

An OHA Hearing Officer issued an opinion concerning the continued eligibility of an individual for access authorization under 10 CFR Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access Authorization to Classified Matter or Special Nuclear Material." The Schenectady Naval Reactors Office (SNR) had suspended the individual's access authorization based on the individual's drug use and financial problems. The Hearing Officer found the individual had not produced evidence that would mitigate those security concerns. Accordingly, the Hearing Officer found that the individual's access authorization should not be restored.

Request for Exception

Middleton Oil Company, Inc., 7/30/96, VEE-0025

Middleton Oil Company, Inc. (Middleton) filed an Application for Exception from the Form EIA-782B monthly filing requirement. In considering Middleton's request OHA determined that the company was significantly more burdened by the filing requirement than were other similarly situated companies due to the long-term illness and recent death of Middleton's owner, coupled with the extremely small office staff employed by

the company. Accordingly, DOE granted exception relief for the term of one year, from July 1, 1996 to July 1, 1997.

Refund Applications

A.C.B. Trucking, Inc., 7/30/96, RF272-97874

The DOE issued a Decision and Order denying the Application for Refund on behalf of A.C.B. Trucking, Inc. (A.C.B.), filed in the crude oil proceeding. Prior to the filing of A.C.B.'s Application, A.C.B. had applied for a refund from the Surface Transporters' Escrow in the Stripper Well proceeding. After the DOE was told in 1987 that A.C.B.'s owner-operators had purchased their own fuel, and A.C.B. had itself purchased less than 250,000 gallons, the DOE found A.C.B. ineligible for a Surface Transporters' refund. In A.C.B.'s 1994 Subpart V crude oil refund, the applicant claimed that there had been a miscommunication regarding its Surface Transporters' application, and that A.C.B. had actually purchased all fuel its trucks consumed, including its owner-operators' trucks. In its Decision and Order, the DOE determined that because A.C.B. had now proved that it had bought more than 250,000 gallons, it had been eligible for a Surface Transporters' refund. Thus, because the applicant's Stripper Well waiver was effective, the DOE denied A.C.B.'s

Subpart V refund application. Further, the DOE could not approve a reopening of the Surface Transporters' proceeding, as that proceeding is long closed, and the applicant failed to present any adequate reason why it failed to submit a Motion for Reconsideration in that proceeding earlier.

Stillman Management, et al., 8/2/96, RG272-1006, ET AL.

The Office of Hearings and Appeals of the Department of Energy (DOE) issued a Decision and Order dismissing thirteen Applications for Refund submitted in the crude oil overcharge refund proceeding conducted under 10 CFR Part 205, Subpart V. The claims were dismissed because they were filed after the deadline for submitting applications. As published in the Federal Register on April 21, 1995, all applications were to be postmarked by June 30, 1995.

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.

Carlisle Companies, Inc. et al	RK272-03616	07/29/96
Gulf Oil Corporation/Britton Oil Company	RF300-14549	08/01/96
Hobart Brothers Company et al	RF272-78618	08/01/96
Sea-Land Service, Inc	RG272-00961	08/01/96

Dismissals

The following submissions were dismissed:

Name	Case No.
Balair/CTA	RG272-810
Barry Cartage, Inc	RF272-95298
Foskett School Bus Service	RG272-938
Givaudan-Roure Corporation	RG272-531
Givaudan-Roure Corporation	RG272-857
Harry Robertson's Gulf Agency	RF300-21418
Merichem Company	RG272-856
Mobil Cab & Baggage Co., Inc	RF272-95226
Mutual Materials Company	RG272-881
New York State Electric & Gas Corporation	RG272-828
R.A. Hamilton Corporation	RG272-817
Southwestern Public Service Co	RF272-95116
Spence, Moriarty, & Schuster	VFA-0190

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Notice of Issuance of Decisions and Orders From the Week of October 9 Through October 13, 1995

During the week of October 9 through October 13, 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.

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 10, 1996.

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

Decision List No. 941

Appeals

Henry, Lowerre, Johnson, Hess & Frederick, 10/11/95, VFA-0079

Henry, Lowerre, Johnson, Hess & Frederick filed an Appeal from a determination issued by the Department of Energy's Albuquerque Operations Office (DOE-AL). The firm requested copies of documents related to the Falls City, Texas Uranium Mill Tailings Remedial Action site. In considering the Appeal, the Office of Hearings and Appeals found that since two offices which might contain responsive information were not searched, the search performed by DOE-AL was not adequate. Accordingly, the Appeal was remanded to DOE-AL to perform a search of two offices for responsive documents.

