[FR Doc. 96–23486 Filed 9–12–96; 8:45 am]

BILLING CODE 6450–01–P

Issuance of Decisions and Orders During the Week of September 25 Through September 29, 1995

During the week of September 25 through September 29, 1995, 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.

Dated: August 29, 1996.

Richard W. Dugan,

Acting Director Office of Hearings and Appeals.

Personnel Security Hearing

Oak Ridge Operations Office, 9/26/95, *VSO–0034*

Under the provisions set forth in 10 C.F.R. Part 710, the Department of Energy, Oak Ridge Operations Office (DOE/OR) suspended the access authorization (''L'' level security clearance) of an individual based upon derogatory information received by the DOE/OR incident to the individual's arrest on a charge of indecent exposure. Following a personnel security interview and evaluation by a DOE consultant psychiatrist, DOE/OR suspended the individual's access authorization under disqualifying criteria set forth in: (1) 10 C.F.R. § 710.8(h), that the individual has ''[a]n illness or mental condition of a nature which, in the opinion of a board-certified psychiatrist * * * causes, or may cause, a significant defect in judgment or reliability,'' and (2) 10 C.F.R. § 710.8(1), that the individual has ''[e]ngaged in [] unusual conduct or is subject to circumstances which tend to show that the individual is not honest, reliable, or trustworthy; or which furnishes reason to believe that the individual may be subject to pressure, coercion, exploitation, or duress which may cause the individual to act contrary to the best interests of the national security.'' Following a hearing convened at the request of the individual, the Office of Hearings and Appeals Hearing Officer found in the Opinion that (i) despite conflicts in the psychiatric testimony, it was clear that the individual suffered from a mental condition which caused a significant defect on his judgment and reliability, (ii) the individual was not rehabilitated but needed to continue medication and psychotherapy indefinitely, and (iii) there was a distinct possibility that the individual continues to conceal the nature of his condition and therefore would be subject to blackmail or coercion in the event of future incidents. Accordingly, the Hearing Officer concluded in the Opinion that the individual's access authorization should 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.

Crude Oil Supplemental Refund Distribution	RB272–49	09/25/95
Grant Joint Union High School et al	RF272–97528	09/28/95
Gulf Oil Corporation/Hydro Conduit Corp. et al	RF300–21349	09/27/95
Gulf Oil Corporation/Medfield Gulf	RF300–21408	09/28/95
Magna Corp. (BPCI)	RF300–21413	
Town of West Warwick	RF300–21414	
Texico Inc./4-Way Service et al	RF321–16408	09/27/95
Texaco Inc./Bill Lee Ivans	RF321–12207	09/28/95
Hunts Point Fuel Corp.	RF321–17353	
Walcoal, Inc. et al	RK272–77	09/28/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Government Accountablity Project	VFA–0085
Government Accountability Project	VFA–0086

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Issuance of Decisions and Orders During the Week of September 18 Through September 22, 1995

During the week of September 18 through September 22, 1995, 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.

Dated: August 30, 1996.

Richard W. Dugan,

Acting Director Office of Hearings and Appeals.

Appeal

James W. Simpkin, 9/18/95, *VFA–0067 VFA–0068*

On August 18, 1995, James W. Simpkin (Simpkin) filed a joint Appeal from two determinations issued to him on July 20, 1995, by the Albuquerque Operations Office (AL) of the Department of Energy (DOE). The determinations were issued in response to requests for information submitted by Simpkin under the Freedom of Information Act (FOIA). The AL issued a determination stating that no documents exist responsive to some parts of Simpkin's first and second requests. However, the AL provided some documents responsive to other parts of Simpkin's first and second requests. In his Appeal, Simpkin asked the Office of Hearings and Appeals (OHA) to direct the AL to conduct a new search for responsive documents. In considering the Appeal, the OHA found that with respect to Simpkin's first request, there was no need to consider the issue on Appeal because the AL agreed to send Simpkin a new copy of the responsive document requested by Simpkin. With respect to Simpkin's second request, the OHA found that the search conducted at the direction of the AL was inadequate and remanded this Appeal to AL to coordinate a new search. Accordingly, the DOE dismissed one of Simpkin's Appeals, and granted Simpkin's other Appeal.

