

Name	Case No.
Oak Ridge Operations	VSO-0030
Patterson & Brasher Texaco	RF321-20589
Petroleum Service Co.	RF321-20590
Ross Texaco	RF321-7195
Sir John's ARCO	RF304-14820

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: September 5, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95-22762 Filed 9-12-95; 8:45 am]

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Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of May 29 Through June 2, 1995

During the week of May 29 through June 2, 1995 the decisions and orders summarized below were issued with respect to applications for 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

Elizabeth H. Donnelly, 6/2/95, VFA-0039

Elizabeth H. Donnelly filed an Appeal from a determination issued to her on April 3, 1995 by the Department of Energy's Nevada Operations Office. In that determination, the Nevada Operations Office denied Ms. Donnelly's request for information filed pursuant to the Freedom of Information Act (FOIA). Specifically, the Nevada Operations Office denied Ms. Donnelly's request for information related to a "hostile work environment study" pursuant to FOIA Exemption 5. In considering the Appeal, the DOE found that the determination to withhold the requested information pursuant to Exception 5 was consistent with the FOIA. Accordingly, the DOE denied Ms. Donnelly's Appeal.

Gayle M. Adams, 6/1/95, VFA-0040

Gayle M. Adams filed an Appeal from a determination issued to her by the Richland Operations Office of a Request for Information which she had submitted under the Freedom of Information Act. The Richland Operations Office had released responsive documents, but Adams challenged the adequacy of the DOE's search. In considering the Appeal, the OHA found that the search for responsive documents was adequate.

J. Eileen Price, 6/2/95, VFA-0038

J. Eileen Price (Price) filed an Appeal from a determination issued to her by the Department of Energy's Western Area Power Administration (WAPA), that partially denied a Request for Information which Mrs. Price submitted under the Freedom of Information Act. Price requested copies of all appraisal information in her personnel file and all unofficial information pertaining to her employment in WAPA's Loveland Area Office beginning in October 1992. In its determination letter, the WAPA stated that it had found two documents responsive to Price's request, a grievance investigation document (Grievance Document) and a chronology of events related to her grievance (Chronology). Additionally, WAPA stated that it had found various pages from the day planners (Day Planner Notes) of two of her supervisors which were potentially responsive to her request. WAPA provided Price with a copy of the Chronology but withheld the Grievance Documents claiming that the Grievance Document was predecisional and deliberative and thus exempt from disclosure under Exemption 5 of the FOIA. Additionally, WAPA determined that Day Planner Notes were not agency records for the purposes of the FOIA and thus not subject to disclosure. Price argued that WAPA improperly withheld the Day Planner Notes and the Grievance Document. The DOE determined that, while the Grievance Document was predecisional and deliberative, a significant portion of the document contained segregable factual material which was improperly withheld from Price. The DOE further found that WAPA correctly determined that the Day Planner Notes were not agency records subject to disclosure

under the FOIA. Consequently, Price's Appeal was granted in part.

U.S. Solar Roof, 5/30/95, VFA-0037

U.S. Solar Roof (Solar Roof) filed an Appeal from a determination issued to it on April 4, 1995 by the Director of the Photovoltaic Technology Division of the Office of Energy Efficiency and Renewable Energy (EE) of the Department of Energy. In that determination, EE denied in part a request for information submitted by Solar Roof on February 27, 1995 under the Freedom of Information Act (FOIA). The EE released two specific items but withheld seven items in their entirety pursuant to 5 U.S.C. § 552(b)(5) (Exemption 5). In its Appeal, Solar Roof challenged EE's April 4, 1995 determination and asserted that EE improperly applied Exemption 5 to the withheld information, and requested that the OHA direct EE to release it. In considering the Appeal, the Office of Hearings and Appeal (OHA) found EE properly applied the threshold requirements of Exemption 5 to the withheld information. However, the OHA remanded this Appeal to EE to issue a new determination, either releasing the withheld information or providing a more adequate consideration of the public interest in its disclosure. Therefore, the DOE granted in part and denied in part Solar Roof's Appeal.

Home Oil Co., Inc., 6/1/95, LEE-0135

Home Oil Co., Inc., (Home Oil) filed an Application for Exception from the requirement to file Form EIA-782B, "Resellers'/Retailers' Monthly Petroleum Product Sales Report." If granted, Home Oil would no longer be required to file Form EIA-782B. On consideration, the DOE denied Home Oil's Application for Exception. In denying the exception request, the DOE considered that Home Oil had not shown that filing Form EIA-782B constituted an undue hardship, gross inequity, or unfair distribution of burdens.

