

physical fitness training while on official travel. The Albuquerque Operations Office identified a trip report and a time-card as responsive to the request, but withheld the information on personal grounds under FOIA Exemption 6. In considering the Appeal, the DOE determined that absent special circumstances or information that reveals something personal or private about the individual, Federal Government employees generally have no privacy interest either in their official work performed as a government employee either at or away from their usual duty stations or in their aggregate amount of hours spent working for the government even if this includes overtime. Accordingly, the Appeal was denied in part, granted in part, and remanded to the Albuquerque Operations Office to either release the withheld information or to issue a new determination offering another justification for withholding the information.

*Kramer, Rayson, Leake, Rodgers & Morgan, 5/18/98, VFA-0402*

The DOE's Office of Hearings and Appeals (OHA) issued a decision denying a Freedom of Information Act (FOIA) Appeal filed by Kramer, Rayson, Leake, Rodgers & Morgan (Kramer). In response to Kramer's FOIA request for information about a third party, the DOE Office of Inspector General (OIG) stated that it could neither confirm nor deny the existence of responsive material (a Glomar response). In its decision, OHA

found that OIG properly used Exception 7(C) and the Glomar response to protect the identified privacy rights of the individual, which were found to outweigh any public interest in the information. Accordingly, the Appeal was denied.

**Whistleblower Hearing**

*Thomas T. Tiller, 5/21/98, VWA-0018*

A Hearing Officer issued an Initial Agency Decision concerning a whistleblower complaint. The Hearing Officer determined that Thomas T. Tiller (Tiller) made one protected disclosure and proved by a preponderance of the evidence that the protected disclosure was a contributing factor to his demotion and reassignment. The Hearing Officer determined, however, that Wackenhut Services, Incorporated (Wackenhut), a DOE contractor, provided clear and convincing evidence to demonstrate that it would have demoted and reassigned Tiller even if he had not made his protected disclosure. The Hearing Officer also determined that Tiller participated in a protected activity when he filed his Part 708 Complaint in August 1994. She further determined that Tiller's 1994 complaint filing contributed to the pattern of alleged discriminatory acts set forth in his 1996 Whistleblower Complaint. The Hearing Officer determined, however, that Wackenhut proved by clear and convincing evidence that it would have taken the actions enumerated in Tiller's

1996 Whistleblower Complaint even if Tiller had not filed his 1994 Whistleblower Complaint. Therefore, the Hearing Officer found that Tiller failed to establish the existence of any violations of the DOE's Contractor Employee Protection Program for which relief is warranted under 10 CFR § 708.10.

**Refund Applications**

*Better Materials Inc., 5/21/98, RF272-94734*

The DOE denied an Application for Refund filed in the Subpart V Crude Oil proceeding because the applicant's wholly owned subsidiary had received a refund from the Surface Transporters Escrow.

*Gulf Oil Corp./U.S. Reduction, 5/18/98, RR300-00293*

The DOE granted a motion for reconsideration filed by in connection with *Gulf Oil Corp./U.S. Reduction*, Case No. RF300-20907 (June 6, 1994). The DOE determined that the applicant, The Travelers Group, Inc., was entitled to an additional refund of \$1,796.

**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.

Annco Partnership et al .....	RK272-01898	5/21/98
Betz Laboratories, Inc .....	RF272-98945	5/21/98
Leatham Brothers, Inc. et al .....	RF272-95231	5/19/98
Masterson Company, Inc. et al .....	RF272-94589	5/19/98
S.A.D. #22 et al .....	RF272-95369	5/21/98

**Dismissals**

The following submissions were dismissed.

Name	Case No.
Burlin McKinney .....	VFA-0418
Liberty Cash Grocers, Inc. ....	RK272-04779

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**DEPARTMENT OF ENERGY**

**Office of Hearings and Appeals**

**Notice of Issuance of Decisions and Orders During the Week of May 25 Through May 29, 1998**

During the week of May 25 through May 29, 1998, 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, 950 L'Enfant Plaza, SW, Washington, DC 20585-

0107, Monday through Friday, 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: July 6, 1998.  
**George B. Breznay,**  
*Director, Office of Hearings and Appeals.*

**Decision List No. 87; Week of May 25 Through May 29, 1998**

**Appeal**

*Andrew Lee Fuller, 5/26/98, VFA-0412*

Andrew Lee Fuller filed an Appeal from a March 24, 1998 determination of the Privacy Act Officer of the Office of Public Affairs of the Department of Energy's (DOE) Albuquerque Operations

Office requesting copies of his complete personnel security file. He also requested all "background investigation documents," and all correspondence between DOE headquarters or DOE Albuquerque offices and the DOE Personnel Security Division. In considering the Appeal, the DOE determined that the individual's personnel security file is a system of records pursuant to the Privacy Act. Furthermore, since Mr. Fuller failed to respond to a DOE request, pursuant to the DOE regulations, the DOE had

sufficient grounds to deny Mr. Fuller's request for a part of his personnel security file. Accordingly, the DOE denied Mr. Fuller's appeal.

