The following submissions were dismissed.

Name	Case No.
BEN LINE STEAMERS LTD	RG272–402
BUFKOR, INC	RG272–905
CHINESE MARITIME TRANSPORT, LTD	RG272–400
FARMERS UNION CO–OP OIL CO	RF272–94747
HAROLD M. CLARK EXCAVATING, INC	RK272–3248
SEATTLE SNOHOMISH MILL CO., INC	RG272–960
TRANS-WORLD TIRE CORP	RG272–800

[FR Doc. 97–1731 Filed 1–23–97; 8:45 am]
BILLING CODE 6450–01–P

Notice of Issuance of Decisions and Orders; Week of December 16 Through December 20, 1996

During the week of December 16 through December 20, 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. 12—Week of December 16 Through December 20, 1996

Appeals

Benton County, Washington, 12/19/96, LPA–0001

The Office of Hearings and Appeals (OHA) issued a decision on an appeal that Benton County, Washington filed on November 4, 1993, under the Notice of Interpretation and Procedures (NOIP) implementing the ''payments-equal-to-taxes'' (PETT) provisions of the Nuclear Waste Policy Act of 1982, as amended (NWPA), 42 U.S.C. § 10101 et seq. Under the NOIP, the Department of Energy (DOE) will grant, to a county in which a candidate site for a high-level nuclear waste repository is located, a payment equal to the amount that county would receive if it were authorized to tax site characterization activities at that site. See 56 Fed. Reg. 42314 (August 27, 1991). The payment authorized by the NWPA is known as a ''PETT grant.'' Benton County submitted to DOE's Richland Operations Office (DOE/RL) an estimate of $45.7 million as the PETT grant amount it should receive for site characterization activities at the Basalt Waste Isolation Project (BWIP) on the Hanford Nuclear Reservation. DOE/RL issued an initial DOE determination which denied Benton County's PETT claim, except for approximately $440,000. In its appeal, Benton County challenged the amount of the PETT grant awarded to it by DOE/RL. During the course of the appeal, OHA permitted the parties detailed pre-hearing discovery, a four-day evidentiary hearing held in Seattle, Washington in January 1995, extensive briefing, post hearing depositions, and an oral argument held in Washington, DC in October 1995.

The OHA addressed the following issues in its decision on the Benton County appeal: (1) the starting date for Benton County's PETT eligibility under the NWPA; (2) the authority of the County under the NWPA to assess interest penalties against the DOE for late payment of the PETT amounts for the tax years involved; (3) the authority of the County to collect personal property taxes for the 1986 tax year; (4) when the BWIP should have been appraised; (5) the DOE Nevada Operations Office's (DOE/NV) approach to its PETT obligation vis-'a-vis Nye County, Nevada, specifically, whether DOE/NV properly considered the appraised value of the Yucca Mountain real estate at the beginning of the PETT eligibility period; (6) generally-accepted principles of real estate appraisal relevant to the Benton County appeal; (7) the highest and best use of the BWIP site; (8) the proper appraisal of one portion of the bare land on the BWIP site; and (9) the proper appraisal of the improvements to real estate on the BWIP site.

In resolving these issues, the OHA made the following determinations: (1) DOE/RL was correct in beginning with May 28, 1986 in calculating the amount of Benton County's PETT grant; (2) DOE/RL was correct in excluding statutory interest penalties calculated under Washington State law from the amount of Benton County's PETT grant; (3) DOE/RL was correct in excluding personal property taxes for 1986 from the amount of Benton County's PETT grant; (4) DOE/RL erred in basing its PETT determination on an appraisal of the BWIP through hindsight as it existed in 1993, rather than on a retrospective appraisal of the BWIP as it existed during the period of PETT eligibility (May 28, 1986 through March 21, 1988); (5) DOE/RL erred in determining that the highest and best use of the BWIP was other than ''industrial use'' for site characterization as a potential high level nuclear waste repository; (6) DOE/RL correctly determined that the purported ''Maximum Potential Underground Facility'' was only a theoretical concept during the PETT eligibility period, and should not have been appraised on the basis of properties sold for landfills and related uses in nearby areas of the Pacific Northwest; (7) DOE/RL erred in failing to measure properly the residual value of improvements to the BWIP under the cost approach to real estate appraisal as of the beginning of the period of PETT eligibility; and (8) DOE/RL erred in failing to treat the determination of Benton County's PETT amount for the BWIP site characterization in the same general manner as DOE's Nevada Operations Office treated the determination of Nye County's PETT amount for the Yucca Mountain site characterization. Accordingly, the Benton County appeal was denied in part, and granted in part.

