

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Jan. 23 through Jan. 27, 1995]

| Date | Name and location of applicant | Case No. | Type of submission |
|----------------|--|--|---|
| 01/24/95 | Pitcher Sales, Inc., Lewiston, Utah | VEE-0004 | Exception to the Reporting Requirements. If granted: Pitcher Sales, Inc., would not be required to file Form EIA-782B "Resellers'/Retailers' Monthly Petroleum Products Sales Report." |
| 01/25/95 | David K. Hackett, P.E., Knoxville, Tennessee. | VFA-0021 | Appeal of an Information Request Denial. If granted: David K. Hackett, P.E., would receive a waiver of all fees incurred in processing of a Freedom of Information Request for certain Department of Energy information. |
| 01/26/95 | Oregon/Nation Helium, Time Oil, Coline, Belridge, Perry, Gas Palo Pinto. | RQ3-591, RQ334-592, RQ2-593, RQ8-594, RQ183-595, RQ5-596 | Application for Second Stage National Helium, Time Oil, Coline, Belridge, Perry Gas, Palo Pinto Refunds. If granted: The second stage refund application submitted by Oregon in the National Helium, Time Oil, Coline, Belridge, Perry Gas and Palo Pinto Refund Proceedings would be granted. |
| 01/27/95 | J/R/A Associates, Mitchellville, Maryland | VFA-0022 | Appeal of an Information Request Denial. If granted: The December 15, 1994 Freedom of Information Request Denial issued by the DOE Office of Contractor Employee Protection would be rescinded, and J/R/A Associates would receive access to the first page of each complaint of discrimination filed by employees with the DOE Office of Contractor Employee Protection. |

REFUND APPLICATIONS RECEIVED

| Date received | Name of refund proceeding/name of refund applicant | Case No. |
|----------------|--|----------|
| 01/20/95 | Farmers Coop Grain | RG272-19 |
| 01/20/95 | Farmers Elevator Company | RG272-20 |
| 01/24/95 | Dal Har Distributing Co. | RG272-21 |
| 01/26/95 | Ellsworth-Williams | RG272-22 |

[FR Doc. 95-4189 Filed 2-17-95; 8:45 am]

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Notice of Issuance of Decisions and Orders by the Office of Hearings and Appeals During the Week of October 3 Through October 7, 1994

During the week of October 3 through October 7, 1994 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief 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.

Appeals

E.O. Smelser, 10/4/94, LFA-0420

E.O. Smelser filed an Appeal from a denial by the Bartlesville Project Office of a Request for Information which he submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the requested documents were not "agency records" and so were not subject to the FOIA. Accordingly, the Appeal was denied. In reaching this decision, the DOE considered that although the agency had access to the

records, it did not possess the records when the request was made. Furthermore, the grant assistance agreement between the DOE and the grantee did not assign ownership of the records to the DOE.

John P. Connelly, 10/7/94, LFA-0419

John P. Connelly (Connelly) filed an Appeal from a determination issued to him by the Office of the Inspector General (OIG). The determination partially denied a Request for Information which Connelly submitted under the Freedom of Information and Privacy Acts. Connelly requested documents relating to employment announcements made by OIG for the position of Criminal Investigator at various DOE facilities, along with all records created by a former Assistant Inspector General regarding the specified announcements. In its determination, the OIG provided Connelly with various documents responsive to his Freedom of Information Act request. Connelly, in his Appeal, argued that (1) further responsive documents existed, (2) the documents that were provided to him were not provided to him in any logical order, and (3) OIG failed to make a search pursuant to the Privacy Act. In considering the Appeal, the DOE found

that (1) the records responsive to his request were not contained in a system of records that was subject to the Privacy Act, (2) OIG had no obligation under the FOIA to provide responsive records in a particular order, and (3) an adequate search had been conducted in response to the request. Accordingly, Connelly's Appeal was denied.

Physicians for Social Responsibility, Inc., 10/6/94, LFA-0426

Physicians for Social Responsibility, Inc. (PSRI) filed an Appeal from a determination issued to it on August 26, 1994, by the Chief of the Freedom of Information and Privacy Acts Branch of the Reference and Information Management Division. In that determination, the Chief stated that responsive documents could not be found pursuant to a Freedom of Information Act request. Specifically, the Chief denied a request for documents relating to a study allegedly done involving the Integral Fast Reactor. PSRI's request and subsequent appeal concerned the identical documents involved in another case. In that case, the DOE had confirmed the possible existence of documents responsive to the appellant's request and remanded the case for a search of the DOE Oak Ridge Operations Office and the DOE

Office of Nuclear Energy. Accordingly, in view of the fact that the Appeals were identical, the DOE also remanded the PSRI request for a search of the same DOE Offices.