**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.

Eyman Equipment Inc .....	RK272-04780	5/27/98
Gulf Oil Corporation/Interstate Gulf .....	RR300-00294	5/29/98
Prairie Sand & Gravel, Inc .....	RK272-4814	5/29/98
Yellow Cab Co. Inc. et al .....	RK272-02335	5/29/98

**Dismissals**

The following submissions were dismissed.

Name	Case No.
Delaware State Police .....	RF272-98910
Enron Corp .....	RF300-10856
Personnel Security Hearing .....	VSO-0202
SS Grayson Cooperative, Inc .....	RF272-95720
Tropigas International .....	RF300-18788

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**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-6123-7]

**Subcontractor Access to Confidential Business Information Under the Clean Air Act**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The EPA has authorized the following contractors and subcontractors for access to information that has been, or will be, submitted to EPA under sections 109-112, 114, 129 and 183 of the Clean Air Act (CAA) as amended. (1) Abt Associates, Inc., 4800 Montgomery Lane, Suite 500, Hampden Square, Bethesda, Maryland 20814; ICF, Inc., 9300 Lee Highway, Fairfax, Virginia 22031; EC/R, Inc., 1129 Weaver Dairy Road, Chapel Hill, North Carolina 27514; Eastern Research Group, 900 Perimeter Park, P.O. Box 2010, Morrisville, North Carolina 27560; Alpha-Gamma Technologies, Inc., Suite 350, 900 Ridgefield Drive, Raleigh, North Carolina 27609; Douglas Rae, 36 Gage Street, Needham, Massachusetts 02192; Jonathan Rubin, Department of

Economics, University of Tennessee, 519 Stokely Management Center, Knoxville, Tennessee 37996; Robert Taylor, Department of Agricultural Economics and Rural Sociology, Auburn University, Auburn, Alabama 36849; Scott Atkinson, Department of Economics, University of Georgia, Athens, Georgia 30602; under Abt's contract number 68-D-98-001. (2) EC/R, Inc., 1129 Weaver Dairy Road, Chapel Hill, North Carolina 27514, contract number 68-D-98-026. (3) E.H. Pechan and Associates, Inc., 5537-C Hempstead Way, Springfield, Virginia 22151; Pacific Environmental Services, Inc., P.O. Box 12077, Research Triangle Park, North Carolina 27709, under contract number 68-D-98-052. (4) EC/R, Inc., 1129 Weaver Dairy Road, Chapel Hill, North Carolina 27514; The Cadmus Group Incorporated, 135 Beaver Street, Waltham, Massachusetts 02154; INDUS Corporation, 1953 Gallows Road, Suite 300, Vienna, Virginia 22182; Dr. David Burmaster, Alceon Corporation, P.O. Box 382669, Harvard Square Station, Cambridge, Massachusetts 02238, under contract number 68-D6-0065. (5) ICF, Inc., 9300 Lee Highway, Fairfax, Virginia 22031, under contract number 68-D6-0064. (6) Science Applications International Corporation, 1710 Goodridge Drive, McLean, Virginia 22101, under contract number 68-D-98-113.

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

**DATES:** Access to confidential data submitted to EPA will occur no sooner than 10 days after issuance of this notice.

**FOR FURTHER INFORMATION CONTACT:** Melva Toomer, Document Control Officer, Office of Air Quality Planning and Standards (MD-11), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-0880.

**SUPPLEMENTARY INFORMATION:** The EPA is issuing this notice to inform all submitters of information under sections 109-112, 114, 129 and 183 of the CAA that EPA may provide the above mentioned contractors and subcontractors access to these materials on a need-to-know basis. These contractors and subcontractors will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) in health and risk assessment, implementation and strategies development, program review and tracking, standards review and development, and economic impact assessments for Federal air pollution control regulations and development of innovative regulatory strategies.

In accordance with 40 CFR 2.301(h), EPA has determined that each