

Crude Oil Cases, 51 F.R. 27899 (August 4, 1986). Under this policy, 40 percent will be given to the federal government and 40 percent to the states for indirect restitution, and 20 percent will be reserved for direct restitution to injured purchasers of refined petroleum products during the controls period (August 1973 through January 27, 1981). The Decision states that while the deadline for filing crude oil refund applications is June 30, 1995, any party who has previously filed a refund application will receive a share of the Murphy funds without filing a new claim.

Refund Applications

Gulf Oil Corp./Calhoun & Williams Gulf et al., 6/12/95, RF300-16725 et al.

The DOE granted 10 applications for refund in the Gulf Oil Corporation

special refund proceeding. Each applicant applied for a refund based on the small claims presumption of injury. The refunds granted in this Decision and Order totalled \$9,713.

Enron Corporation/MFA Oil Company, et al., 6/12/95, RF340-154 thru RF340-159

MFA Oil Company and five other cooperative owners of Energy Cooperative, Inc. (ECI) submitted applications for refund in the Enron Corporation refund proceeding. The DOE determined that these cooperative owners of ECI were entitled to refunds under the presumption of injury for cooperatives for Enron product purchased by ECI and resold to the cooperative owners for distribution to their member customers. These refunds were made subject to reporting requirements and a dollar for dollar

passthrough. With respect to Enron product that the cooperatives purchased from ECI and resold to non-member customers, the DOE found that the presumption of injury for cooperatives did not apply. However, the DOE found that the cooperatives were entitled to refunds for these Enron purchases under the applicable presumptions of injury for resellers. Accordingly, the total refund granted to the cooperative owners of ECI was \$369,406.

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.

CENTRAL RIVERS COOPERATIVE ET AL	RF272-97102	06/15/95
CRUDE OIL SUPPLEMENTAL REFUND DISTRIBUTION	RB272-00005	06/15/95
GULF OIL CORPORATION/ COAN & FORD	RF300-20911	06/12/95
COAN & FORD	RF300-21796	
GULF OIL CORPORATION/ J.F. TOLLISON FERTILIZER	RF300-15138	06/12/95
J.F. TOLLISON	RF300-19577	
J.F. TOLLISON FERTILIZER	RR272-201	
GULF OIL CORPORATION/MIDSTATES EQUIPMENT CO., INC	RF300-21830	06/12/95
GULF OIL CORPORATION/PCL/MIRACLE MILE GULF ET AL	RF300-18304	06/12/95
LOGSDON TUG SERVICE	RF272-79103	06/15/95
N. MONTEREY COUNTY UNIFIED SCHOOL DISTRICT ET AL	RF272-86337	06/15/95
NORTH CAPE MAY CITGO	RF272-97557	06/12/95
SHELL OIL COMPANY/COAST GAS, INC	RF315-5911	06/15/95
TEXACO INC./BOB GRUNER'S TEXACO	RF321-20536	06/12/95
TEXACO INC./DOUG'S TEXACO	RR321-181	06/15/95
TEXACO INC./NOLAN TEXACO	RF321-20744	06/12/95
CUTLER'S TEXACO	RF321-20778	
TEXACO INC./VILLAGE SERVICE CENTER ET AL	RF321-18006	06/12/95

Dismissals

The following submissions were dismissed:

Name	Case No.
A. VICTORIAN	VFA-0045
CROCK TEXACO	RF321-19894
CROCK TEXACO SERVICE	RF321-19895
DOUG'S TEXACO	RF321-19903
PETER DURAN	VWA-0002
PETER DURAN	VWA-0003
TEXACO SERVICE CENTER	RF321-19896

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Notice of Issuance of Decisions and Orders Week of May 1 through May 5, 1995

During the week of May 1 through May 5, 1995, 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, Room 1E-234, Forrestal Building, 1000 Independence

Avenue, S.W., Washington, D.C. 20585-0107, 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. Some decisions and orders are available on the Office of

Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: August 28, 1996.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Refund Applications

Aluminum Company of America, 5/4/95, RR272-197

The Aluminum Company of America (Alcoa) applied for a crude oil overcharge refund based on its purchases of calcined petroleum coke from non-refiners. The DOE pointed out that in order to be eligible for a refund, petroleum products must be either covered by regulations promulgated pursuant to the EPAA, purchased from a refiner, or from a reseller that has not substantially changed the product. Since calcined petroleum coke was not a product covered by EPAA regulations, and Alcoa did not purchase it from a refiner, the product did not meet either of the first two tests. The DOE then found that turning green coke into calcined coke substantially changes green petroleum coke. Accordingly, the DOE found that the calcined coke that Alcoa purchased did not meet the third test. The DOE concluded that Alcoa's calcined petroleum coke purchased from non-refiners did not constitute a product eligible for a refund in the crude oil overcharge refund proceeding. The application was therefore denied.