Refund Applications

Atlantic Richfield Co./Seago Enterprises, Inc., 6/1/95, RF304-13736

The DOE issued a Decision and Order partially granting an Application for

Refund filed by Seago Enterprises, Inc., in the ARCO special refund proceeding. The firm had applied for a refund based upon product purchased during 1973 and 1974, part of which was resold to ARCO. Seago's 1973 ARCO purchases were subject to a fixed-price contract based upon January 1973 prices. Seago's purchases were therefore at prices significantly below prevailing market prices, and the DOE found that Seago was not injured with respect to these purchases. With respect to the product that was resold to ARCO, because the contracts guaranteed Seago a fixed profit margin, the firm was also not injured with respect to those purchases. Therefore, the DOE determined that Seago was entitled to a refund only for its 1974 purchases that were not resold to ARCO.

Gulf Oil Corporation/Hinds Gulf, 5/30/95, RR300-253

The DOE issued a Decision and Order concerning a Motion for Reconsideration filed in the Gulf Oil Corporation special refund proceeding by Roger C. Hinds, on behalf of Hinds Gulf. In its Motion, Hinds requested that the DOE reconsider a May 5, 1993 Decision and Order dismissing the refund application of Hinds Gulf on the ground that it was filed after the March 1, 1993 deadline for the Gulf proceeding. See *Gulf Oil Corp./Hind's Gulf*, Case No. RF300-21736 (May 5, 1993) (unpublished decision).

In considering the Motion, the DOE determined that Hinds had not presented any compelling reason that would warrant acceptance of the late application. Specifically, the DOE determined that lack of knowledge concerning the deadline did not provide a compelling reason for acceptance of a late application. Accordingly, the Motion for Reconsideration was denied.

Gulf Oil Corporation/Moore's Fuel Service, 5/30/95, RF300-13106, RF300-19809, RF300-21827

The DOE issued a Decision and Order resolving competing Applications for Refund filed in the Gulf Oil Corporation special refund proceeding for Moore's Fuel Service. The DOE granted the claim of the owner during the refund period, and denied the claim of the current owner, on the ground that the asset sales agreement at issue did not include the right to the refund. In addition, the DOE issued a Supplemental Order, rescinding an

excessive refund that the former owner of Moore's Fuel Service had received in an earlier Gulf proceeding. As a result, the former owner, as well as his counsel in the earlier Gulf proceeding, was required to refund \$7,675, an amount equal to the excessive refund received in the earlier Gulf proceeding minus the refund granted in this Decision and Order.

Gulf Oil Corporation/Red Carpet Car Wash, 6/1/95, RF300-20452

Petroleum Management, Inc. (PMI) filed an Application for Refund in the Gulf Oil Corporation (Gulf) refund proceeding, based on the purchases of three Red Carpet Car Wash locations. In considering the application, the DOE noted that it had already held, in connection with another refund application filed by PMI, that PMI did not have the right to a refund for the car washes. See *Shell Oil Co./Red Carpet Car Wash*, Case No. RF315-10003 (January 11, 1994) (unpublished decision). Specifically, the DOE noted that the agreement transferring the stock of Red Carpet Car Wash, Inc., the owner of the car washes did not reserve for PMI the right to any refund due Red Carpet. In addition, the DOE determined that PMI was not entitled to a refund for certain PMI outlets because PMI had advised the DOE that those outlets did not purchase Gulf product. Accordingly, the Application was denied.

R. Cali and Brothers, 6/1/95, RF272-97287

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Subpart V crude oil refund proceeding by R. Cali and Brothers. The decision declared June 30, 1995 as the final deadline for the crude oil refund proceeding. The DOE also stated that it would decide if there are sufficient funds available for additional refunds after the resolution of a few outstanding enforcement proceedings.

Texaco Inc./Dow Chemical Co., 6/1/95, RR321-096

The DOE issued a Decision and Order granting a Motion for Reconsideration filed on behalf of Dow Chemical Company in the Texaco Inc. special refund proceeding. The DOE had previously granted Dow a refund based upon its purchases of 1,293,189 gallons of Texaco refined products during the period covered by the Texaco consent order. DOE agreed to consider a supplemental Dow refund claim based

upon Dow's additional purchase of 12,978,088 gallons of Texaco propane during the same period. Dow became aware of these purchases upon its review of DOE enforcement documents which stem from a DOE audit of Texaco's business records. In addition, Dow requested an above-volumetric refund for these volumes and presettlement interest on the amount by which it was overcharged by Texaco. DOE found that Dow satisfied the criteria for an above-volumetric refund by demonstrating that it was in all likelihood overcharged by a specific amount. Since Dow was an end-user of the Texaco propane, the firm did not have to demonstrate that it was injured by Texaco's alleged overcharges. DOE also found that Dow's claim to prejudgment interest was meritorious on equitable grounds noting that the DOE/Texaco consent order settlement amount included interest on Texaco's alleged overcharges as a major component. Dow was, therefore, granted a refund of \$261,782 (\$178,120 principal plus \$83,662 interest).

