

CRUDE OIL SUPPLE REF DIST .....	RB272-00086	09/12/96
GENERAL MOTOR LINES, INC. ....	RF272-97362	09/12/96
GULF OIL CORPORATION/LEO & GLEN COMBS, INC. ....	RF300-21834	09/09/96
S.T. WOOTEN CONSTRUCTION CO. ....	RR272-238	09/11/96
SPIVEY, INC. ....	RC272-350	09/09/96
SPIVEY, INC. ....	RC272-351	

## Dismissals

The following submissions were dismissed:

Name	Case No.
BLUE RIDGE TRUSS & SUPPLY, INC. ....	RG272-736
E.D. FEE TRANSFER, INC. ....	RF272-95260
KEWAUNEE COOPERATIVE .....	RG272-695
MIKE HILL FARMS, INC. ....	RK272-820
NATIONAL ENTERPRISES .....	RK272-854

[FR Doc. 96-27419 Filed 10-24-96; 8:45 am]  
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### Notice of Issuance of Decisions and Orders During the Week of August 19 Through August 23, 1996

During the week of August 19 through August 23, 1996, 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.o.ha.doe.gov>.

Dated: October 17, 1996.

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

Decision List No. 986

#### Appeals

*Barton J. Bernstein, 8/23/96, LFA-0108*

Professor Barton J. Bernstein of Stanford University filed an Appeal of a determination issued to him by the Albuquerque Operations Office of the Department of Energy (DOE) in response to a Request for Information submitted under the Freedom of Information Act (FOIA). Professor Bernstein had requested information related to the

creation of the "super" (also known as the "hydrogen" or "thermonuclear") bomb and the creation of the "second lab" (Lawrence-Livermore National Laboratory). After review by the DOE Office of Classification, the Albuquerque Operations Office withheld all or part of forty-seven responsive documents under Exemption 3 as containing nuclear weapons design or stockpile information that qualified as "Restricted Data" or "Formerly Restricted Data" within the meaning of the withholding statute, the Atomic Energy Act of 1954. Professor Bernstein appealed the withholdings in eight documents. After considering the matter, the DOE determined that some additional material now could be declassified in six documents. The DOE found the deletions in two of the documents were proper. Accordingly, the Appeal was denied in part and granted in part, and properly declassified information was released to Professor Bernstein.

*Cincinnati Gas & Electric Co., 8/19/96, VEA-0002*

Cincinnati Gas & Electric Co. filed an Appeal from a determination issued by the Department of Energy's (DOE) Office of Environmental Management (OEM). CG&E claimed that: (i) the OEM erroneously determined its liability for payment into the Uranium Enrichment Decontamination and Decommissioning Fund (the D&D Fund) established under the Energy Policy Act of 1992; (ii) Ohio state law would prohibit CG&E from passing through its assessment to its ratepayers; (iii) the assessment of utilities for payment into the D&D Fund was an unconstitutional taking of property. The DOE found that: (i) the firm was properly assessed for uranium enrichment services that it purchased from the DOE and did not sell in the secondary market; (ii) Ohio state law would be preempted by the federal

Energy Policy Act; and (iii) while the DOE will ultimately defer to the rulings of the federal courts, the collection of assessments will continue while the courts are considering the constitutionality of the relevant provisions of the Energy Policy Act. Accordingly, CG&E's Appeal was denied.

*David L. Anderson, 8/20/96, VFA-0197*

David L. Anderson filed an Appeal from a denial by the Department of Energy's Bonneville Power Administration (BPA) of a request for information which he had submitted under the Freedom of Information Act (FOIA). Anderson sought copies of officially written statements, complaints and depositions made by certain individuals. BPA identified as responsive a report of an investigation conducted on behalf of the BPA Office of General Counsel by an outside investigator between September 14, 1995, and November 20, 1995. BPA withheld the report in its entirety, including the exhibits to the report, pursuant to the attorney work product privilege of FOIA Exemption 5. In considering the Appeal, the DOE found that: (i) The report in question is precisely the type of document meant to be protected by the work product privilege; (ii) the existence of tangible risks to the interests protected by the work product privilege satisfies the reasonably foreseeable harm standard set forth by the Attorney General in 1993; but (iii) to identify and, if not otherwise exempt, release certain intra-agency documents responsive to the request without indicating which of those documents became exhibits to the report will not violate the work product privilege. Accordingly, the matter was remanded in part to BPA to conduct a search for concerning the appellant and authored by the individuals named in his request, and to issue a new

determination either releasing the documents located or explaining the reasons for withholding the information. The Appeal was denied in all other respects.

