

|                                          |                   |          |
|------------------------------------------|-------------------|----------|
| ASPHALT PRODUCTS CORP .....              | RD272-69293 ..... |          |
| CENTRAL PETROLEUM CO .....               | RF272-95128 ..... | 10/31/96 |
| FARMERS UNION CO-OP GIN .....            | RF272-95146 ..... |          |
| CRUDE OIL SUPPLE REF DIST .....          | RB272-00090 ..... | 10/30/96 |
| CRUDE OIL SUPPLE REF DIST .....          | RB272-00091 ..... | 10/30/96 |
| KENNY LARSON OIL/D&A PUMP & SUPPLY ..... | RF356-1 .....     | 10/31/96 |
| PORTLAND GENERAL ELECTRIC .....          | RF356-3 .....     |          |
| SCHULZ SAMITARY SERVICE .....            | RF356-2 .....     |          |
| MUELLER INDUSTRIES, INC .....            | RC272-00352 ..... | 10/30/96 |
| REIMER EXPRESS LINES, LTD. ET AL .....   | RG272-00500 ..... | 11/1/96  |
| SOUTHWEST COCA-COLA BOTTLING, INC .....  | RF272-95148 ..... | 10/28/96 |
| STROH BREWERY CO .....                   | RK272-03550 ..... | 10/30/96 |
| F & M SCHAEFER BREWING CO .....          | RC272-00357 ..... |          |
| F & M SCHAEFER BREWING CO .....          | RK272-03551 ..... |          |
| JOS. SCCHLITZ BREWING CO .....           | RK272-03552 ..... |          |
| TRANS-MEDITERRANEAN AIR WAYS .....       | RG272-616 .....   | 11/1/96  |
| ROGERS TEXACO SVC. STA .....             | RF272-89303 ..... |          |
| UNION DE TRANSPORTS AERIENS ET AL .....  | RK272-03493 ..... | 10/28/96 |
| WALTER RAMSEY ET AL .....                | RK272-01546 ..... | 10/30/96 |

Dismissals

The following submissions were dismissed.

| Name                                   | Case No.    |
|----------------------------------------|-------------|
| ALLIED TOWING CORPORATION .....        | RF272-91917 |
| APEA GAS STATION .....                 | RF300-15288 |
| DIVERSIFIED AMSRIEA, INC. ....         | RK272-03254 |
| FAIRMONT COOPERATIVE ASSOCIATION ..... | RG272-496   |
| FOIA GROUP, INC. ....                  | VFA-0234    |
| FOOTE & DAVIES TRANSPORT .....         | RK272-03537 |
| KAREN COLEMAN WILTSHIRE .....          | VFA-0225    |
| OIL CHEM, INC. ....                    | RF272-97444 |
| ZOGLEMAN ENTERPRISES .....             | RF272-95108 |

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BILLING CODE 6450-01-P

**Notice of Issuance of Decisions and Orders; Week of December 2 Through December 6, 1996**

During the week of December 2 through December 6, 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, 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: January 16, 1997.  
George B. Breznay,  
*Director, Office of Hearings and Appeals.*

Decision List No. 10—Week of December 2 Through December 6, 1996 Appeals

*Bechtel National, Inc., 12/6/96, VFA-0241*

The Department of Energy considered an appeal filed by Bechtel National, Inc., under the Freedom of Information Act (FOIA). Bechtel had sought copies of a contract from the Department's Richland Operations Office. Richland released part of the contract, but withheld part under Exemption 4 of the FOIA on the basis that the information withheld was "proprietary" to the contractor. On appeal, the Department found that a mere description of information as "proprietary" is insufficient justification for withholding information under Exemption 4. Accordingly, the Department remanded the matter to Richland to either release the information or to provide an adequate justification for withholding it.

*Burns Concrete, Inc., 12/6/96, VFA-0182*

The DOE granted in part an appeal of the withholding of documents submitted by a third party in connection with a construction project at a DOE

laboratory. The DOE found that some of the information was properly withheld under Exemption 4, but remanded the request for release of non-exempt information.

