

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of October 19 Through October 23, 1998

During the week of October 19 through October 23, 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, D.C. 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>.

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

Decision List No. 108

Week of October 19 through October 23, 1998

AMERICAN ELECTRIC POWER COMPANY, INC., 10/20/98, VEA-0009

DOE denied an Appeal filed by American Electric Power Company, Inc. (AEP) under provisions of 10 C.F.R. Part 490 (Alternative Fuel Transportation Program). In its Appeal, AEP challenged a determination by the Office of Energy Efficiency and Renewable Energy (EE) which substantially denied a request for an exemption from the firm's 1998 Model Year (MY) alternative fuel

vehicle (AFV) purchase requirement. In considering AEP's Appeal, DOE determined that EE was correct that AEP was required to attempt acquisition of non-electric AFVs after the firm determined that electric vehicles were unavailable, although the firm had elected the electric vehicle option under section 490.307. DOE further determined that AEP's constructive knowledge of this requirement coupled with the firm's failure to show "good faith efforts" to acquire non-electric AFVs disqualified the firm from receiving equitable exemption relief.

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 Co./Lou's Arco Service	RF304-15517	10/22/98
Enron Corp./W. Jayson Tusing	RR340-00003	10/22/98
Macmillard Oil Co./Parker Oil Co. et al	RF355-00004	10/19/98
Shell Oil Co./Plaquemine Oil Sales Corp	RF315-09975	10/21/98

Dismissals

The following submissions were dismissed.

Name	Case No.
City of Federal Way	VFA-0445
Cliff Sieling	VFA-0446
Coney Island Hospital	RG272-00165
Elview Construction, Inc	RF355-00027
Jacobson Warehouse Co., Inc	RF355-00034
Kuzzens, Inc	RF272-95307
Personnel Security Hearing	VSO-0224
322 Central Park West	RF272-95322

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6318-1]

Notice of Proposed Administrative Settlement Pursuant to the Resource Conservation and Recovery Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; Request for public comment.

SUMMARY: In accordance with Section 7003(d) of the Resource Conservation and Recovery Act, 42 U.S.C. 9673(d), notice is hereby given of a proposed administrative settlement ("Consent Agreement") concerning the Gila Tire Pile on the Gila River Indian Community Land located within the

State of Arizona with the following parties: Maricopa County, Pinal County, and Blackwater Industrial Development Corporation. The settlement requires the respondents to remove the unburned tires from the site to an approved landfill facility no later than ten (10) days from the effective date of the Consent Agreement and to form a Working Committee with the Gila River Indian Community to establish a plan to remove and dispose of the burned tires no later than 160 days from the effective date of the Consent Agreement. In addition, the Consent Agreement requires Respondents to sample and characterize the burned tires within six (6) months from the date the Working Committee is formed, and provide to EPA, within twelve (12) months from the date that the Working Committee

characterizes the burned tires, a work plan that identifies the preferred corrective measure and a schedule for implementation of the corrective measure. The corrective measure proposed for the burned tires shall be subject to EPA approval. Prior to approval, EPA will make the proposal available to the public for review and comment for thirty (30) days. After the close of the public comment period, EPA shall approve or modify the corrective measure. EPA shall then provide the respondents a sixty (60) day period to negotiate a modification of the agreement to include the implementation of the corrective measure. If agreement is not reached during this period, EPA reserves all rights it has to implement the corrective measure, including the issuance of a

unilateral administrative order directing respondents to implement the corrective measure. This settlement includes an EPA covenant not to sue the settling parties pursuant to Section 7003 of the Resource Conservation and Recovery Act, 42 U.S.C. 6973. For thirty (30) days following the date of publication of this notice, the Agency will receive written comment on the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or consideration which indicate that the proposed settlement is inappropriate, improper or inadequate. The Agency's response to any comments received will be available for public inspection at the Chandler Public Library located at 22 South Delaware Street, Chandler, AZ 85244 and at the U.S. Environmental Protection Agency Region 9 located at 75 Hawthorne Street, San Francisco, CA 94105 (in the library on the 13th floor). Commenters may request an opportunity for a public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. Section 6973(d).

DATES: Comments must be submitted on or before April 30, 1999.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed settlement may be obtained from Jean Killpack, Project Coordinator, 75 Hawthorne Street, San Francisco, California 94105, (415) 744-2033. Comments should reference the Gila Tire Pile, located on the Gila River Indian Community Land within the State of Arizona and EPA docket number #7003-09-99-003. Comments should be addressed to Rich Vaillie, Chief, State Programs and Compliance Branch, Waste Management Division, 75 Hawthorne Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Jean Killpack, Project Coordinator, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744-2033.

