

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.

Canadian Pacific Limited .....	RF272-90435	05/12/95
Southeastern Trailways, Inc .....	RF272-92940	.....
Corey Brothers, Inc .....	RC272-288	05/11/95
Dunham's Bay Boat Company .....	RF272-97318	05/11/95
Gulf Oil Corporation/Smith-Cale Co., Inc .....	RF300-16050	05/11/95
Morning Treat Coffee Company .....	RC272-289	05/11/95
Richard Vardeman, Inc .....	RC272-287	05/11/95
Ring Around Products, Inc .....	RF272-94081	05/10/95
Texaco Inc./Indresco, Inc .....	RF321-20560	05/11/95
The Bovaird Supply Co. ....	RF272-92824	05/10/95
Stebbins-Anderson Co., Inc .....	RF272-98116	.....

#### Dismissals

The following submissions were dismissed:

Name	Case No.
Anderson's Texaco Service .....	RF321-20680
Austin Texaco #2 .....	RF321-12048
B&J Service .....	RF321-17755
Big Pine Trucking Co., Inc .....	RF272-97341
Greg T. Causey .....	RF321-15055
Idaho Operations .....	VSO-0026
Ken's Arco .....	RF304-15382
Mr. Mac's Texaco .....	RF321-11079
Oak Ridge Operations .....	VSO-0024
Tex Mart Texaco .....	RF321-19685
Thomas R. Caldwell .....	RF321-12952
Tony's Texaco .....	RF321-20656

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1 p.m. and 5 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: February 14, 1996.

George B. Breznay,

Director, Office of Hearings and Appeals.

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#### Notice of Issuance of Decisions and Orders During the Week of May 15 Through May 19, 1995

During the week of May 15 through May 19, 1995, the decisions and orders summarized below were issued with respect to appeals and applications for other relief 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.

#### Appeal

*International Federation of Professional and Technical Engineers, 5/18/95, VFA-0034*

IFPTE filed an Appeal from a denial by the Idaho Operations Office of a Request for Information which it had submitted under the Freedom of Information Act. The Idaho Operations Office has refused to release the short list of best qualified candidates for the position of Deputy Assistant Manager for Program Execution. In considering the Appeal, the DOE found that the list was properly withheld under Exemptions 5 and 6.

*U.A. Plumbers and Pipefitters, Local 36, 5/19/95, VFA-0035*

U.A. Plumbers and Pipefitters, Local 36 (the Union) filed an appeal from a denial by the Department of Energy's (DOE) Idaho Operations Office (the Operations Office) of a Request for Information which the Union had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found the Operations Office's finding that DOE owned documents that were not in the DOE's possession are not subject to the FOIA to be erroneous. The DOE's finding was based upon the Operations Office's failure to apply DOE FOIA Regulation 10 CFR 1004.3(e)(1). The DOE also found that some of the

documents requested by the Union were not subject to the FOIA because those documents were neither in DOE's possession nor owned by the DOE. Accordingly, the Appeal was remanded to the Operations Office.

#### Personnel Security Hearing

*Albuquerque Operations Office, 5/19/95, VSO-0016*

Under the provisions set forth in 10 CFR Part 710, the Department of Energy, Albuquerque Operations Office (DOE/AL) suspended the access authorization ("Q" level security clearance) of an individual based upon disqualifying criteria set forth in 10 CFR 710.8(j), viz., that the individual "has been, or is a user of alcohol habitually to excess, or has been diagnosed by a board-certified psychiatrist as alcohol dependent or as suffering from alcohol abuse." Following a hearing convened at the request of the individual, the Hearing Officer found that (i) the individual was properly diagnosed by a DOE consultant-psychiatrist as alcohol dependent, based upon substantial derogatory information contained in the record which was uncontroverted by the individual, and (ii) the individual has failed to present adequate evidence of rehabilitation, reformation or other mitigating factors. Accordingly, the Hearing Officer concluded that the

individual's access authorization should be restored.

**Implementation of Special Refund Procedures**

*Bell Fuels, Et Al, 5/19/95, LEF-0061, ET AL.*

The DOE issued a Decision and Order announcing procedures to distribute \$866,352.24, plus accrued interest, remitted to the DOE pursuant to Consent Orders issued to 18 resellers and retailers of refined petroleum products. In the absence of sufficient information to implement standard procedures for direct restitution to injured customers of the consenting firms, the DOE will accept refund claims from any injured customers who come forward and will devise refund procedures based on the information these applicants provide. If no such customers come forward, the funds obtained from these firms, plus accrued interest, will be made available to state governments for indirect restitution in accordance with the provisions of the Petroleum Overcharge Distribution and Restitution Act of 1986. The deadline for filing Applications for Refund is September 29, 1995.

