explanation for withholding any such information. Thus, the DOE granted IFE's Appeal.

#### *Los Alamos Study Group, 8/18/97 VFA-0316*

The Los Alamos Study Group appealed a determination by the Albuquerque Operations Office (AO) that denied a request for information made under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE confirmed that the AO correctly determined that the records the LASG sought are neither "agency records" within the meaning of the FOIA nor subject to release under the DOE regulations. Accordingly, the DOE denied the Appeal.

#### *William H. Payne, 8/18/97, VFA-0315*

The Department of Energy granted in part a Privacy Act Appeal that was filed by William H. Payne. The Director of the Freedom of Information and Privacy Acts Division (the Director) had denied a request for amendment that Mr. Payne filed pursuant to the Privacy Act because the document that Mr. Payne wished to amend is the property of a DOE contractor. In the Decision, the

DOE concluded that if the document were located in a "Privacy Act system of records" pursuant to the contractor's agreement with the DOE, the document would be subject to the Act, and a decision on the merits of Mr. Payne's Appeal should be issued. The OHA, therefore, remanded the matter to the Director for a search of the Privacy Act systems of records.

#### Refund Application

*Enron Corporation/, Amerigas Propane, Inc., RF340-23; Field & McGrady Special, RF340-177; Larry's Bottled Gas Co., 8/21/97, RF340-71*

The DOE granted an Application for refund filed on behalf of Field & McGrady Special in the Enron Corporation special refund proceeding. The DOE found that Field & McGrady was the proper recipient of a refund based on petroleum purchases made by Val-Cap, Inc., a dissolved corporation. The partners in Field & McGrady are the same people who were the shareholders of Val-Cap at the time of Val-Cap's dissolution.

#### 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.

Name	Case No.	Date
Northeast Cooperative et al.	RK272-01486	8/21/97
Prince Bros., Inc. et al.	RK272-02259	8/21/97

### Dismissals

The following submissions were dismissed.

Name	Case No.
Consolidated Gas Supply Corp.	RF340-198
Dallas Gas & Electric, Inc. ..	RF340-200
Four Winds Marine Service, Inc.	RF272-86058
Goodwill Industries of W. N.Y. Inc.	RK272-3405
Gulf Chartering & Marine Services, Ltd.	RF272-74834
Personnel Security Hearing Public Service Company of NC, Inc.	VSO-0158 RF340-199

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**DEPARTMENT OF ENERGY****Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of July 14 Through July 18, 1997**

During the week of July 14 through July 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: November 26, 1997.

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

**Decision List No. 42, Week of July 14 Through July 18, 1997****Appeal**

*Tri-State Drilling, Inc., 7/18/97, VFA-0304*

The DOE's Office of Hearings and Appeals granted in part a Freedom of Information Act Appeal filed by Tri-State Drilling, Inc. Tri-State sought the release of unsuccessful bids for a specific contract that the Bonneville Power Administration (BPA) withheld in their entirety. The DOE found that BPA's withholding was not sufficiently

explained and justified in its determination letter. Accordingly, the Appeal was remanded to BPA and denied in all other aspects.

**Personnel Security Hearings**

*Personnel Security Hearing, 7/14/97, VSO-0128*

A Hearing Officer recommended that access authorization be restored when it was uncontested that the individual used an illegal drug on one occasion. The individual's statements that she had only used illegal drugs on one occasion were corroborated by independent evidence. This evidence included the results of twenty-one random drug tests administered over a long period of time. The Hearing Officer also found that it was unlikely that the individual would use illegal drugs again.

*Personnel Security Hearing, 7/16/97, VSO-0141*

A Hearing Officer found that an individual had successfully mitigated security concerns arising from an allegation that the individual had molested his former foster child. Accordingly, the Hearing Officer recommended that the individual's access authorization be restored.

**Petition for Special Redress**

*Philip P. Kalodner, 7/16/97, VSG-0001*

Philip P. Kalodner requested a "class fee" for his participation in the agency's enforcement proceeding against Occidental Petroleum Corporation. The DOE denied the request on the ground that the purported class, Subpart V claimants, had no cause of action or right of intervention with respect to an agency enforcement proceeding. The DOE rejected Mr. Kalodner's contention that provisions in subparts O and V of the DOE procedural regulations authorized the requested fee. Finally, the DOE rejected Mr. Kalodner's arguments based upon fairness.

**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.

Name	Case No.	Date
Crude Oil Supply Refund.	RB272-00114 ..	7/18/97
Enron Corporation/XCEL Products Co., Inc.,..	RF340-203 .....	7/16/97
Jim's Electrical Service et al.	RK272-04455 ..	7/18/97

Name	Case No.	Date
Lee FS Inc. ....	RG272-00178 ..	7/15/97
Naknek Electric Assoc., Inc..	RJ272-45 .....	7/16/97

**Dismissals**

The following submissions were dismissed.

Name	Case No.
Bethlehem Steel Corp. ....	RG272-00088
VA Medical Center .....	RF272-90205

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**DEPARTMENT OF ENERGY****Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals; Week of September 1 Through September 5, 1997**

During the week of September 1 through September 5, 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.

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Dated: November 26, 1997.

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

**Decision List No. 49, Week of September 1 Through September 5, 1997****Appeal**

*Hanford Advisory Board, 9/2/97, VFA-0323*

The Hanford Advisory Board filed an Appeal of a Determination issued to it in response to a request under the Freedom of Information Act (FOIA). The Appellant had asked for portions of a proposal made by Fluor Daniel Hanford (FDH). In its Determination, the