

and resolved through settlement discussions than through litigation or through the process established by Article XVI of the Standard Contract. Therefore, in accordance with the Department's commitment to increased use of alternative dispute resolution procedures, the Department is prepared to discuss with utilities and other parties to the pending litigation (*Northern States Power Company v. U.S. Department of Energy*, Nos. 94-1457, 94-1458, 94-1574 (D.C. Cir., 1994)) financial or other assistance that may be appropriate in light of the Department's inability to begin providing disposal services in 1998.

Issued in Washington, D.C., April 28, 1995.

Daniel A. Dreyfus,

Director, Office of Civilian Radioactive Waste Management.

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The Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders; Week of January 23 Through January 27, 1995

During the week of January 23 through January 27, 1995, 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.

Appeal

The National Security Archive, 1/23/95, VFA-0015

The National Security Archive (NSA) filed an Appeal from a determination issued to it on December 5, 1994, by the Director, Office of Arms Control and

Nonproliferation of the Department of Energy (Arms Control) which denied a request for information it had filed under the Freedom of Information Act (FOIA). The request sought records relating to negotiations with Japan, and the transfer of plutonium to Japan between 1980 and 1983. Arms Control stated that it did not possess any responsive documents, and the Appeal challenged the adequacy of the search. In considering the Appeal, the DOE found that Arms Control conducted a reasonable search for responsive documents located in its files. However, the DOE found that other offices that were not searched might have responsive documents. Accordingly, NSA's Appeal was granted and the matter was remanded to the FOIA Office for a search of all of the offices or their successors originally named in NSA's request or its Appeal.

Implementation of Special Refund Procedures

Ed's Exxon, Ron's Shell, 1/27/95, LEF-0078, LEF-0084

The DOE issued a Decision and Order implementing special refund procedures to distribute \$3,657.84, plus accrued interest, which Ed's Exxon and Ron's Shell (the remedial order firms) remitted to the DOE pursuant to Remedial Orders issued on September 30, 1981, and April 27, 1982, respectively. The DOE determined that it would distribute the fund in two stages. In the first stage, the DOE will accept applications for refund from those claiming injury as a result of the remedial order firms' violations of Federal petroleum pricing regulations. If any funds remain after meritorious claims are paid in the first stage, they will be used for indirect restitution through the States in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986.

Refund Applications

Rochdale Village, Inc., 1/27/95, RF272-66448, RD272-66448

The DOE issued a Decision and Order granting a refund to Rochdale Village, Inc., in the crude oil overcharge refund proceeding. Rochdale Village operates an apartment complex in New York City. In granting a refund, the DOE rejected an argument from a group of states and territories that certain increases in New York City's rent control guidelines adequately compensated Rochdale Village for crude oil overcharges. The DOE also denied a Motion for Discovery submitted by the group of states and territories.

Standard Oil Co. (Indiana)/Oklahoma, Belridge/Oklahoma, Palo Pinto/Oklahoma, OKC/Oklahoma, Vickers/Oklahoma, Standard Oil Co. (Indiana)/Oklahoma, 1/25/95, RM21-282, RM8-283, RM5-284, RM13-285, RM1-286, RM251-287

The DOE issued a Decision and Order granting Motions for Modification of previously-approved refund plans filed by the State of Oklahoma in the Standard Oil Co. (Indiana) (Amoco I and II), Belridge Oil, Palo Pinto Oil & Gas, OKC Corp., and Vickers Energy Corp. refund proceedings. Oklahoma requested permission to use \$45,000 in interest from funds which the State originally received or other second-stage refund proposals to install a compressed natural gas line between Kingston, Oklahoma, and Lake Texoma State Park. The project will supply natural gas service to residents and businesses in the surrounding area as well as to the state park, and it is to serve as a pilot program for other sites within the state. In accordance with prior Decisions that have noted the benefits of encouraging the use of alternative fuels, the DOE approved Oklahoma's Motions.

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 Company/Carl's Arco	RF304-15464 ...	01/23/95
Atlantic Richfield Company/North Market Arco et al	RF304-13214 ...	01/23/95
Cedar Fair, L.P.	RF272-93563 ...	01/23/95
City of Broken Bow et al	RF272-84910 ...	01/27/95
Davis County Schools et al	RF272-86678 ...	01/25/95
Glendenning Motorways, Inc	RF272-89025 ...	01/23/95
Wag Enterprises, Inc	RF272-89026
Hawaiian Airlines, Inc	RF272-98767 ...	01/25/95
Eastern Air Lines, Inc	RF272-98778
Prairie Transportation, Inc	RF272-95099 ...	01/27/95
Star Truck Rental Inc	RF272-93462 ...	01/25/95
Stoops Express	RF272-82514 ...	01/25/95
Monkem Co., Inc.	RF272-82515
Texaco Inc./Atkins' 7-day Market	RF321-18684 ...	01/25/95
Stop & Shop	RF321-18685
Texaco Inc./Joe Dvornich Texaco et al	RF321-20243 ...	01/27/95
Texaco Inc./Skyline Texaco et al	RF321-20646 ...	01/27/95
Warner & Smith Motor Freight, Inc	RF272-89454 ...	01/27/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Alpha Beta Company	RF321-20365
American Western Corp	RF321-20363
Austin Bridge & Road, Inc	RF272-93567
Braswell Sand & Gravel Co., Inc	RF272-95002
Brooks Lumber Company	RF272-94277
Hamakua Sugar Company, Inc	RF321-20362
Kalama Chemical, Inc	RF272-90203
Purity Dairies, Inc	RF272-97254
Singer Sewing Company	RF321-20360
Stephens Contracting	RF272-95318
TFCO, Inc	RF304-14616
Tiger Oil Co	RF321-20500

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: April 27, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

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Notice of Issuance of Decisions and Orders; Week of March 13 Through March 17, 1995

During the week of March 13 through March 17, 1995, 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

Casey O. Ruud, 3/16/95, VFA-0027

Casey O. Ruud filed an Appeal from a partial denial by the Richland Operations Office of a Request for Information which he had submitted under the Freedom of Information Act. The Richland Operations Office had released copies of two letters that were requested, but had withheld the identity of the writer. In considering the Appeal, the DOE found that the writer's name and address were properly withheld under Exemption 6 of the FOIA.

Robert S. Foote, 3/16/95, VFA-0024

Robert S. Foote filed an Appeal from a determination issued to him on January 18, 1995 by the Acting Associate Director for Health and Environmental Research (OHER) in the Office of Energy Research of the

Department of Energy (DOE). In that determination, the OHER denied in part a request for information filed by Mr. Foote on July 26, 1994, under the Freedom of Information Act (FOIA). The OHER released certain items requested by Mr. Foote. However, it withheld other items either in their entirety or in part pursuant to 5 U.S.C. § 552(b)(5) (Exemption 5). In his Appeal, Mr. Foote challenged the OHER's application of Exemption 5 to the requested information and requested that the DOE direct the OHER to release the withheld information. In considering the Appeal, the Office of Hearings and Appeals found that although in the past it has analyzed this kind of information under the deliberative process privilege of Exemption 5, it is more appropriate to apply FOIA Exemption 6 to the withheld information. The Office of Hearings and Appeals remanded this Appeal to the OHER to either release the withheld information or prepare a new determination that explains in detail the reasons which justify withholding the information under Exemption 6.