SUPPLEMENTARY INFORMATION: On July 15, 1994, a user agreement was signed by Colinas Tire Recovery, Inc., and Blackwater Industrial Development Corporation, allowing for temporary storage of shredded tires by Colinas Tire Recovery on 10 acres of land located on the Gila River Indian Community reservation. The site is located two miles north of the City of Coolidge. During the year that followed the signing of the lease, approximately three million shredded tires (32,362 tons) collected from 14 Arizona Counties

(excluding Pima County) were placed in 25 piles on the land by Colinas and its subcontractors.

On August 1, 1997, approximately two million tires caught on fire at the site. Thick black smoke, intense heat, high winds and dust created extreme conditions that hampered fire fighting efforts. The Gila River Indian Community, Pinal County, and the State of Arizona declared a State of Emergency. Air quality concerns and thick smoke required the evacuation of more than 300 people from the vicinity. To date, the burned tires still smolder.

EPA notified several Arizona Counties, two transporters, and Blackwater Industrial Development Corporation on June 1, 1998 that they were potentially responsible parties in the cleanup of the Gila Tire Pile, and requested a good faith offer to cleanup the site. On September 25, 1998, the Arizona counties, through Pinal County, submitted an offer to EPA which addressed the removal of the unburned tires and the cleanup of the burned tires. EPA accepted this offer and met with the Arizona Counties on December 8, 1998. EPA established a 60 day negotiation period to negotiate the terms of a Consent Agreement which reflected the September 25th good faith offer by the Counties. At the close of the 60 day period (February 8, 1999), EPA had not reached settlement with the Arizona Counties or transporters by the negotiation period deadline. EPA did reach a settlement with Respondent Blackwater Industrial Development Corporation.

On February 18, 1999, EPA issued a unilateral enforcement order to seven (7) Arizona Counties (Cochise, Coconino, Pinal, Maricopa, Mohave, Yavapai, Yuma) and two transporters (Colinas Tire Recovery, Inc., and REPCO Waste Recovery, Inc.) to remove the unburned tires and to submit a burned tire plan within certain time frames. The effective date of this order is March 19, 1999. However, prior to the unilateral enforcement order becoming effective, several respondents joined Blackwater Industrial Development Corporation and entered into the Consent Agreement with EPA. EPA has rescinded the unilateral enforcement order on March 18, 1999, and the Consent Agreement supersedes the enforcement order. EPA will issue a revised unilateral enforcement order to non-settling Respondents, as necessary.

Dated: March 22, 1999.

Alexis Strauss,

Acting Regional Administrator.

[FR Doc. 99-7909 Filed 3-30-99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL-6318-2]

Chesapeake Bay Program

This notice is to request interested parties to submit their name and address to the U.S. Environmental Protection Agency's Chesapeake Bay Program (CBP) for the purpose of establishing a database for those interested in receiving Request for Proposals (RFPs) in order to apply for grants/cooperative agreements or interagency agreements. RFPs will be announced for several different themes in support for the Chesapeake Bay Program's goals.

Background

The Chesapeake Bay Program is the unique regional partnership which has been directing and conducting the restoration of the Chesapeake Bay. The Chesapeake Bay Program partners include the states of Maryland, Pennsylvania, and Virginia; the District of Columbia; the Chesapeake Bay Commission, a tri-state legislative body; the U.S. Environmental Protection Agency, representing the federal government; and participating advisory groups. The Chesapeake Bay Program's highest priority is to restore and protect the Bay's living resources and their habitats.

Eligibility

Only applicants/organizations that are colleges; universities; nonprofit organizations; or local, and state agencies are eligible to receive grants/cooperative agreements. Proposed work must be in support of Chesapeake Bay Program goals and commitments.

Goals of the Chesapeake Bay Program

The Chesapeake Bay Program has developed many goals and is implementing Bay-wide efforts to meet those goals. Some of the program's goals include: (1) Reduce nutrient loads (nitrogen and phosphorus) to the Bay by 40% by 2000; (2) restore underwater grasses; (3) remove impediments to upstream fish migration; (4) manage the harvest of fish and shellfish to assure sustainability; (5) restore 2010 miles of riparian forest buffers along the Bay and its tributaries by 2010; (6) protect existing forest buffers; (7) encourage farmers to use nutrient management and other BMPs; (8) work with local governments to better manage the location and density of new development; (9) eliminate chemical toxicity in the Bay; (10) encourage businesses, communities and local