*Southwest Research and Information Center, 8/19/96, VFA-0195*

The Southwest Research and Information Center (SRIC) filed an Appeal from a determination issued to it by the Department of Energy (DOE) Headquarters' Office of the Executive Secretary (ES). In its Appeal, SRIC asserted that ES improperly failed to provide it with documents regarding several specified meetings it had requested pursuant to the FOIA. During the pendency of the Appeal, several potentially responsive documents were discovered by ES. Consequently, the DOE remanded the matter back to ES so that it could issue a determination regarding the documents.

*Personnel Security Hearing*

*Albuquerque Operations Office, 8/23/96, VSO-0084*

A OHA Hearing Officer issued an opinion regarding the continued eligibility of an individual for access authorization under the provisions of 10 C.F.R. Part 710. After considering the record of the proceeding, the Hearing Officer found that: (i) the individual has two related mental conditions—exhibitionism and voyeurism—that, in the opinion of a board-certified psychiatrist, cause him to have a significant defect in his judgment and reliability; (ii) the individual had a ten-year history of arrests for sex offenses; (iii) the individual failed to show that he was rehabilitated to such an extent that he would be unlikely to engage in exhibitionism and voyeurism again; and (iv) in view of his mental condition and his lengthy history of arrests for sex offenses, the individual presented an unacceptably high risk of vulnerability of pressure, exploitation and coercion

that might lead him to act contrary to the best interests of the national security. Accordingly, the Hearing Officer recommended that the individual's access authorization not be restored.

*Request for Exception*

*Lee Oil Company, 8/20/96, VEE-0030*

Lee Oil Company (Lee) 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." The Secretary/Treasurer of Lee requested relief from the EIA reporting requirement because he believed the requirement was unduly burdensome to the company. In considering this request, the DOE found that the burden placed upon Lee, due to the temporary unavailability of personnel to complete the form, was greater than that encountered by other firms required to complete Form EIA-782B. Accordingly, Lee was granted temporary relief from its obligation to file Form EIA-782B.

*Supplemental Order*

*META, Inc., 8/22/96, VWZ-0006*

A Hearing Officer from the Office of Hearings and Appeals denied a Motion to Dismiss filed by Maria Elena Torano Associates, Inc. (META). In its Motion, META sought the dismissal of a complaint filed by C. Lawrence Cornett under the DOE's Contractor Employee Protection Program, 10 C.F.R. Part 708. META alleged that it did not perform work at DOE sites as defined by Section 708.4 and thus it was not subject to Part 708 jurisdiction. After conducting a hearing on the Motion and considering all of the evidence, the Hearing Officer determined that despite the relatively limited amount of time META employees spent on DOE sites, the employees performed work activities on the DOE sites which were directly related the primary purposes of the

META-DOE contract at issue. Further, the Hearing Officer found that because META's work concerned waste management and environmental restoration, META was the type of contractor which the DOE intended to cover under the part 708 regulations. Therefore, the Hearing Officer determined that META employees had performed work at DOE sites as defined by Part 708 and thus denied META's Motion.

*Refund Application*

*Eason Oil Co./ Farmland Industries, Inc., 8/21/96, RF352-1*

The DOE issued a Decision and Order concerning a refund application that Farmland Industries, Inc. (Farmland) had submitted in the Eason Oil Company (Eason) special refund proceeding. The DOE found that Farmland is a regional cooperative operating for the benefit of its agricultural cooperative members and their common shareholder/patrons. Farmland claimed a refund for volumes of Eason products that it resold to its member cooperatives. The DOE determined that 96% of Eason products that Farmland sold to its member cooperatives ultimately were sold to and used by member farmers and ranchers. Accordingly, the DOE granted Farmland a refund of \$791,853 based on the 96% of its total purchases from Eason that were resold to cooperative farmers and ranchers, and required Farmland to pass through this refund to its member cooperatives on a dollar for dollar basis.

*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.