OHA concluded the decision by directing DOE/RL to confer in good faith with Benton County and apply the approach used to negotiate the Nye County PETT settlement to resolve this case within a specified time period, according to principles of alternative dispute resolution applicable to government agencies. The parties are

directed to submit a detailed report to the OHA appeal panel at the expiration of the remand period, if they are unable to reach a resolution by that time. In the event that the parties fail to resolve the case through a negotiated settlement on remand, the OHA will issue a supplemental order fixing the amount of Benton County's PETT grant.

William H. Payne, 12/16/96, VFA–0243

William H. Payne filed an Appeal from a FOIA and Privacy Act determination in which the Office of the Inspector General refused to confirm or deny the existence of records which would reflect whether a named individual was the target of an OIG investigation. In considering the Appeal, the DOE found that the refusal to confirm or deny the existence of these records was proper because the records, if they exist, would be exempt from disclosure under FOIA Exemption 7(C) and the confirmation of the existence of such records would itself involve the disclosure of exempt information. DOE also remanded the matter to the Headquarters' FOIA Office to conduct an additional search for records.

Whistleblower Hearings

C. Lawrence Cornett Maria Elena Torano Associates, Inc., 12/19/96, VWA–0007, VWA–0008

C. Lawrence Cornett (Complainant), an employee of a DOE/Argonne National Laboratory (ANL) subcontractor, Maria Elena Torano Associates, Inc. (META), filed a request for a hearing under the DOE's Contractor Employee Protection Program, 10 CFR Part 708. Complainant claimed that he suffered from various forms of reprisal culminating in his layoff from his job as a result of his raising issues with his superiors regarding public health and safety issues pertaining to the DOE's Waste Management Programmatic Environmental Impact Statement. A hearing was held in which witnesses for Complainant and META testified before an Office of Hearings and Appeals Hearing Officer. On the basis of the testimony and other evidence in the record, the Hearing Officer concluded that Complainant proved by a preponderance of the evidence that he had made disclosures protected by Part 708 and that these activities were a contributing factor in the decision of META to lay him off. In his Decision, the Hearing Officer further concluded that META had failed to prove by clear and convincing evidence that it would have taken this action were it not for Complainant's disclosures. The Hearing Officer therefore determined that META's actions violated the whistleblower regulations in 10 CFR Part 708. Complainant was awarded back pay, attorneys fees and costs, the amount of which will be determined in a supplemental decision. Complainant's request for front pay and compensation for Individual Retirement Account tax penalties and lost interest were denied. META has the right to appeal the Hearing Officer's Decision to the Secretary of Energy or her designee.

Ronny J. Escamilla, 12/20/96, VWA–0012

Ronny J. Escamilla filed a whistleblower complaint against Systems Engineering & Management Associates, Inc. (SEMA), a DOE subcontractor, at DOE's Rocky Flats Plant (Rocky Flats). Escamilla alleged that he made disclosures of waste and mismanagement to various managers at Rocky Flats. He also alleged that he made a protected disclosure that he filed a complaint to management at Rocky Flats. Escamilla asserted that these disclosures resulted in his being harassed in the workplace and ultimately terminated. After investigating the Complaint, the Office of Contractor Employee Protection found that Escamilla had not met his regulatory burden as required by 10 CFR Part 708 and, as a consequence, was entitled to no relief. The OHA Hearing Officer found that: (1) Escamilla failed to show by a preponderance of evidence that he disclosed information which he, in good faith, believed evidenced mismanagement or waste associated with the computer system he was hired to support; (2) Escamilla proved by a preponderance of evidence that he disclosed to SEMA the fact he had filed a complaint with DOE and he also proved that the disclosure relating to the filing of his complaint was a contributing factor to his termination; and (3) SEMA proved by clear and convincing evidence that it would have terminated Escamilla absent his disclosure. Accordingly, the OHA Hearing Officer found that Escamilla failed to establish the existence of any violations of the DOE's Contractor Employee Protection Program for which relief is warranted under 10 CFR Part 708.10.