Refund Applications

Hoechst Celanese Chemical, et al., 9/21/95, *RR272–152, et al.*

The DOE considered 13 identical Motions for Reconsideration filed by Philip Kalodner. In those Motions Kalodner requested that the DOE reconsider its prior denial of the crude oil overcharge refund applications filed by his clients. The applications were denied because each firm had signed a waiver of its rights to receive a Subpart V crude oil overcharge refund in order to participate in the Stripper Well Settlement Agreement. Kalodner argued that for equitable reasons the Office of Hearings and Appeals should not consider these waivers to apply to affiliates of the signing firms, even though the waivers plainly state that they are so applicable. The OHA denied the Motion, finding that it would not be proper to disregard the preclusion provisions of the waivers. It pointed out that granting the Motion would overturn a long-established principle of the Subpart V crude oil refund proceeding and intrude upon key principles of the negotiated Stripper Well settlement agreement, as well as upon the authority of Judge Theis, who approved that agreement.

Texaco Inc./Crowley Maritime Corporation, 9/20/95 *RF321–14012*

The DOE issued a Decision and Order concerning an Application for Refund filed in the Texaco Inc. special refund proceeding. Crowley Maritime Corporation (Crowley) applied for a refund based upon its estimated Texaco purchase volume figures for the refund period. Crowley estimated its figures by taking each year's dollar expenditures for various Texaco products and dividing them by a national average wholesale price for that year listed in the 1981 Platt's Oil Price Handbook and Oilmanac. After examining Crowley's estimation method, the DOE concluded that it would most likely overstate Crowley's estimated purchase figures. The DOE estimated each of Crowley's yearly purchase volume figures by dividing Crowley's yearly expenditure for each petroleum product by the highest price for the product listed in that year's Platt's Oilmanac. The DOE approved a refund for Crowley totalling $56,189, representing $37,469 in principal plus $18,720 in interest.

Texaco Inc./Hale Brothers, Hale Brothers, Hale Brothers, 9/22/95, *RF321–14012, RF321–21080, RF321–21081*

The DOE issued a Decision and Order concerning three Applications for Refund filed in the Texaco Inc. special refund proceeding. J. Estil Hale (Hale), on behalf of himself and the Estate of Donald Hale, and his sister, Sandra H. Crouch (Crouch), applied for refunds based upon direct Texaco purchases made by Hale Brothers, a partnership which operated a Texaco outlet during the consent order period. In their application, Hale and Crouch stated that Hale Brothers was operated as partnership between Hale, his father C.E. Hale, and his brother, Donald Hale. Subsequently, C.E. Hale and Donald Hale became deceased. The DOE, using Virginia intestate law as a guide, held that Hale, Crouch and the Estate of Donald Hale were the proper parties to receive the refund for the Texaco purchases made by Hale Brothers. The DOE approved refunds for Hale, Crouch and the Estate of Donald Hale totalling $2,219, representing $1,480 in principal plus $739 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.

Crude Oil Supplemental Refund Distribution	RB272–51	09/20/95
H&M Lumber Company et al	RF272–90969	09/18/95
Holyoke Coop Association et al	RF272–97559	09/20/95
Texaco Inc./Chronister Oil Company	RF321–20441	09/22/95
Texaco Inc./Sharon Steel Corp.	RF321–15768	09/18/95
Bennie Reid	RF321–16352	
Gallera Gonzales Texaco	RF321–16362	
Texaco Inc./Vaughan Bassett Furniture Corp	RR321–0193	09/21/95
Transcontinental Gas Pipe Line et al	RF272–77230	09/20/95
Webster County et al	RF272–95804	09/22/95
West Coast Truck Lines, Inc.	RF272–78668	09/22/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Farmers Co-op Oil Co.	RF272–94119
Francione's Five Points Texaco	RF321–20669
Merrill Farms	RF272–97416
Midway Texaco Service	RF321–14082
PA Historical & Museum Commission	RF300–21478

Name	Case No.
Taxi Cab of Cincinnati	RF272–97247
Thrall Oil & Chemical	RF321–20653

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Notice of Issuance of Decisions and Orders During the Week of August 28 Through September 1, 1995

During the week of August 28 through September 1, 1995, 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.

