

From: Brian O'Connell on 08/03/98 03:05 AM

Sent by: Brian O'Connell

To: Christopher Proctor/Staines/GB/BATCo@BAT, Adrian Payne/Staines/GB/BATCo@BAT, Vickie Curtis/Staines/GB/BATCo@BAT, Keith Gretton/Staines/GB/BATCo@BAT, Linda Rudge/Pagewood/AU/BAT@BAT, Sharon Boyse/Louisville/US/BAT@BAT, Anna-Lisa Westergreen/Staines/GB/BATCo@BAT

cc:

Subject: EPA News: Includes mention of BAT/B&W Documents

TOBACCO - U.S. News & World Report (USN)

STORY 1

U.S. News

Secondhand smokescreen Tobacco firms worried for years about risks of passive smoke

Susan Headden; Shannon Brownlee; Elizabeth Fairhead

9695 Characters 08/03/98

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Big Tobacco is breathing a little easier since a federal judge threw out a finding by the U.S. Environmental Protection Agency that secondhand cigarette smoke causes lung cancer. The surprise ruling is the latest in a string of recent legal victories for tobacco companies. But while the decision may make it harder for nonsmokers to mount successful suits against cigarette firms, it also focuses new attention on an issue that the tobacco companies have long feared. Secrets from 20 years' worth of internal industry documents on secondhand smoke help explain why cigarette makers remain the target of an unfriendly Congress and in the midst of a criminal investigation. In his July 17 ruling, U.S. District Judge William L. Osteen, a former tobacco industry lobbyist who had previously ruled against the industry in deciding that the federal Food and Drug Administration had jurisdiction to regulate it, essentially scolded the EPA for manipulating science. The EPA had reached its conclusion on secondhand smoke before doing its research, the judge said. It had cherry-picked existing data, excluded the tobacco industry from the process, and established a de facto regulation intended to restrict tobacco products. Even as the EPA promised to appeal the Osteen decision, the tobacco industry hoped to use it to fend off pending antismoking laws and to try to repeal an existing ban on lighting up in California bars. Whistle-blower revelations. Had he chosen, Judge Osteen could have aimed his harsh comments at the tobacco industry itself. For while cigarette manufacturers have publicly dismissed the hazards of secondhand smoke as an unproven "controversy," documents suggest that the industry had evidence for years that passive smoking was dangerous and consistently played down the risks. "The entire issue concerning sidestream smoke . . . has been minimized by the industry," says William Farone, a former Philip Morris scientist turned whistle-blower in a July 13 document made available to U.S. News. "If a group of terrorists decided to place a poison gas in public places there would be public outrage and prompt reaction." Sources say the industry's internal documents on secondhand smoke reflect the sort of behavior that has attracted the attention of the U.S. Justice Department. Authorities won't comment officially, but sources report that a four-year-old criminal investigation, which focuses on the possibility that industry executives misled the public and lied to Congress about such matters as nicotine addiction, is gaining momentum and may soon result in indictments.

Politically, the issue of secondhand smoke has so concerned the tobacco companies that from the 1970s onward, internal documents show, it has powered the industry's lobbying and public-relations efforts, dwarfing such issues as nicotine spiking and teenage smoking.

From a legal standpoint, the EPA's 1993 secondhand-smoke finding was a bombshell. For decades, the tobacco companies had prevailed in court simply by arguing that any plaintiff who had been a smoker knowingly risked his or her health. But the 1993 finding meant that the federal government was labeling cigarette smoke a Class A carcinogen on a par with asbestos and radon. Perfectly innocent nonsmokers could sue the industry and, conceivably, win big.