William H. Payne, 10/10/95, VFA-0076

William H. Payne filed an Appeal from a determination issued by the Department of Energy's Albuquerque Operations Office (DOE-AL) in response to a request from Mr. Payne under the Freedom of Information Act (FOIA). Mr. Payne sought documents showing the employment dates and names of all retired military personnel who were hired by Sandia National Laboratories

between 1979 and 1995. In considering the Appeal, the Office of Hearings and Appeals found that DOE-AL did not perform an adequate search that was reasonably calculated to uncover responsive documents. Accordingly, the Appeal was remanded to DOE-AL for a new search for responsive documents.

Personnel Security Hearings

Albuquerque Operations Office, 10/10/95, VSO-0031

An Office of Hearings and Appeals Hearing Officer issued an opinion under 10 CFR Part 710 concerning the continued eligibility of an individual for access authorization. After considering the testimony at the hearing and all other information in the record, the Hearing Officer found that the individual was a habitual user of alcohol to excess and that the diagnosis of a board-certified psychiatrist that the individual was alcohol-dependent was undisputed. The Hearing Officer also found that the individual had failed to present sufficient evidence of rehabilitation or reformation. Moreover, the Hearing Officer found that the individual had failed to mitigate the security concerns surrounding his use of cocaine. In particular, the Hearing Officer found that the individual's use of cocaine was inextricably intertwined with the individual's alcohol use and that since the individual was not rehabilitated or reformed from his alcohol use there was a danger that the individual would again use cocaine. Accordingly, the Hearing Officer recommended that the individual's clearance should not be restored.

Albuquerque Operations Office, 10/13/95, VSO-0036

A Hearing Officer recommended that access authorization not be restored to an employee whose access was suspended due to evidence of alcohol abuse and criminal behavior. The Hearing Officer found the employee had not shown sufficient evidence of rehabilitation from alcohol abuse or reformation from violent criminal behavior to mitigate valid security concerns.

Albuquerque Operations Office, 10/10/95, VSO-0042

An Office of Hearings and Appeals Hearing Officer issued an opinion addressing the continued eligibility of an individual for access authorization under the provisions of 10 CFR Part 710. After considering the record of the proceeding in view of the standards set forth in Part 710, the Hearing Officer found that the Albuquerque Operations Office of the DOE had presented sufficient evidence to show that the individual was a user of alcohol habitually to excess. The Hearing Officer also found that the individual had submitted no evidence of rehabilitation or reformation to mitigate the security concerns of the DOE. Accordingly, the Hearing Officer's opinion recommended that the individual's access authorization not be restored.

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.

City-Elite Laundry Company	RK272-266	10/13/95
Thrift Transfer Inc	RK272-267
Warner & Smith Motor Freight	RK272-268
Farmers Union Oil Co. et al	RF272-86740	10/12/95
John A. Allison et al	RK272-13	10/13/95
Severance Truck Line	RF272-78468	10/11/95
U.S. Army Corps of Engineers	RF272-30444	10/13/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Albuquerque Operations Office	VSO-0055
Christman Air System	RF272-98762
Global Van Lines Co	RF272-89513
Gray Lines of Reno	RF272-89130
Howard Bush's Texaco #1	RF321-10623
Jeffrey R. Leist	LFA-0083
Keith E. Loomis	VFA-0080
Motor Coach Speciality	RF272-89131
National Marine Service, Inc	RF321-19956
Pine Eagle Farmers Coop	RF272-86664
Service Trucking, Inc	RF272-89163

Name	Case No.
Waite, Schneider, Bayless, & Chesley Co., L.P.A	VFA-0077

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ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-5473-2]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7167 OR (202) 564-7153.

Weekly receipt of Environmental Impact Statements Filed September 09, 1996 Through September 13, 1996 Pursuant to 40 CFR 1506.9.

EIS No. 960426, Final EIS, FRC, MI, Thunder Bay River Hydroelectric Project (FERC No. 2404) and Hillman Dam Project (FERC No. 2419) Application for New License, Alpena, Montmorency, Alcona, Preque Isle and Oscada Counties, MI, Due: October 21, 1996, Contact: Patrick K. Murphy (202) 219-2659.

EIS No. 960427, Final EIS, NPS, NM, Carlsbad Caverns National Park General Management Plan, Implementation, Eddy County, NM, Due: October 21, 1996, Contact: Frank Deckert (505) 785-2232 x321.

EIS No. 960428, Final Supplement, USA, CA, Fort Ord Disposal and Reuse Installation, Implementation, Additional Information, Establishment of Presido of Monterey (POM) (Annex), Cities of Marina and Seaside, Monterey County, CA, Due: October 21, 1996, Contact: Bob Verkade (916) 557-7423.