*Future Technology Intelligence Report, 12/4/96, VFA-0232*

The Department of Energy (DOE) denied a Freedom of Information Act (FOIA) Appeal that was filed by Future Technology Intelligence Report (FTIR). In its Appeal, FTIR challenged the adequacy of a search for responsive documents that was conducted by the Oakland Operations Office. Specifically, FTIR claimed that it should have been provided with the notes upon which a report that it requested was based. The DOE found that the search for responsive documents was adequate. The DOE found that FTIR was provided a copy of the only document that it requested, i.e., the report itself. Furthermore, the OHA concluded that even if FTIR's initial request was broad enough to cover the notes, those notes, if they exist, are not in the possession of the DOE.

Personnel Security Hearing

*Personnel Security Hearing, 12/3/96, VSO-0108*

An OHA Hearing Officer issued an opinion concerning the eligibility of an individual for access authorization

under 10 CFR Part 710. The DOE office responsible for determining such eligibility had issued a Notification Letter finding security concerns arising from a 10 year pattern of excessive indebtedness and delinquencies and from inaccuracies on DOE forms and in a Personnel Security Interview. The

Hearing Officer found the individual had not mitigated the security concerns. Accordingly, the Hearing Officer did not recommend a grant of access authorization.

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.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and

|                                                             |             |         |
|-------------------------------------------------------------|-------------|---------|
| APPLIED INDUSTRIALS MATERIALS CORP. ....                    | RF272-92329 | 12/6/96 |
| GULF OIL CORPORATION/BUFFALO AREO. CORP./MILLER TABEK ..... | RR300-00275 | 12/6/96 |
| GULF OIL CORPORATION/D.L. CHEAVES .....                     | RR300-00288 | 12/6/96 |
| MONTGOMERY CNTY BOARD OF EDUCA. ....                        | RC272-322   | 12/6/96 |
| MONTGOMERY CNTY BOARD OF EDUCA. ....                        | RJ272-4     | .....   |
| MONTGOMERY CNTY BOARD OF EDUCA. ....                        | RK272-1105  | .....   |
| NEW YORK HOSPITAL .....                                     | RJ272-00032 | 12/3/96 |

Dismissals

The following submissions were dismissed.

| Name                                  | Case No.   |
|---------------------------------------|------------|
| BALAIR/CTA .....                      | RG272-533  |
| IMPERIAL AIRLINES, INC. ....          | RG272-428  |
| INDIANA DEPT. OF TRANSPORTATION ..... | RG272-1017 |
| LIMESTONE CO. ....                    | RG272-541  |
| LORAIN COUNTY LANDMARK, INC. ....     | RG272-1021 |
| M C TRUCKING .....                    | RG272-540  |
| MELVIN STONE CO. ....                 | RG272-539  |
| MUTUAL MATERIALS CO. ....             | RG272-578  |
| PEORIA COUNTY SERVICE CO. ....        | RG272-1022 |
| POWER RIG DRILLING CO. ....           | RG272-501  |
| SAN LUIS HILLS FARMS .....            | RG272-1005 |
| SUNRISE COOPERATIVE INC. ....         | RG272-1020 |

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**Notice of Issuance of Decisions and Orders; Week of December 9 Through December 13, 1996**

During the week of December 9 through December 13, 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, 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: January 16, 1997.  
George B. Breznay,  
*Director, Office of Hearings and Appeals.*

Decision List No. 11—Week of December 9 Through December 13, 1996

Refund Application

Shell Oil Co./Atchison, Topeka & Santa Fe Railway Co., 12/13/96, RR-315-11

The Atchison, Topeka & Santa Fe Railway Company, Inc. (Santa Fe) filed a motion for reconsideration of a denial by the Department of Energy's (DOE)

Office of Hearings and Appeal of an application for an above-volumetric refund claim in the DOE's Subpart V Shell Oil Company refund proceeding. In considering the Motion for reconsideration, OHA found that Santa Fe's contention that Shell should use a different May 15, 1973 price to calculate the Maximum Legal Selling Price for diesel fuel at two of Shell's refineries was without merit. The DOE also applied the doctrine of res judicata in finding that Santa Fe's above-volumetric claim was barred by its prior settlement of a lawsuit concerning the same issues.

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.

|                                     |             |          |
|-------------------------------------|-------------|----------|
| J.W. MASSENGILL ESTATE ET AL .....  | RK272-01365 | 12/13/96 |
| OLIVE SPRINGS QUARRY ET AL .....    | RG272-18    | 12/11/96 |
| PAGE CO-OP. FARM BUREAU ET AL ..... | RG272-00875 | 12/12/96 |

Dismissals