

## LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of November 2 through November 6, 1998]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 3, 1998 ..	Personnel Security Hearing .....	VSO-0247	Request for Hearing under 10 CFR Part 710. If granted: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 CFR Part 710.
Nov. 2, 1998 ..	Personnel Security Review .....	VSA-0205	Request for Review of Opinion under 10 CFR Part 710. If granted: The October 1, 1998 Opinion of the Office of Hearings and Appeals, Case No. VSO-0205, would be reviewed at the request of an individual employed by a contractor of the Department of Energy.
Nov. 6, 1998 ..	Louella Benson, Alexandria, Virginia .....	VFA-0456	Appeal of an Information Request Denial. If granted: The October 2, 1998 Freedom of Information Request Denial issued by the DOE Germantown Accounting Division would be rescinded, and Louella Benson would receive access to certain DOE information.
Nov. 6, 1998 ..	Personnel Security Review .....	VSA-0214	Request for Review of Opinion under 10 CFR Part 710. If granted: The October 15, 1998 Opinion of the Office of Hearings and Appeals, Case No. VSO-0214, would be reviewed at the request of an individual employed by a contractor of the Department of Energy.

[FR Doc. 98-34682 Filed 12-30-98; 8:45 am]

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**DEPARTMENT OF ENERGY****Office of Hearings and Appeals****Notice of Issuance of Decisions and Orders; Week of August 31 through September 4, 1998**

During the week of August 31 through September 4, 1998, 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, 950 L'Enfant Plaza, SW, Washington, DC, Monday through Friday, 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: December 22, 1998.

**George B. Breznay,***Director, Office of Hearings and Appeals.***Department of Energy***Office of Hearings and Appeals**Washington, D.C. 20585-0107*

Decision List No. 101, Week of August 31 through September 4, 1998

**Appeals***Heart of America Northwest, 9/2/98, VFA-0435*

Heart of America Northwest filed an Appeal from July 1, 1998 and July 7, 1998 determinations of the Director of the Office of External Affairs (Director) of the Department of Energy's (DOE) Richland Operations Office requesting copies of documents regarding various types of waste at the Hanford Site. In considering the Appeal, the DOE determined that the Director should not have withheld the name of a commercially available chemical product, but that the Director properly withheld other responsive information pursuant to Exemption 4. Accordingly, the DOE partially granted the Heart of America Northwest Appeal.

*Scripps Institute of Oceanography, 9/2/98, VFA-0434*

The Department of Energy (DOE) issued a Decision and Order (D&O) denying a Freedom of Information Act (FOIA) Appeal that was filed by Scripps Institute of Oceanography. In its Appeal, Scripps requested that we review a determination issued by the Federal Energy Technology Center that certain documents relating to the relationship between a DOE contractor and one of its subcontractors were exempt in their

entirety from mandatory disclosure pursuant to Exemptions 4 and 7(A). In the Decision, the OHA found that the documents were voluntarily submitted for purposes of Exemption 4 and were thus confidential under the *Critical Mass* decision because they were customarily treated as confidential by the contractor. The documents were therefore properly withheld under Exemption 4. However, the OHA found that Exemption 7(A) was inapplicable because the documents were not compiled for law enforcement purposes, as that term is used in the Exemption.

*William Payne, 9/3/98, VFA-0436*

William Payne (Payne) filed an Appeal from a determination of the Department of Energy's (DOE) Albuquerque Operations Office requesting copies of documents related to contracts between a private company and Sandia National Laboratories, Los Alamos National Laboratories or DOE. DOE stated that the type of procurement files requested are not "agency records" and thus not subject to release under the FOIA. In considering the Appeal, the Office of Hearings and Appeals (OHA) determined that the records requested were the property of the contractor and were not covered by the FOIA. Accordingly, the DOE denied Payne's Appeal.

**Personnel Security***Personnel Security Hearing, 8/31/98, VSO-0203*

An Office of Hearings and Appeals Hearing Officer recommended that the Personnel Security Division of the Department of Energy/Albuquerque Operations Office restore an

individual's access authorization. After carefully examining the record of the proceeding, the Hearing Officer determined that the individual had demonstrated that he is sufficiently rehabilitated and reformed from his past alcohol dependence problem.

**Refund Application**

*Oasis Petroleum Corporation/Kash N' Karry Food Stores, Inc., 9/2/98, RF348-1*

The DOE issued a Decision and Order granting an Application for Refund filed by Kash n' Karry Food Stores, Inc., in the Oasis special refund proceeding.

The DOE found that the Applicant made a reasonable demonstration that its predecessor, Lucky Stores, Inc., was injured by Oasis' violation of federal petroleum allocation regulations. The total refund amount granted to the applicant in this Decision is \$537,869 (comprised of \$394,724 in principal and \$143,145 in interest).

**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.

Ainsworth Van Lines, Inc. et al .....	RF272-85019	8/31/98
Atchison Casting Corp .....	RK272-01565	9/2/98
Barton Brands, Ltd .....	RK272-04299	9/2/98
Nordis A. Lindholm .....	RK272-04828	9/2/98
Wal-Mac, Inc .....	RK272-03957	9/2/98

**Dismissals**

The following submissions were dismissed.

Name	Case No.
Hydro Conduit Corp .....	RK272-04379
Ineel Research Bureau .....	VFA-0352
Kathy Cagle .....	VFA-0437
L.G. Shartzler .....	RK272-01551
Personnel Security Hearing .....	VSO-0225
Sarah L. Wicklund .....	RK272-04200
Wrenn Lumber Corp .....	RK272-01552
Vapor Corp .....	RK272-04776

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**DEPARTMENT OF ENERGY**

**Office of Hearings and Appeals**

**Notice of Issuance of Decisions and Orders; Week of September 7 through September 11, 1998**

During the week of September 7 through September 11, 1998, 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.

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through Friday, 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: December 22, 1998.

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

**Department of Energy**  
*Office of Hearings and Appeals*  
*Washington, D.C. 20585-0107*

Decision List No. 102, Week of September 7 through September 11, 1998

**Appeal**  
*William H. Payne, 9/10/98, VFA-0438*

The DOE's Office of Hearings and Appeals (OHA) issued a decision granting in part a Freedom of Information Act (FOIA) Appeal filed by

William H. Payne. Payne sought the release of names withheld from investigative files released to him by the DOE's Office of Inspector General (IG). In its decision, OHA found that the IG's withholding of one of the names was appropriate under FOIA Exemptions 6 and 7(C). Accordingly, the Appeal was denied.

**Personnel Security**

*Personnel Security Hearing, 9/10/98, VSO-208*

An OHA Hearing Officer issued an Opinion regarding the eligibility of an individual to maintain access authorization under the provisions of 10 C.F.R. Part 710. After considering the testimony presented at the hearing and the record, the Hearing Officer found that individual had used marijuana and violated a DOE Drug Certification. Accordingly, the Hearing Officer recommended 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.

Barri E. Lewis & Molly Guy .....	RG272-00125	9/10/98
Edna M Schonhaler Livng Trust .....	RK272-04850	9/11/98