EIS No. 960429, Draft EIS, FAA, CA, Metropolitan Oakland International Airport (MOIA), Airport Development Program (ADP), Airport Layout Plan Approval, Funding and COE Section 404 and 10 Permits Issuance, Port of Oakland, Alameda County, CA, Due: November 21, 1996, Contact: Elisha Novak (415) 876-2928.

EIS No. 960430, Draft EIS, AFS, WY, ID, Targhee National Forest Plan Oil and Gas Leasing Analysis, Implementation, Bonneville, Butte, Clark, Fremont and Madison Counties, ID and Teton County, WY, Due: November 04, 1996, Contact: John Pruess (208) 624-3151.

EIS No. 960431, Final EIS, FHW, PA, US 22 (S.R. 0022—Section C02) Highway Improvement, US 22 west of the Strodes Mills Area to US 322 near Lewistown. Funding and COE Section 404 Permit Issuance, Mifflin County,

PA, Due: October 21, 1996, Contact: Manuel A. Marks (717) 787-2222.

EIS No. 960432, Final Supplement, GSA, WA, Pacific Highway Port of Entry (POE) Facility Expansion, Updated Information, Construction of WA-543 in Blaine, near the United States/Canada Border in Blaine, Whatcom County, WA, Due: October 21, 1996, Contact: Donna Meyer (206) 931-7675.

EIS No. 960433, Final EIS, FHW, OH, Putnam Street Bridge Replacement across the Muskingum River, Construction and Funding, Marietta, Washington County, OH, Due: October 21, 1996, Contact: William Jones (614) 469-5877.

EIS No. 960434, Draft EIS, NOA, AK, Juneau Consolidated Facility, Implementation, Fisheries Management Operation, 'Vision for 2005', Juneau, AK, Due: November 04, 1996, Contact: John Gorman (907) 586-7641.

Dated: September 17, 1996.
William D. Dickerson,
Director, NEPA Compliance Division, Office of Federal Activities.

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[ER-FRL-5473-3]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 2, 1996 Through September 6, 1996 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1996 (61 FR 15251).

Draft EISs

ERP No. D-AFS-K61143-CA—Rating LO, Emigrant Wilderness Management Direction, Implementation, Stanislaus National Forest, Tuolumne County, CA.

Summary: EPA expressed lack of objections to the action as proposed.

ERP No. D-FAA-K51036-HI—Rating EC2, Kahului Airport Master Plan Improvements, Implementation, Funding and Approval of Permits, Kahului, Maui County, HI.

Summary: EPA expressed environmental concerns due to a lack of mitigation to offset or reduce potential adverse impacts and a lack of pollution prevention features in the DEIS. EPA recommended that the FEIS contain commitments to implement water conservation, hazardous waste minimization and solid waste recycling.

ERP No. D-FHW-E40770-FL—Rating EC2, Port of Miami Tunnel and Access Improvements, from I-395 via MacArthur Causeway Bridge, Dade County, FL.

Summary: EPA's review found that sediment resuspension during tunnel dredging activities could degrade water quality unless adequate safeguards are employed. EPA also expressed concerns that details of a wetland mitigation plan were lacking.

ERP No. D-FHW-K40217-CA—Rating EO2, Arden Garden Connector Project, Arden Way in North Sacramento to Garden Highway in South Natomas across the Natomas East Main Drainage Canal, Funding, Sacramento County, CA.

Summary: EPA expressed environmental objections due to potential air quality, water quality, hazardous materials, and cumulative effects of the project. EPA requested that these issues be fully discussed in the final EIS.

ERP No. D-FHW-K40218-CA—Rating EO2, I-805 Nobel Drive Interchange and Extension Project, Improvements, between Nobel Drive and Miramar Road/LaJolla Village Drive and the extension of Nobel Drive from Shoreline Drive to Miramar Road, in the City of San Diego, San Diego County, CA.

Summary: EPA expressed environmental objections due to potential impacts to biological and water resources. EPA requested that these issues be addressed in the final EIS.

ERP No. D-FHW-K40219-CA—Rating EC2, U.S. Highway 101 Transportation Improvement Project, between Vineyard Avenue to Johnson Drive, Funding, in the Cities of Oxnard and San Buenaventura, Ventura County, CA.

Summary: EPA expressed environmental concerns regarding potential impact to anadromous fish, and a need to specifically address pollution prevention. EPA requested that these issues be discussed in more detail in the final EIS.

ERP No. D-GSA-K81023-NV—Rating LO, Las Vegas Federal Building—United