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.

AMKOTA COOP ET AL	RF272–94715	12/19/96
BERMAN'S MOTOR EXPRESS	RR272–195	.....
BLACKDUCK CO–OP AG SERVICES, INC. ET AL	RG272–603	12/17/96
BULK TRANSPORT, INC.	RF272–97377	12/19/96
CRUDE OIL SUPPLE REF DIST	RB272–00095	12/17/96
CYRUS TRUCK LINES, INC.	RF272–99112	12/17/96
KHS AIR FREIGHT, INC.	RF272–99114	.....
GOOD HOPE REFINERIES/AMERADA HESS CORPORATION	RF339–1	12/17/96
MOHAVE VALLEY SCHOOL DISTRICT ET AL	RF272–79157	12/17/96
STAVOLA ASPHALT CO., INC. ET AL	RG272–00802	12/19/96

Dismissals

The following submissions were dismissed.

Name	Case No.
ARAWAK PAVING CO., INC	RG272–991
BOUNDS OIL COMPANY	RF300–16969
COFFEE CONSTRUCTION CO	RG272–993
HAROLD & J.E. LAYTON	RG272–994
HOLMES TRANSPORTATION INC.	RR272–196
J&S SERVICES	RG272–265
LAS VEGAS PAVING CORP.	RG272–376
LAUREL COUNTY FISCAL COURT	RF272–95282

Name	Case No.
POE ASPHALT PAVING, INC	RG272–990
SANKEY CONSTRUCTION, INC	RG272–992

[FR Doc. 97–1732 Filed 1–23–97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–5680–5]

Clean Air Act; Acid Rain Provisions

AGENCY: Environmental Protection Agency.

ACTION: Notice of the 1997 EPA SO_2 allowance auctions.

SUMMARY: Pursuant to Title IV of the Clean Air Act and 40 CFR Part 73, the EPA is responsible for implementing a program to reduce emissions of sulfur dioxide (SO_2), a precursor of acid rain. The centerpiece of the SO_2 control program is the allocation of transferable allowances, or authorizations to emit SO_2, which are distributed in limited quantities for existing utility units and which eventually must be held by virtually all utility units to cover their SO_2 emissions. These allowances may be transferred among polluting sources and others, so that market forces may govern their ultimate use and distribution, resulting in the most cost-effective sharing of the emissions control burden. In addition, EPA is directed under Section 416 of the Act to conduct annual sales and auctions of a small portion of allowances (2.8%) withheld from the total allowances allocated to utilities each year. Sales and auctions are expected to stimulate and support such a market in allowances and to provide a public source of allowances, particularly to new units for which no allowances are allocated. Today, the Acid Rain Division is giving notice of the fifth annual SO_2 allowance auctions. The regulations governing the auctions and sales were promulgated on December 17, 1991 (40 CFR Part 73, Subpart E).