Dated: August 28, 1996.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals

Personnel Security Hearings

Albuquerque Operations Office, 8/30/95, *VSA–0018*

The Director of the Office of Hearings and Appeals issued an Opinion regarding the request for review by an individual of a Hearing Officer's adverse opinion regarding his eligibility for access authorization under the provisions of 10 C.F.R. Part 710. After considering the individual's arguments and the record, the Director found that: (i) the individual's request to be considered for a lower level security clearance and different job were irrelevant to the security clearance review analysis, (ii) the DOE psychiatrist possessed a sufficient basis upon which to evaluate the individual, (iii) the Hearing Officer was correct to consider each of the individual's alcohol-related incidents as significant derogatory information, (iv) the individual was not yet reformed or rehabilitated from his condition of alcohol abuse and (v) interim relief should not be granted. Accordingly, the Director recommended that the individual's access authorization should not be restored.

Rocky Flats Field Office, 9/1/95 *VSO–0032*

An Office of Hearings and Appeals Hearing Officer issued an opinion concerning the eligibility for access authorization of an individual who was alleged to have a mental condition of a nature that in the opinion of a board-certified psychiatrist causes a significant defect in her judgment and reliability. The Hearing Officer found that the individual had a personality disorder that did result in a defect in her judgment and gave rise to security concerns. Accordingly, the Hearing Officer found that the individual's request for access authorization should be denied.

Refund Application

Texaco Inc./Ortiz Texaco, 8/28/95 *RR321–180*

The DOE issued a Decision and Order concerning a Motion for Reconsideration submitted by Wilson, Keller & Associates, Inc. (WKA) regarding an Application for Refund it submitted on behalf of Ortiz Texaco (OT) in the Texaco Inc., special refund proceeding. In a prior Supplemental Order, the DOE rescinded a portion of the refund granted to Mr. Roberto Torrez Ortiz, owner of OT, because Mr. Ortiz, after receiving a refund for OT's purchases, submitted another application for OT on behalf of a Mr. Colon. The DOE thus concluded that Mr. Ortiz only operated OT during a portion of the time for which he was granted a refund. Pursuant to the Supplemental Order, Mr. Ortiz and his representative, WKA, were made jointly and severally liable for repayment of the overpayment to Mr. Ortiz. In its Motion, WKA states that it paid the entire amount of the overpayment and did not receive any payment from Mr. Ortiz. WKA further argued that the DOE was incorrect in its conclusion that Mr. Ortiz was only eligible for a portion of the refund originally granted him. The DOE held that WKA failed to present any tangible evidence to support its claim that Mr. Ortiz was eligible for the entire refund. Consequently, the DOE denied WKA's Motion for Reconsideration.

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.

C.E. Zumstein Company, et al	RF272–97945	08/28/95
City of West Chester, et al	RF272–95929	08/31/95
Crude Oil Supplemental Refund Distribution	RB272–46	08/30/95
Crude Oil Supplemental Refund Distribution	RB272–44	08/30/95
Crude Oil Supplemental Refund Distribution	RB272–00047	08/31/95
D.A. Stuart Co., et al	RF272–97902	08/31/95
Gulf Oil Corporation/Buford-Briarwood Gulf, et al	RF300–20281	08/30/95
Milo School Admin. Dist., et al	RF272–97745	08/30/95
Peru, Illinois, et al	RF272–97505	08/30/95
Texaco Inc./City of Elgin, et al	RF321–0103	08/31/95
Texaco Inc./Lonas Construction Co., Inc.	RR321–102	08/31/95
Texaco Inc./P&C Texaco	RF321–8850	08/31/95
Templeton Texaco	RF321–14152	