William H. Payne, 10/7/94, LFA-0416

William H. Payne filed an Appeal from a determination issued to him by the Office of the Inspector General (OIG) on a Request for Information submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that the OIG did not have the office-wide rosters of contacts between OIG staff members and employees of Sandia National Laboratory and of the Department of Justice that Mr. Payne sought. In addition, the DOE determined that making a burdensome survey of all OIG personnel for such records on an individual basis was not required by the FOIA. Accordingly, the Appeal was denied.

Requests for Exception

Brennan Oil & Heating Company, Inc., 10/3/94, LEE-0130

Brennan Oil & Heating Company, Inc. (Brennan) of North Providence, Rhode Island, filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA-782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report". In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. On July 19, 1994, the DOE issued a Proposed Decision and

Order determining that the exception request should be denied. No Notice of Objection to the Proposed Decision and Order was filed, the DOE issued the Proposed Decision and Order in final form, denying Brennan's Application for Exception.

Schwebel Petroleum Company, 10/3/94, LEE-0126

Schwebel Petroleum Company (Schwebel) of Bakersfield, California, filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA-782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering this request, the DOE found that the firm was not suffering gross inequity or serious hardship. On July 18, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. No Notice of Objection to the Proposed Decision and Order was filed, and the DOE issued the Proposed Decision and Order in final form, denying Schwebel's Application for Exception.

Refund Applications

Mid-State Coop, Tri-County Non-Stock Coop Association, Farmers Cooperative Oil Association, 10/5/94, RF272-92061, RF272-92062, RF272-92063

The DOE issued a Decision and Order concerning the Application for Refund of three cooperatives in the Subpart V crude oil overcharge refund proceeding. Each of the refund applications was filed by the Cooperative Finance

Association (CFA) and requested that any refund check be made payable to CFA. The DOE determined that the CFA was not entitled to refunds based upon purchases made by the cooperatives. Accordingly, the Applications for Refund were denied.

Texaco Inc./Major Oils, 10/4/94, RR321-165

The DOE issued a Decision and Order denying a Motion for Reconsideration filed by George R. Dunn in the Texaco Inc. Subpart V special refund proceeding on behalf of Major Oils. The DOE had previously denied Major Oils' Application for Refund on the basis that Mr. Dunn had failed to establish that Major Oils purchased Texaco products or the volume of any such Texaco purchases. In the Motion for Reconsideration, Mr. Dunn failed to present any compelling reasons or new evidence that would warrant the reconsideration of Major Oils' refund claim. Accordingly, Major Oils' Motion for Reconsideration was denied with prejudice to any further refileing in the Texaco Inc. Subpart V special refund proceeding.

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.

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|---|--------------|----------|
| Appleton School District City of Tulia | RF272-79246, | 10/04/94 |
| | RF272-83088 | |
| Atlantic Richfield Company/Ray's Arco et al | RF304-14673 | 10/03/94 |
| Callanan Industries, Inc. | RF272-69469 | 10/07/94 |
| Davidson Cooperative Assoc. et al | RF272-94587 | 10/07/94 |
| Gulf Oil Corporation/Farley Oil Co | RF300-18716 | 10/04/94 |
| Gulf Oil Corporation/Line Garage | RF300-20439 | 10/07/94 |
| Kankakee Valley School Corp. et al | RF272-95533 | 10/07/94 |
| Melchior Armstrong Dessau Inc. Ray W. Malow Co | RC272-255, | 10/05/94 |
| | RC272-256 | |
| Metropolitan Petroleum & Fuel/Michael Campanile et al | RF349-13 | 10/03/94 |
| Sterling Paving Co | RF272-68993 | 10/07/94 |
| Sterling Paving Co | RD272-68993 | |
| Sim J. Harris Co | RF272-86593 | |
| Sloan Construction Co | RF272-86920 | |
| Texaco Inc./Buz Olsen's Casino Texaco | RF321-20683 | 10/07/94 |
| Casino Texaco | RF321-21036 | |
| Texaco Inc./Howard's Texaco et al | RF321-11277 | 10/03/94 |
| Village of Willowbrook et al | RF272-84678 | 10/07/94 |
| Wynn-Fowler Trading Co., Inc. | RF272-67234 | 10/07/94 |