Atlantic Richfield Company/ Ford Motor Company, Ford Tractor Operations, 5/5/95, RF304-14123; RF304-12217

Applications were filed in the ARCO special refund proceeding by Ford Motor Company and Ford Tractor Operations for purchases made under the name Ford Tractor Operations. The DOE found that Ford Tractor Operations was an unincorporated subdivision of Ford Motor Company at the time it was sold and that the sale did not transfer the right to the ARCO refund to the new owner. Accordingly, the application filed by Ford Motor Company was

granted and that filed by Ford Tractor Operations was denied.

Crude Oil Supplemental Refund Distribution, 5/5/95, RB272-00001

The DOE issued the first Decision and Order in connection with the second supplemental refund distribution of a portion of the DOE's crude oil funds. In that Decision and Order, the DOE granted 20 crude oil supplemental refunds at a per gallon volumetric rate of \$0.0008.

Fryman's Gas Sales & Service, et al., 5/4/95, RF272-62414, et al.

The DOE issued a Decision and Order concerning eight Applications for Refund submitted in the Subpart V crude oil refund proceeding by eight propane resellers. In an attempt to prove injury, the applicants submitted their "banks" of unrecovered product costs, testimony by Dr. Peter Linneman given at the Stripper Well hearing, a report by Dr. Linneman concerning the absorption of crude oil cost increases in the liquid propane gas industry, and another report by Dr. Linneman concerning the Texas and Oklahoma regional propane prices related to crude oil price increases. The DOE determined that these submissions did not demonstrate that the applicants were injured by crude oil overcharges. Accordingly, the DOE denied these eight applicants.

National Helium Corp./Oregon, Time Oil Company/Oregon, Coline Gasoline Corp./Oregon, Belridge Oil Company/Oregon, Perry Gas Processors/Oregon, Palo Pinto Oil and Gas/Oregon, 5/5/95, RQ3-591; RQ334-592; RQ2-593; RQ8-594; RQ183-595; RQ5-596

The DOE issued a Decision and Order granting a second-stage refund application filed by the State of Oregon and modifying the standard that will be used to evaluate future second-stage refund applications. Under the new standard adopted in this Decision, the DOE will evaluate applications for second-stage funds according to the

same criteria that govern the use of Stripper Well and other crude oil overcharge monies. Those criteria are set forth in the Stripper Well Settlement Agreement and DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases. Oregon requested a total of \$1,618,480 in principal and interest allocated to it in the National Helium Corp., Time Oil Company, Coline Gasoline Corp., Belridge Oil Company, Perry Gas Processors, and Palo Pinto Oil and Gas special refund proceedings to fund three energy conservation programs. The first program will use \$500,000 to implement telecommuting programs in one densely populated region in Oregon and to encourage the expansion of telecommuting state-wide. The second program will allocate \$578,184 to provide weatherization assistance and other energy-conservation measures for low-income homes. The DOE found that the telecommuting and weatherization assistance programs would provide timely restitutionary benefits to injured consumers of refined petroleum products. In accordance with prior Decisions approving similar second-stage proposals, the DOE approved both programs. Oregon's third proposal will use \$540,296 to fund energy-saving measures in public buildings. Although this type of program has previously been rejected in second-stage proceedings, the DOE found that Oregon's Public Buildings Energy Savings Program was acceptable under the new standard. Accordingly, Oregon's second-stage refund applications were 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.

