

## 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.

B H Y TRUCKING, INC. ET AL .....	RG272-00081	09/03/96
COOK MOTOR LINES, INC .....	RA272-75	09/06/96
GULF OIL CORPORATION/PYRAMID SUPPLY, INC .....	RF300-13356	09/03/96
SHADOW LAKE RANCH ET AL .....	RK272-3385	09/04/96

## Dismissals

The following submissions were dismissed:

Name	Case No.
HARMON-BOLES GAS PRODUCTS INC .....	RF300-15343
IDAHO OPERATIONS OFFICE .....	VSO-0097
NIXON COMPANY .....	RF352-7
SULLIVAN COUNTY CENTRAL RECEIVING .....	RF272-95142

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### Week of July 15 Through July 19, 1996

#### Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals

During the week of July 15 through July 19, 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. 981

#### Appeals

##### Glen Milner, 7/16/96, VFA-0179

Glen Milner filed an Appeal from a determination issued to him by the Freedom of Information Act/Privacy Division (FOI/PA) in response to a request for information Mr. Milner submitted under the Freedom of Information Act (FOIA). In that

determination, FOI/PA stated that it could not find the information Mr. Milner requested, regarding "the decision in 1992 to send specially fitted railcars to Russia to transport nuclear weapons and the present use and condition of these railcars." This was a copy of a request sent to the Albuquerque Operations Office which was still processing the request. FOI/PA stated that no documents were found responsive to Mr. Milner's request, especially since no decision had been made in 1992 to send railcars to Russia. Furthermore, any information about the railcars is located in Albuquerque. Mr. Milner indicated in his Appeal that his was a broader request than that stated in FOI/PA's determination. The DOE found that the interpretation accorded his letter was reasonable. Accordingly, Mr. Milner's Appeal was denied.

#### Personnel Security Hearings

##### Oakland Operations Office, 7/16/96, VSA-0078

The Director of the Office of Hearings and Appeals issued an Opinion regarding the request for review by an individual of a Hearing Officer's adverse decision regarding his eligibility for access authorization under the provisions of 10 C.F.R. Part 710. The DOE had claimed the individual had forged a 161-K credential, a document permitting the carrying of a weapon on DOE property. After considering the individual's arguments and the record, the Director found that: the Hearing Officer had not imposed too high a burden of proof on the individual, the Hearing Officer's finding regarding the individual's evasiveness should be upheld, and despite the fact that the Hearing Officer failed to consider some portions of the evidence supporting the

individual's case, the Hearing Officer had made a comprehensive, common sense judgment. Accordingly, the Director recommended that the individual's access authorization should not be reinstated.

##### Oakland Operations Office, 7/17/96, VSO-0088

Under the provisions set forth in 10 CFR Part 710, the Department of Energy, Oakland Operations Office (DOE/OK) suspended an individual's access authorization pending administrative review, based upon derogatory information received by the DOE/OK which indicated illegal use of marijuana by the individual. Following a hearing convened at the request of the individual, the Office of Hearings and Appeals Hearing Officer found in his Opinion that: (i) The individual's marijuana use was not substantial and was in remission, (ii) the individual successfully completed a viable drug treatment program, and (iii) the individual documented a sufficient period of abstinence and provided other evidence to support a showing of rehabilitation. Accordingly, the Hearing Officer concluded in the Opinion that the individual's access authorization should be restored.

##### Oakland Operations Office, 7/17/96, VSO-0089

Under the provisions set forth in 10 CFR Part 710, the Department of Energy, Oakland Operations Office (DOE/OK) suspended an individual's access authorization pending administrative review, based upon derogatory information received by the DOE/OK which revealed illegal use of methamphetamine, cocaine and marijuana. On this basis, DOE/OK also invoked 10 CFR § 710.8(1), finding that by use of the drugs the individual had

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