Dismissals

The following submissions were dismissed:

| Name | Case No. |
|------------------------------------|-------------|
| Chester County Aviation | RF272-97996 |
| City of Marianna | RF272-97206 |
| Gackle Cooperative Oil Co | RF272-94980 |
| Garrett County Commissioners | RF272-93478 |

| Name | Case No. |
|---|-------------|
| Grizzard West End Texaco | RF321-20446 |
| Guinn Oil Company | Lee-0133 |
| Independent School Dist. 706 | RF272-96102 |
| Jackson County Board of Education | RF272-97817 |
| Jordano's Inc. | RF321-20457 |
| Lincoln County Board of Education | RF272-97974 |
| Midwest Aviation | RF272-98732 |
| New Jersey | RM3-271 |
| Oklahoma Natural Gas Co | RF272-93981 |
| Seaboard Coastline R.R. | RF272-93763 |
| Stewart's Texaco | RF321-20606 |
| Town of Murfreesboro | RF272-84705 |
| Western Maryland R.R. | RF272-93752 |
| York Aero, Inc. | RF272-98746 |

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, 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.

Dated: February 9, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95-4190 Filed 2-17-95; 8:45 am]

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Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of October 31 through November 4, 1994

During the week of October 31 through November 4, 1994, the decisions and orders summarized below were issued with respect to appeals and applications for other relief 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.

Appeals

Cowles Publishing Co., 10/31/94, LFA-0427

Cowles Publishing Company (Cowles) filed an Appeal from a determination issued by the DOE's Richland Operations Office (Richland) in response to a request from Cowles under the Freedom of Information Act (FOIA).

Cowles sought the salary information of the president or highest-ranking official of the four major contractors working for Richland: Westinghouse Hanford Company, Battelle Pacific Northwest Laboratory, Kaiser Engineers Hanford Company and the Bechtel corporation. In considering the Appeal, the DOE found that Richland properly withheld the salaries of those positions under Exemption 6 of the FOIA. Accordingly, the Appeal was denied.

Glen M. Jameson 11/1/94, VFA-0001

Glen M. Jameson filed an Appeal from a determination issued by the DOE's Albuquerque Operations Office (Albuquerque) in response to a request from Mr. Jameson under the Freedom of Information Act (FOIA). Mr. Jameson sought the names and numbers of current and former PAI Corporation (PIA) employees working on Albuquerque Contract No. DE-AC04-91AL72747. In considering the Appeal, the DOE found that Albuquerque had mistakenly modified the request to exclude former PAI employees. Accordingly, the Appeal was remanded to Albuquerque to search its records for former PAI employees.

Refund Applications

Mrs. Baird's Bakeries, Inc., 11/4/94, RF272-92316

The DOE issued a Decision and Order concerning an Application for Refund in the Subpart V crude oil overcharge refund proceeding. The refund application was filed by Mrs. Baird's Bakeries, Inc. (Mrs. Baird's). The DOE determined that Mrs. Baird's was not entitled to a refund since it had filed a Surface Transporters Escrow Settlement Claim Form and Waiver. In that filing,

Mrs. Baird's had requested a Stripper Well refund from the Surface Transporters escrow, thereby waiving its right to a Subpart V crude oil refund. Accordingly, the Application for Refund was denied.

Parnum Paving Company, 10/31/94, RR272-181

The DOE issued a Decision and Order granting a request for reconsideration in the Subpart V crude oil overcharge refund proceeding. The movant attested that it had made a mistake in answering the DOE's inquiry regarding the firm's use of escalator clauses in its contracts. Based on the corrected information, the DOE determined that the movant was entitled to an additional refund. The refund granted in this Decision was \$11,470.

Whitaker Oil Corp./Philip Beamer Distributor, Inc., 11/01/94, RF351-29

The DOE issued a Decision and Order granting an Application for Refund filed by Philip Beamer Distributor, Inc. in the Whitaker Oil Corp. special refund proceeding. The Decision noted that the funds remaining in the Whitaker account are being distributed as required by the Petroleum Overcharge and Distribution and Restitution Act and that, therefore, no more applications will be accepted in the Whitaker proceeding.

Refund Applications

The Office of Hearing and Appeals issued the follow 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.

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|--|-------------|----------|
| Atlantic Richfield Company/A&B Arco | RF304-13927 | 11/01/94 |
| City of Roseville et al | RF272-90531 | 11/04/94 |
| Clinton Milk Co. | RF272-62 | 11/04/94 |
| Enron Corp./Midpane Gas Company | RF340-74 | 11/04/94 |
| Suburban Propane | RF340-168 | |
| Gulf Oil Corporation/Forsyth Home, Inc. | RF300-18999 | 11/01/94 |