The Waggoners Trucking Co., 5/30/95, RC272-295

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Subpart V crude oil refund proceeding by The Waggoners Trucking Co. (Waggoners). The OHA previously granted a crude oil refund to Waggoners. Waggoners, however, was subsequently found to have filed a refund claim in the Surface Transporters Stripper Well proceeding. In doing so, Waggoners properly executed a waiver and release waiving its right and the rights of its affiliates on August 7, 1986, to receive Subpart V crude oil overcharge refunds. Although Waggoners' Stripper Well refund claim was denied, its waiver is nevertheless binding on its Subpart V crude oil refund Application. Accordingly, this Decision rescinded the original refund granted to Waggoners.

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.

Name	Case No.	Date
Armour Food Company	RF272-78056	05/30/95
The Dial Corporation	RC272-292	
Texas, New Mexico & Oklahoma Coaches, Inc	RC272-293	

Name	Case No.	Date
Armour & Company	RC272-294	
Atlantic Richfield Company/Gordon H. Dunker	RF304-4951	05/30/95
Atlantic Richfield Company/Massillon Supersonic Car Wash et al	RF304-14144	06/01/95
Clarkson Brothers Machinery Haulers	RF272-97192	05/30/95
Farmers Union Oil Company	RF272-92111	06/01/95
Howard County Equity Coop Assn	RF272-92392	
Farmers Coop Oil Assn	RF272-92465	
Gulf Oil Corporation/Energy Supply Propane	RF300-18181	05/30/95
Gulf Oil Corporation/Henderson Clay Products	RF300-18185	05/30/95
Gulf Oil Corporation/Point Gasoline Corporation	RF300-21828	05/30/95
Roofing Wholesale Company, Inc	RF272-67965	06/01/95
Roofing Wholesale Company, Inc	RD272-67965	
Texaco Inc./Duval Corporation	RF321-7899	05/30/95
Texaco Inc./Gartin's Texaco	RF321-20154	06/01/95
Texaco Inc./Midway Texaco	RF321-10554	05/30/95
Texaco Inc./Studebaker's Texaco et al	RF321-19313	05/30/95
Tidewater Transit Co. et al	RF272-85000	06/01/95
Turkey Hill Dairy, Inc. et al	RF272-84642	06/01/95

Dismissals

The following submissions were dismissed:

Name	Case No.
Dolese Concrete Company	RF272-97227
Ethyl Corporation	RF321-19622
Gabig Texaco	RF321-7296
Patterson & Brasher Texaco.	RF321-20624
Shaffer's Texaco at Princeton.	RF321-9511
Shankles Texaco	RF321-18087

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: September 5, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-5295-7]

Agency Information Collection Activities Up for Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR)

listed below is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before November 13, 1995.

ADDRESSES: Indoor Air Division (6607J), U.S. EPA, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Susan Womble, 202-233-9057/FAX 202-233-9555/womble. susan@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Affected entities: Entities affected by this action are those office buildings which voluntarily participate in the Building Assessment Survey and Evaluation (BASE) program.

Title: U.S. Environmental Protection Agency Indoor Environmental Quality Survey, EPA number 1619.02, OMB #2060-0244, January 31, 1996.

Abstract: The Indoor Environmental Quality Questionnaire is a component of the EPA Building Assessment Survey and Evaluation (BASE) program. In this program, EPA is conducting a five-year indoor air quality (IAQ) study of 150-250 large commercial and public office buildings. The purpose of this study is to develop a national baseline assessment of the indoor air in such buildings. The activities EPA will conduct under this study include the Indoor Environmental Quality Questionnaire, building inspections, interviews with building maintenance workers, environmental measurements (e.g. ventilation rates, concentrations of indoor air pollutants) and other quantitative and qualitative assessments. By conducting this research, EPA will begin to be able to assess the key building parameters that affect IAQ and the incidence of certain

IAQ-related health and comfort problems. The Indoor Environmental Questionnaire is a voluntary questionnaire asking for information pertaining to work station characteristics, working condition, exposure to pollutants, health and well-being, and stress. Data from the Indoor Environmental Questionnaire will be used to compare the measured building parameters and health effects.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: The public reporting burden for this collection of information is estimated to average 14 minutes per response, including time for reviewing instructions and completing and reviewing the collection of information. The respondents to the questionnaire are occupants of commercial facilities in a wide variety of fields and SIC codes. Over the last three years approximately 1500 questionnaires have been administered. This is a smaller number than previously projected due to the decreased budget. The total burden of an estimated 14000 persons has not changed but the length of time to