EPA has delegated the administration of the EPA allowance auctions to the Chicago Board of Trade (CBOT). The auctions will be conducted under the regulations cited above. Anyone can participate in the EPA auctions and bidders are not restricted as to the quantity or price of their bid. Allowances sold at the auctions will be sold to the highest bidder until no allowances remain. The 1997 auctions will consist of one ''spot'' auction and two ''advance'' auctions. Allowances sold in the spot auction are useable for compliance beginning in 1997. Allowances sold in the 6-year advance auction are useable for compliance beginning in 2003; allowances sold in the 7-year advance auction are useable for compliance beginning in 2004. 25,000 allowances—the unsold allowances from the 1996 direct sale—will be sold in the 6-year advance auction, 150,000 allowances will be sold in the spot auction and 125,000 allowances will be sold in the 7-year advance auction. Bid Forms for the 1997 auctions must be received by the CBOT by the close of business on March 18, 1997. The auctions themselves will be conducted on March 24, 1997, with the results announced on March 26.

CBOT will also sell in the 1997 auctions any spot, 6-year advance, or 7-year advance allowances that are offered by others holding allowances in EPA's Allowance Tracking System. However, offered allowances will be sold after the allowances that were withheld from the utilities, so offered allowances will consequently be sold at a lower price than the withheld allowances. Owners of offered allowances may set a minimum price for their allowances. However, under 40 CFR 73.70, such offered allowances must have a minimum price in whole dollars. To offer allowances in the EPA auctions, owners of allowances must submit a SO_2 Allowance Offer Form to EPA by the close of business on March 3, 1997. The auction and sale regulations require that offer forms be received by EPA no later than 15 business days prior to the date of the auctions.

ADDRESSES: U.S. EPA Acid Rain Division (6204J), Attn: Auctions and Sales, 401 M St., S.W., Washington, DC 20460.

Chicago Board of Trade, Attn: EPA Auctions, 141 W. Jackson Blvd., Suite 2240, Chicago, IL 60604.

Forms needed to participate in the EPA auctions are available from the Acid Rain Division. To obtain forms, call the Acid Rain Hotline at (202) 233–9620.

FOR FURTHER INFORMATION: Information on bidding in the 1997 EPA auctions can be found in the brochure ''How to Bid in the EPA SO_2 Allowance Auctions, Fifth Annual Auctions—March 24, 1997;'' general information on the EPA auctions can be found in the ''Acid Rain Program Allowance Auctions and Direct Sales'' fact sheet. These publications can be obtained by calling the Acid Rain Hotline, by writing to EPA at the address listed above, or by accessing the Acid Rain Program home page on the Internet at http://www.epa.gov/acidrain/ardhome.html where additional information on the Acid Rain Program is also available.

Dated: January 13, 1997.

Brian J. McLean,

Director, Acid Rain Division.

[FR Doc. 97–1764 Filed 1–23–97; 8:45 am]

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[ER–FRL–5476–8]

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 January 13, 1997 Through January 17, 1997 Pursuant to 40 CFR 1506.9.

EIS No. 970009, Final EIS, FHW, NC, US–220 Connecting the Star/Biscoe/Candor Bypass, Improvement, Funding, Right-of-Way, Possible COE Permit, Montgomery and Richmond County, NC, *Due:* February 24, 1997, *Contact:* Nicholas L. Graf (919) 856–4346.

EIS No. 970010, Final EIS, COE, CA, San Diego County Water Authority Emergency Water Storage Project, Construction and Operation, COE Section 404 Permit and Permit Application, San Diego County, CA, *Due:* February 24, 1997, *Contact:* David Zoutendyk (619) 674–5384.

EIS No. 970011, Final EIS, AFS, AK, Lab Bay Project Area Timber Harvest, Implementation, COE Section 404, EPA NPDES and Coast Guard Bridge Permits Issuance, Thorne Bay Ranger District, Ketchikan Administrative Area, Tongass National Forest, Prince of Wales Island, AK, *Due:* February 24, 1997, *Contact:* Dave Arrasmith (907) 225–3101.

EIS No. 970012, Final EIS, AFS, PA, Allegheny National Wild and Scenic River Management Plan, Implementation, Allegheny National Forest, Venango, Warren and Forest Counties, PA, *Due:* February 24, 1997, *Contact:* Lionel Lemery (814) 723–5150.

EIS No. 970013, Draft EIS,, FHW, WA, I–5 Toutle Park Road to Maytown,