ARMELLINI EXPRESS LINES, INC .....	RG272-00937	08/20/96
BURNHAM SERVICE COMPANY .....	RG272-00955	08/20/96
ELECTROLUX CORPORATION .....	RG272-00975	08/22/96
HUB TRANSPORTATION SERVICES CORP./HUB TRUCK RENTAL CORP .....	RG272-00953	08/20/96
KENTILE, INC .....	RK272-2203	08/19/96
MRS. G.E. KING, JR. ET AL .....	RK272-00361	08/21/96
PELHAM COUNTRY CLUB ET AL .....	RG272-00505	08/23/96
RAYBURN, INC. ET AL .....	RF272-97809	08/21/96
SAFETY BUS SERVICE .....	RG272-00867	08/20/96
SAMUEL CABOT, INC. ET AL .....	RF272-95105	08/21/96
SPECIALIZED TRUCKING SERVICE .....	RG272-00931	08/20/96
TRI-STATE FARMERS COOP ET AL .....	RF272-99000	08/23/96

*Dismissals*

The following submissions were dismissed:

Name	Case No.
BELLAIR INC .....	RF272-97986
FARMERS UNION OIL CO .....	RG272-0005
GEORGIA-PACIFIC CORPORATION .....	VFA-0198
GERALD KELLY .....	VWA-0011
K & H COOPERATIVE OIL COMPANY .....	RF272-89391
SWEETHEART CUP COMPANY, INC .....	RG272-980

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## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5641-3]

### Agency Information Collection Activities: Proposed Collection; Comment Request; Collection of Compliance Information From Automotive Service and Repair Shops

**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 EPA is planning to submit the following proposed and/or continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Automotive Service and Repair Environmental Compliance Checklist, EPA ICR Number 1793.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before December 24, 1996.

**ADDRESSES:** Interested persons may obtain a copy of the draft compliance checklist without charge by contacting, United States Environmental Protection Agency, Office of Compliance, Energy and Transportation Branch, Mail Code 2223A, 401 M Street, SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Everett Bishop, Phone: (202) 564-7032, Facsimile (202) 564-0050 or e-mail: Bishop.Everett@epamail.epa.gov.

#### SUPPLEMENTARY INFORMATION:

*Affected entities:* Entities potentially affected by this action are those automotive repair shops that routinely maintain automobiles. Such businesses may include, new car dealerships, franchise repair shops, independent owner/operators or gasoline stations.

**Title:** Automotive Service and Repair Environmental Compliance Checklist, A Survey.

**Abstract:** The Office of Compliance within the Office of Enforcement and Compliance Assurance has developed a general multi-media checklist to quickly review the compliance of an automotive service and repair shop. The information on the two page checklist will be gathered by students from four community colleges in different parts of the United States. The completed checklists will be forwarded to the Coordinating Committee for Automotive Repair (CCAR) for tabulation. The information is being requested by the Agency to get a better handle on the overall compliance within the automotive service and repair sector. Current efforts by the Agency to determine overall compliance with applicable environmental regulations have been difficult. Additionally, this survey will be repeated twenty four months after this initial collection to determine if compliance outreach programs developed by the Agency have had any impact on improving the compliance rate within the industry.

Information being requested by the community college students will be voluntary. The information will be treated with confidentiality. The Agency will have no knowledge of which shops were visited.

This survey is being performed as part of a grant awarded by the Agency to the Coordinating Committee for Automotive Repair (CCAR). CCAR is an umbrella organization representing 40 affiliates within the automotive service and repair industry.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. This information request approval is for one period of three years.

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, including the validity of the methodology and assumptions used;

(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 electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Burden Statement:** The Agency projects a burden to the shop owner or operator as follows: Two and one-half hours for the survey. Thirty minutes for introduction and purpose of collection, thirty minutes for gathering any paperwork, one hour to answer the questions on the checklist and thirty minutes for review and discussion. The cost of completing this survey is estimated at \$62.50 for the two and one-half hours. This is based upon a shop owner's average salary of \$25 per hour. There is no additional burden being placed upon the shop owner for recordkeeping or retention of information since these requirements are already accounted for in other ICRs. The frequency of the survey will be two collections. The first survey is to be conducted approximately January/February, 1997 and then a follow-up survey in January/February, 1999. The number of respondents for this survey will be no more than 500 shop owners or operators, nationwide. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the