

EXHIBIT A-7



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In Re: Methyl Tertiary Butyl Ether ("MtBE")
Products Liability Litigation
1:00-1898 (SAS)

MDL: No. 1358 (SAS)

Master File No.

M21-88

This document relates to the following case:

NJ DEP, et al. v. Atlantic Richfield Company, et al.

Case No. 08 Civ. 00312 (SAS)

SECOND REBUTTAL REPORT OF MARTIN R. TALLETT



Martin R. Tallett

EnSys Energy & Systems, Inc.

1775 Massachusetts Avenue

Lexington, MA 02420

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Professor Keeley, show gasoline supplies under the Star Enterprise name from 1989 through 1998 and for Motiva from 1999 through 2006.

2.1.3 Chevron Data Errors

On investigation, I found that Professor Keeley's 1993 data for Chevron contained an error. Specifically, the file he used contained no data for October 1993. The file I used did. The omission makes a difference of 8,000 gallons per day⁴⁹. In Exhibit T1, I show the corrected data.

I agree with Professor Keeley's figures for total sales of gasoline into New Jersey. These are available publicly from the EIA.

2.1.4 Resulting Sales and Shares

Exhibits T1 and T2 show the impact of these corrections and changes. Based on Shell's purchase of Texaco's Motiva share, I have shown zero Texaco sales from 2002 on. I have used the full volumes reported to the EIA by Star Enterprise and Motiva as attributable to Texaco. If the Court were to decide that fractional volumes should be used, based on ownership shares, then the figures for Star Enterprise and Motiva could be adjusted⁵⁰. As can be seen, these figures differ markedly from those presented by Professor Keeley in his Exhibit 1.

2.2 Limitations of EIA 782C Data for Site-Specific Assertions

In reference to both the Skyline Service Center and the HP Delta sites, Professor Keeley states⁵¹, "Texaco divested all of its domestic refining and marketing assets in 1984 and, therefore, could not have supplied gasoline to this station after 1984. The EIA data confirm this as well."

Based on my review, Professor Keeley's data analysis was incorrect. The data show Texaco supplied gasoline into New Jersey, and therefore may very well have supplied to either or both of these stations, after 1984, through 1988 as Texaco directly, and through 1998 based on the company's role in Star Enterprise and through 2001 based on its role in Motiva.

⁴⁹ There was also a small discrepancy for 1992 of around 1,000 gallons per day which may even be rounding. I did not find the source for the difference.

⁵⁰ Based on the stated Texaco market shares of 50% in Star Enterprise and 32.5% in Motiva, total Texaco, Star Enterprise and Motiva market share would drop to the sub 3% range for 1989 and 1990 and to the 3 to sub 5% range from 1992 through 2001. EIA were not able to supply electronic data for the year 1991.

⁵¹ Keeley Report paragraphs 29 and 31 respectively.