*Gulf Oil Corporation, 5/19/1995, KFX-0037*

The Department of Energy issued a Decision and Order covering the disbursal of \$104,050,661 in crude oil overcharge monies made available pursuant to a settlement agreement with Gulf Oil Corporation. The DOE divided the funds pursuant to the Modified Statement of Restitutionary Policy. Accordingly, the DOE disbursed 20 percent of the funds plus interest (\$37,309,761) for direct restitution to end users of refined petroleum products. The DOE further determined that the States had already received a partial payment from the Gulf crude oil funds and were entitled to an additional principal amount of \$4,827,700, interest of \$3,827,715, plus a reimbursement of \$51,114, for a payment made by the

Federal government to Sage Creek Refining Company. The total disbursement to the States was, therefore, \$8,706,529. The amount disbursed to the Federal Government was equal to the States' share, less the Sage Creek adjustment, or \$8,604,301. *MAPCO International, Inc., 5/19/95, VEF-0004*

The DOE issued a Decision and Order announcing procedures for disbursement of \$7,280,202, plus accrued interest, in crude oil overcharges obtained by the DOE pursuant to a June 23, 1994 Settlement Agreement with MAPCO, Inc. and MAPCO International, Inc. The OHA has determined that the funds obtained from MAPCO, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases.

**Refund Applications**

*Sears Logistics Services, Inc., 5/19/95, RF272-92021*

The DOE issued a Decision and Order concerning an Application for Refund in the Subpart V crude oil overcharge refund proceeding filed by Sears Logistics Services, Inc. The DOE determined that Sears Logistics Services, Inc., was not entitled to a refund since its parent, Sears Roebuck and Co., had filed a Retailers Escrow Settlement Claim Form and Waiver, in which it requested a Stripper Well refund from the Retailers escrow, thereby waiving its right and the right of its subsidiaries, to a Subpart V crude oil refund. Accordingly, the Application for Refund was denied.

*Texaco Inc./Elm Garage, Inc., 5/16/95, RF321-20935, RF321-21053, RF321-21066, RF321-21067*

The DOE issued a Decision and Order in the Texaco Inc. special refund proceeding concerning four applicants who had applied on behalf of a service station, Elm Garage, Inc. (Elm Garage) was operated during the price control

period as a 50/50 partnership by two bothers, Adam, who passed away in 1988, and Joseph Polek. Applications were received from Joseph Polek; Martha Polek, Adam's widow; Richard Polek, Adam's son; and the Adam R. Polek Trust (The Trust). In its Decision, the DOE construed Adam's 1969 will in which he devised his stock in Elm Garage to Richard, devised "tangible personal property" to Martha, and named the Trust, with Martha as beneficiary, as the residuary devisee. After execution of that will, Adam suffered an incapacitating stroke, and Elm Garage was dissolved. The DOE determined that because the corporation was dissolved after Adam had become incompetent, the devise of the Elm Garage stock had not been adeemed, i.e., revoked, and thus found Richard still entitled to Adam's portion of the refund. The DOE next determined the volumes purchased by Elm Garage based on check register receipts and motor gasoline prices from Platt's Oil Price Handbook and Oilmanac. Further, the DOE reduced, on a year-by-year basis, the per gallon volumetric refund amount of Elm Garage by the percentage of non-Texaco motor gasoline that its supplier purchased during the consent order period. Thus, the DOE granted Joseph Polek's and Richard Polek's applications, denied the Trust's application, and dismissed Martha's application.

*Town of Bristol, 5/19/95, RR272-190*

The DOE issued a Decision and Order granting a Motion for Reconsideration filed by the Town of Bristol (Bristol) in the Subpart V crude oil refund proceeding. Bristol's original Application for Refund was dismissed on February 8, 1995, on the grounds that the town had failed to respond to DOE's requests for additional information. In its Motion for Reconsideration, Bristol stated that it had sent the DOE a letter the previous August in response to its requests. Accordingly, Bristol's Motion for Reconsideration was granted.

