

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 p.m. and 5 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 29, 1998.

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

**Department of Energy**

*Office of Hearings and Appeals*

[Decision List No. 60]

*Week of November 17 Through November 21, 1997*

**Appeal**

*Los Alamos Study Group, 11/19/97, [VFA-0346]*

OHA granted in part an Appeal filed by the Los Alamos Study Group (the Study Group) from a FOIA determination issued by the Albuquerque Operations Office (Albuquerque). OHA remanded this matter because the determination letter issued by Albuquerque was based upon: (1) A misunderstanding of the scope of the Study Group's request for classified documents, and (2) the incorrect assumption that the five facilities named in the Study Group's FOIA request were located at Los Alamos National Laboratory (LANL). OHA also found that the staff of the DOE Los Alamos Area Office and LANL performed an adequate search for responsive unclassified documents.

**Personnel Security Hearings**

*Personnel Security Hearing, 11/17/97, [VSO-0159]*

A Hearing Officer found that an individual had not successfully mitigated security concerns arising from his use of alcohol. Accordingly, the Hearings Officer recommended in the Opinion that the individual's access authorization not be restored.

*Personnel Security Hearing, 11/18/97, [VSO-0167]*

A Hearing Officer found that an individual had not successfully shown rehabilitation from his alcohol dependence. Accordingly, the Hearing Officer recommended in the Opinion 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 of Harrisburg .....	RF272-76720	11/19/97
Crude Oil Supple Dist .....	RB272-00126	11/19/97
Gulf Oil Corporation/Western Mountain Oil Co., Inc .....	RF300-16557	11/19/97
Helen Lois Thomas et al .....	RK272-04673	11/19/97
Lewis R. & Janice Zeit et al .....	RK272-04590	11/21/97
Lucian Cox Transfer Service .....	RK272-04635	11/19/97
Mrs. George L. Reeves et al .....	RK272-01929	11/21/97

**Dismissals**

The following submissions were dismissed.

Name	Case No.
University Gulf .....	RR300-00290

[FR Doc. 98-3004 Filed 2-5-98; 8:45 am]  
BILLING CODE 6450-01-P

**DEPARTMENT OF ENERGY**

**Office of Hearings and Appeals**

**Issuance of Decisions and Orders;  
Week of December 8 through  
December 12, 1997**

During the week of December 8 through December 12, 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, DC 20585-0107, Monday through Friday, between the hours of 1 p.m. and 5 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 29, 1998.

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

**Department of Energy**

*Office of Hearings and Appeals*

[Decision List No. 63]

*Week of December 8 Through December 12, 1997*

**Appeals**

*Dykema Gossett, PLLC, 12/11/97, [VFA-0349]*

The DOE granted in part a Freedom of Information Act (FOIA) Appeal filed by Dykema Gossett, PLLC. In its decision, DOE found that the Oak Ridge

Operations Office failed to adequately explain why it withheld a document under FOIA Exemption 4. Accordingly, the matter was remanded to Oak Ridge for a new determination.

*Tod Rockefeller, 12/11/97, [VFA-0351]*

Tod Rockefeller appealed a Determination issued to him by the Department of Energy in response to a request under the Freedom of Information Act (FOIA). In its Determination, the Albuquerque Operations Office (DOE/AL) released two responsive documents but redacted identifying portions under Exemption 6 of the FOIA. The DOE first determined that the Privacy Act did not apply to the two documents because they were not kept in a "system of records." The DOE then concluded that Exemption 6 protects that the type of inflammatory material withheld in this case by DOE/AL. Accordingly, the DOE denied the Appeal.

**Personnel Security Hearings**

*Personnel Security Hearing, 12/9/97, [VSO-0168]*

An Office of Hearings and Appeals Hearing Officer issued an opinion regarding the eligibility of an individual to maintain an access authorization under the provisions of 10 CFR part 710. The individual's access authorization had been suspended because of his use of alcohol. The Hearing Officer found

that the individual had not been abstinent long enough (nine months) and had not undergone sufficient rehabilitative treatment to warrant a finding that he is rehabilitated from his past alcohol use and current alcohol abuse. The Hearing Officer also concluded that none of the other arguments advanced by the individual in his defense mitigated the resulting security concerns. Accordingly, the Hearing Officer recommended that the individual's access authorization not be restored.

*Personnel Security Hearing, 12/8/97, [VSO-0170]*

An Office of Hearings and Appeals Hearing Officer issued an opinion concerning the continued eligibility of an individual for access authorization. The Hearing Officer found that questions as to the individual's eligibility for a security clearance arose under four of the criteria specified in 10 CFR § 710.8: F (falsification), J (alcohol abuse), K (illegal drug use), and L (criminal behavior). The Hearing Officer further found that the individual failed to present sufficient evidence of rehabilitation, reformation or other factors to mitigate the derogatory information and that he had not corroborated his assertion that he had abstained from alcohol and illegal drugs for more than a year. The Hearing Officer rejected the individual's claim that he should be allowed a 24-month

period to establish rehabilitation just as are participants in the DOE's Substance Abuse Referral Program. Accordingly, the Hearing Officer recommended that the individual's access authorization should not be restored.

**Refund Application**

*Enron Corp./BTU Energy Corporation, 12/12/97, [RF304-20]*

The DOE denied an Application for Refund submitted in the Enron Corporation special refund proceeding concerning purchases from Enron made by BTU Energy Corporation. The DOE found that BTU was a reseller whose purchases from Enron were made on the spot market, were sporadic and discretionary in nature, and apparently were unrelated to any business obligations to its regular customers. Accordingly, the DOE found that BTU fit the spot market presumption of non-injury for resellers, and that the firm had not made a showing of injury to overcome this presumption.

**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.

Alma Farmers Union Co-Op et al .....	RF272-94616	12/11/97
Atlantic Richfield Co./Frank & Leo'S Auto Service .....	RF304-15510	12/11/97
Atlantic Richfield Co./Jerome Zielinski et al .....	RF304-15200	12/11/97
Crude Oil Supple .....	RB272-00129	12/12/97
Gulf Oil Corporation/Arrow Lakes Dairy .....	RR300-00260	12/11/97
Gulf Oil Corporation/Interstate Gulf .....	RR300-00247	12/12/97
Columbus Gulf #1 .....	RR300-00248	
Gulf Oil Corporation/Sure Fire Butane Co. Inc. ....	RF300-18802	12/12/97
Midwest Energy Cementing, Inc. et al .....	RK272-04670	12/12/97
Mountain View Coop-Fairfield .....	RC272-00378	12/12/97

**Dismissals**

The following submissions were dismissed.

Name	Case No.
G.B.B. Corp .....	RK272-04605
Personnel Security Hearing .....	VSO-0180
TBS Industrial Recycling, Inc .....	RK272-04685

[FR Doc. 98-3005 Filed 2-5-98; 8:45 am]

BILLING CODE 6450-01-P