

Dated: February 2, 1998.  
**George B. Breznay,**  
*Director, Office of Hearings and Appeals.*

**Decision List No. 61; Week of November 24 Through November 28, 1997**

*Appeal*

*Rural Alliance for Military Accountability, 11/26/97, VFA-0335*

Boise City Farmers Coop et al .....	RF272-94732 ...	11/25/97
Gulf Oil Corporation/Sitton's Gulf .....	RF300-21690 ...	11/25/97

**Dismissals**

The following submissions were dismissed.

Name	Case No.
Patricia L. Baade .....	VFA-0294
William H. Payne .....	VFA-0354

[FR Doc. 98-3171 Filed 2-6-98; 8:45 am]  
 BILLING CODE 6450-01-P

**DEPARTMENT OF ENERGY**

**During the Week of December 15 Through December 19, 1997**

**Notice of Issuance of Decisions and Orders; Office of Hearings and Appeals**

During the week of December 15 through December 19, 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, 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>.

DOE granted an appeal that challenged the adequacy of the search for documents in response to a FOIA request. OHA remanded the matter to the DOE's Albuquerque Operations Office to conduct a further search for responsive documents in two offices under its jurisdiction.

**Decision List No. 64 Week of December 15 through December 19, 1997**

**Appeals**

*Convergence Research, 12/19/97 VFA-0350*

DOE granted an Appeal of a determination that withheld information in response to a FOIA request. OHA remanded the matter to the DOE's Bonneville Power Administration BPA for a new determination that either releases additional information or explains in detail its reasons for withholding it.

Dated: February 2, 1998.  
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**Information Focus on Energy, 12/19/97 VFA-0353**

The DOE denied a Freedom of Information Act (FOIA) Appeal that was filed by Information Focus on Energy (IFOE). In its Appeal, IFOE claimed that the determination issued to it by the Inspector General's Office was inadequate because it did not explain the contents of the documents that were provided to IFOE. IFOE also challenged the adequacy of a search for responsive documents. The DOE found that the FOIA does not require an agency to explain the contents of documents that it provides to FOIA requesters and that the search for responsive documents was adequate.

**Refund Applications**

*Congress Financial Corp. (Central) Franciscan Health Partnership, Inc., 12/16/97 RF272-04523, RF272-04692*

**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.

Congress Financial Corp. (Central), and Franciscan Health Partnership, Inc., filed Applications for Supplemental Refund in the Subpart V crude oil overcharge refund proceeding. Congress applied for a supplemental refund based on its position as creditor of the recipient of the original refund, Hawthorn Melody, Inc. (HMI). After receiving its original refund, HMI had declared bankruptcy and the bankruptcy case had been closed. The DOE found Congress was eligible to receive the refund because the trustee of HMI's bankruptcy proceeding submitted an affidavit stating that he was aware of the amount of the supplemental refund and that Congress should receive it. In addition, DOE found that Franciscan Health Partnership, Inc., was eligible to receive the refund that had originally been granted to St. Mary Hospital. Franciscan had owned St. Mary, a non-incorporated entity, and sold it to another hospital, after St. Mary received its original refund. The DOE determined Franciscan had retained the right to a crude oil refund. Accordingly, Congress' and Franciscan's Applications for Supplemental Refund were granted.

- Hudson River Management Corp. RK272-04618*
- Hudson River Management Corp. D/B/A Hudson River Inn & Conference Center RC272-00376*
- HS 3, INC. D/B/A Hudson River Inn & Conference Center, 12/15/97 RJ272-00051*

Hudson River Management Corp. (HRMC) filed an Application for Supplemental Refund in the Subpart V crude oil overcharge refund proceeding.

The DOE determined that HRMC and HS 3, Inc. (HS 3) had been ineligible to receive a large portion of the refunds each received for petroleum product purchases on behalf of the Hudson River Inn & Conference Center (HRICC). The DOE determined that HRICC's owner, HS 3's predecessor company, had not purchased the inn property until September 1980. Therefore, HRMC, which had obtained the original refund on HS 3's behalf, was ineligible for most of that refund. Accordingly, both the

supplemental and original refunds were modified to subtract the pre-September 1980 purchase volumes, and HRMC's Application for Supplemental Refund was denied.

*Durham Schools, 12/16/97 RR272-192*

The DOE granted two Motions for Reconsideration filed by Libson Schools and Durham Schools. DOE found that the two school systems had acted in a timely fashion in 1995 when they corrected the deficiencies which had caused DOE to dismiss their

Applications in 1995, and accordingly, determined that they should receive refunds.

**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.

ATLANTIC RICHFIELD CO./SATURN PETROLEUM CO. ....	RF304-15511	12/18/97
INSTEEL WIRE PRODUCTS CO. ET AL .....	RK272-04690	12/15/97
SOUTHWEST MOTOR FREIGHT ET AL .....	RF272-76531	12/16/97
UPSTATE MILK COOP. INC. ET AL .....	RF272-95740	12/16/97

**Dismissals**

The following submissions were dismissed.

NAME	CASE NO.
UPSTATE MILK CO-OP, INC. ....	RG272-00146

[FR Doc. 98-3172 Filed 2-6-98; 8:45 am]  
BILLING CODE 6450-01-P

**DEPARTMENT OF ENERGY**

**During the Week of December 22, 1997 Through December 26, 1997**

**Notice of Issuance of Decisions and Orders; Office of Hearings and Appeals**

During the week of December 22 through December 26, 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: February 2, 1998.

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**Decision List No.65—Week of December 22 through December 26, 1997**

**Appeals**

*Homesteaders Association of the Pajarito Plateau, 12/22/97 VFA-0357*

The Homesteaders Association of the Pajarito Plateau (HAPP) Appealed a determination issued to it by the Albuquerque Operations Office (AO). In its Appeal, HAPP asserted that AO failed to conduct an adequate search for documents concerning the transfer of DOE land and had improperly withheld information in six documents pursuant to Exemption 5 of the FOIA. The DOE determined that responsive documents may exist at the DOE's Los Alamos facility and it remanded the matter to AO for a search of that facility. The DOE also found that the six documents withheld in part contain segregable factual material which can not be withheld under Exemption 5 and remanded the matter to AO to release the material or to provide another

determination explaining why the material should be withheld. Additionally, one of the documents contained a draft plan created by a local state governmental entity. The DOE remanded this matter to AO so that it could issue a new determination explaining how Exemption 5 could apply to that portion of the document. Consequently, HAPP's Appeal was granted in part.

*Rural Alliance for Military Accountability, 12/22/97 VFA-0357*

The Rural Alliance for Military Accountability (RAMA) Appealed a determination issued to it by the Rocky Flats Field Office (RF). The DOE determined that there was no merit to RAMA's assertion that RF failed to conduct an adequate search for documents concerning the transportation of hazardous materials. Consequently, RAMA's Appeal was denied.

**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.

APACHE TANK LINES, INC. ....	RJ272-52	12/23/97
GULF OIL CORPORATION/HOUDAILLE-DUVAL-WRIGHT CO. ....	RF300-18450	12/22/97
PROCTOR & GAMBLE PHARM. INC. ET AL .....	RK272-03062	12/23/97