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Notice of Issuance of Decisions and Orders During the Week of February 17 Through February 21, 1997

Office of Hearings and Appeals

During the week of February 17 through February 21, 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: March 5, 1997.
 George B. Breznay,
 Director, Office of Hearings and Appeals.

DECISION LIST NO. 21

Appeals

Acadian Gas Pipeline System, 2/18/97, VFA-0260

Crude Oil Supple Ref Dist	RB272-00094	2/18/97
O'Toole Mechanical Services	RC272-362	1/18/97
Robert L. Helms Construction	RJ272-00037	2/20/97

Acadian Gas Pipeline System (Acadian) filed an Appeal from a determination issued to it on November 26, 1996, by the Department of Energy's Strategic Petroleum Reserve Project Management Office (SPRP). That determination was issued in response to a request for information that Acadian submitted under the Freedom of Information Act (FOIA). The request sought all records regarding the DOE's sale of certain Strategic Petroleum Reserve property. SPRP conducted a search of its records and provided Acadian with a complete file of responsive documents. However, SPRP withheld certain information pursuant to Exemption 4 of the FOIA. The Appeal challenged the adequacy of the search conducted by SPRP. In considering the Appeal, the DOE found that Acadian's request had not been subjected to a search sufficiently thorough and conscientious to meet the established standards of reasonableness. Accordingly, the Appeal was granted and SPRP was directed to perform a new search and issue a new determination identifying all responsive documents and justifying any withholdings.

STAND of Amarillo, Inc., 2/20/97, VFA-0261

The Office of Hearings and Appeals (OHA) denied an Appeal that was filed by STAND of Amarillo, Inc. (STAND) pursuant to the Freedom of Information ACT (FOIA). In the Decision, OHA found that the search for responsive documents performed by the Albuquerque Operations Office was adequate, that 91 documents requested by STAND belonged to a DOE contractor

and were not agency records subject to the FOIA, and that these documents were not otherwise subject to release under the DOE regulations.

William H. Payne, 2/20/97, VFA-0262

William H. Payne filed an Appeal from a FOIA determination issued by the Albuquerque Operations Office (AOO). The DOE found that the Albuquerque Operations Office (1) properly withheld portions of legal invoices based upon the attorney work-product privilege recognize under FOIA Exemption 5, but failed to segregate and release non-privileged portions of the documents; (2) correctly asserted that records in the possession of a government contractor were not releasable under the FOIA because they were not agency records or under the control of DOE; (3) correctly refused to confirm or deny the existence of records that would indicate whether a former DOE official had been accused of sexual harassment or was the subject of a "security clearance action." Accordingly, the matter was remanded to the AOO, which was directed to issue a revised determination concerning the legal invoices withheld in their entirety and to release any segregable, non-exempt information.

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.

Dismissals

The following submissions were dismissed.

Name	Case No.
Patrick G. Eddington	VFA-0270
Supervalu, Inc.	RK272-3906
Supervalu, Inc.	RR272-275

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