**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.

Crude Oil Supplemental Refund Distribution .....	RB272-2	05/15/95
Gulf Oil Corporation/Bourque's Gulf Service et al .....	RF300-14615	05/19/95
Gulf Oil Corporation/Buccellato and Chase et al, Bartco Petroleum Corp .....	RF300-13333	05/15/95
	RF300-17593	
McKelvey Trucking Co .....	RC272-291	05/15/95
Parker K. Bailey & Sons, Inc .....	RC272-290	05/19/95
Texaco Inc./Davis Texaco et al .....	RF321-10307	05/16/95
Texaco Inc./Myers Texaco .....	RF321-20374	05/16/95
Texaco Inc./Rick's Texaco .....	RF321-20494	05/16/95

## Dismissals

The following submissions were dismissed:

Name	Case No.
Blende Texaco .....	RF321-20302
Buckley & Company .....	RF321-20321
City of Vineland Electric .....	RF321-20236
Continental Baking Co .....	RF321-19854
Conway Dyno Alignment Service .....	RF321-20306
Courville's Garage .....	RF321-20773
Express Texaco .....	RF321-20219
Fruehauf Trailer Corp .....	RF321-20350
Kanab Texaco .....	RF321-6331
Murray's Texaco Service Station .....	RF321-19287
Partanna's Texaco .....	RF321-20239
Queen's Texaco on Providence .....	RF321-20387
Taylor's Texaco Service .....	RF321-20261
Walter Luther Texaco .....	RF321-11342

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

Dated: February 14, 1996.

George B. Breznay,  
Director, Office of Hearings and Appeals.  
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#### Notice of Issuance of Decisions and Orders During the Week of June 19 Through June 23, 1995

During the week of June 19 through June 23, 1995, the decisions and orders summarized below were issued with respect to appeals and applications for other relief 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.

#### Appeals

##### A. Victorian, 6/22/95, VFA-0043

Dr. A. Victorian filed an Appeal from a determination issued by the Oakland Operations Office (Oakland) of the Department of Energy in response to a request under the Freedom of Information Act (FOIA). Dr. Victorian sought documents concerning "Project Woodpecker" at Lawrence Livermore National Laboratory. The Oakland determination denied Dr. Victorian's request on the grounds that the DOE had no responsive documents. In

considering this Appeal, the DOE found that Oakland followed procedures that were reasonably calculated to uncover responsive documents. Accordingly, the DOE denied Dr. Victorian's Appeal.

##### Ferenc M. Szasz, 6/22/95, LFA-0254

Ferenc M. Szasz filed an Appeal from a denial by the National Archives and Records Administration of a request for information that he filed under the Freedom of Information Act (FOIA). Professor Szasz sought specified reports contained in Manhattan Project files. In considering the information that was withheld as classified material under Exemptions 1 and 3 of the FOIA, the DOE determined that all of the previously withheld material must continue to be withheld. Accordingly, the Appeal was denied.

#### Petition for Special Redress

##### State of Louisiana, 6/20/95, VEG-0001

The DOE issued a Decision and Order granting a Petition for Special Redress filed by the State of Louisiana. Louisiana sought approval to use Stripper Well funds for a project which the DOE's Assistant Secretary for Energy Efficiency and Renewable Energy held to be inconsistent with the terms of the Stripper Well Settlement Agreement. The DOE approved the State's proposal to use \$11,650,915 to establish a Louisiana Petroleum Information Center (PIC). The PIC will be a central archive for Louisiana geological data, including stratigraphic data collected by the major oil companies and the oil and gas archives of the Louisiana Department of Natural Resources. The DOE found that the PIC would bring energy-related restitutionary benefits to the citizens of Louisiana and could be approved as an energy research program under the terms of the Stripper Well Settlement Agreement. Accordingly, Louisiana's

Petition for Special Redress was approved.

#### Refund Applications

##### Gulf Oil Corp./FASCO, Inc., 6/22/95, T3RF300-8238

The DOE issued a Decision and Order concerning a refund application filed by FASGO, Inc. in the Gulf Oil Corporation refund proceeding. FASGO calculated the volume of its refined product purchased by referring to its own company records. The DOE found that the records were reasonable, and used them to calculate a refund of \$60,014, including interest, for the firm. The DOE further noted that FASGO, a bankrupt firm, was no longer in existence. The record in the case included an Order from the United States Bankruptcy Court for the Eastern District of Pennsylvania stipulating that upon payment of administrative expenses and of a certain claim by the Commonwealth of Pennsylvania, two former owners of FASGO would be entitled to all liquidated assets of the firm. These former owners submitted evidence showing that the payments had been made. Accordingly, the DOE directed that these two individuals should receive the FASGO refund.

##### Gulf Oil Corporation/the Circle K Corporation, Fairmont Foods, Inc., 6/22/95, RF300-19969, RF300-19994

The DOE issued a Decision and Order concerning Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding by The Circle K Corporation and Fairmont Foods, Inc. The Circle K Corporation requested that the OHA grant it a refund based on separate presumptions of injury for each of three subsidiaries which purchased Gulf products. The OHA found that while the three subsidiaries were operated as separate entities during the