

In the United States Court of Federal Claims

No. 04-1365C

Filed: April 4, 2008

TO BE PUBLISHED

CHEVRON U.S.A., INC.,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

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Motion For Reconsideration;
Notice of Appeal;
RCFC 59.

Donald B. Ayer, Lawrence D. Rosenberg, Jones Day, Washington, D.C., Counsel for Plaintiff.

John E. Kosloske, United States Department of Justice, Civil Division, Washington, D.C., Counsel for Defendant.

Paul T. Michael, Office of General Counsel, Department of Energy, Washington, D.C., Of Counsel.

MEMORANDUM OPINION AND ORDER

BRADEN, Judge.

On January 31, 2008, the court issued a Memorandum Opinion and Orders Regarding Privilege Assertions Made By the United States (“the Government”). Therein, the court requested the parties to inform the court, on or before March 18, 2008, whether they intended to request that the court certify the Memorandum Opinion and Orders for interlocutory appeal.

On February 1, 2008, the Government filed a Motion To Compel Discovery From Plaintiff. On February 13, 2008, the court convened a telephone status conference, wherein the Government agreed to stay further proceedings regarding this motion, until the privilege assertions were resolved and a Scheduling Order was issued regarding other pending motions. *See* 2/13/08 TR at 6. On that date, the Government also filed a Motion For Reconsideration of certain of the court’s January 31, 2008 privilege rulings, pursuant to RCFC 59.

On March 13, 2008, the Government filed a Status Report and Motion Requesting Additional Time, *i.e.*, until April 8, 2008, to ascertain the views of the Solicitor General regarding the merits of certifying the January 31, 2008 Memoranda Opinion and Orders. On March 17, 2008, Plaintiff

filed a response, objecting to extending the Government additional time and arguing that the Government had not provided an adequate justification for the extension. On March 17, 2008, the Government replied. On March 18, 2008, the court granted the Government's request for additional time. On that date, Plaintiff provided the court with notice that it did not intend to seek interlocutory review.

On March 28, 2008, the Government filed a Notice of Appeal of the court's January 31, 2008 Memorandum Opinion and Orders. Accordingly, the Government's March 13, 2008 request for additional time to consider certification is now moot.

The Government is ordered to produce forthwith, all documents withheld to date as privileged, but for those subject to the Government's February 13, 2008 Motion For Reconsideration. The court also hereby lifts the August 29, 2007 stay regarding the Government's Second Motion to Dismiss In Part, filed on August 16, 2007. *See Griggs v. Provident Consumer Discount Company*, 459 U.S. 56, 60 (1982) (quoting Fed. R. Civ. P. 59) ("If a timely motion under the Federal Rules of Civil Procedure is filed in the District Court by any party . . . under Rule 59 . . . , the time for appeal for all parties shall run from the entry of the order denying . . . such motion. A notice of appeal filed before the disposition of [such motion] shall have no effect."); *see also Stone v. Immigration and Naturalization Service*, 514 U.S. 386, 396-97 (1995) ("the filing of a Rule 59 motion to alter or amend a district court's judgment strips the appellate court of jurisdiction, whether the Federal Rule of Civil Procedure 59 motion is filed before or after the notice of appeal."). Plaintiff's response is due on or before June 17, 2008.

IT IS SO ORDERED.

s/ Susan G. Braden
SUSAN G. BRADEN
Judge