ATLANTIC RICHFIELD COMPANY/AL'S AUTO SUPPLY ET AL	RF304-13340	05/03/95
FCS INDUSTRIES, INC	RF272-89010	05/03/95
FREIGHT CONSOLIDATED SERVICE	RF272-97246	
GULF OIL CORPORATION/AVANTI GULF	RF300-18749	05/04/95
GULF OIL CORPORATION/DOW BADISCHE COMPANY	RF300-20049	05/05/95
BASF WYANDOTTE CHEMICALS	RF300-20302	
TEXACO INC./D & R TEXACO, INC. ET AL	RF321-17187	05/04/95
TEXACO INC./MIKE'S TEXACO ET AL	RF321-12639	05/03/95

Dismissals

The following submissions were dismissed:

Name	Case No.
A.G. HOLLEY STATE HOSPITAL	RF272-88875
ALBANY CITY UNIFIED SCHOOL DISTRICT	RF272-88843

Name	Case No.
ALLING & CORY PAPER	RF272-92101
BEST CANDLES OF FLORIDA	RF321-20326
BROKEN BOW TEXACO	RF321-20733
CITY OF BOLIVAR	RF272-88844
CITY OF CHICO	RF272-88545
CITY OF GULFPORT	RF272-88880
CITY OF RUSSELLVILLE	RF272-88058
CLAY CENTER PUBLIC SCHOOLS	RF272-88190
D&T TEXACO	RF321-17158
EDGEFIELD COUNTY	RF272-88929
EMBRY HILLS TEXACO	RF321-20118
FLORIDA CITY	RF272-88845
FLORIDA HOSPITAL	RF272-88662
FLORIDA STATE HOSPITAL	RF272-88717
G. PIERCE WOOD MEMORIAL HOSPITAL	RF272-88663
K & E WHISTLE STOP	RF304-14188
LOCKHEED ENVIRONMENTAL SYSTEMS AND TECHNOLOGIES COMPANY	VWA-0001
NORTHEAST FLORIDA STATE HOSPITAL	RF272-88652
PAUL ROYBAL TEXACO	RF321-20626
RALPH WATSON OIL COMPANY	RF304-14990
SIKESTON R VI	RF272-88735
SOUTH FLORIDA STATE HOSPITAL	RF272-88674
SPRINGFIELD TWP SCHOOL DISTRICT	RF272-88852
Yah Ta Hey Texaco	RF321-18009
Yellowstone Motel & Texaco	RF321-20077

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Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of November 20 Through November 24, 1995

During the week of November 20 through November 24, 1995, 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, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585-0107, 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. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at <http://www.oha.doe.gov>.

Dated: August 30, 1996.

Richard W. Dugan,
Acting Director, Office of Hearings and Appeals.

Personnel Security Hearings

*Oakland Operations Office, 11/22/95,
VSO-0039*

An Office of Hearings and Appeals Hearing Officer issued an opinion concerning the continued eligibility of an individual for access authorization under 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." After holding a hearing and carefully considering all the evidence in the record in view of the standards set forth in Part 710, the Hearing Officer found that the individual had not intentionally overcharged the government for lodging expenses in connection with his official travel to Washington, DC from the Lawrence Livermore National Laboratory (LLNL). Rather, the Hearing Officer found that while the individual may not have complied with the LLNL travel regulations in his vouchering of the Washington apartment, his actions were the result of mistake or misunderstanding. In addition, the individual had approval from his supervisor to recover the full cost of the apartment even though it was not used for some portions of most months. Thus, the Hearing Officer concluded that the individual had not "[e]ngaged in unusual conduct * * * which tend to show that the individual is not honest, reliable or trustworthy, or * * * may be

subject to pressure, coercion or duress which may cause the individual to act contrary to the best interest of the national security." 10 C.F.R. § 710.8(l). In addition, the Hearing Officer could not find that the individual had forged or altered documents in support of his travel claims because the DOE Counsel was unable to produce the originals of those documents at the hearing. However, the Hearing Officer noted that such information that was in the record on the subject strongly indicated that the individual had not altered or forged documents. Finally, the Hearing Officer found that the individual had not knowingly submitted invalid documents in support of his lodging costs. Thus, the Hearing Officer again found that the individual's actions were not contrary to the standard of 10 C.F.R. § 710.8(l). Accordingly, the Hearing Officer found that restoration of the access authorization would not be contrary to the national interest or endanger the common defense and security and recommended restoration of the access authorization.

*Richland Operations Office, 11/20/95,
VSO-0037*

An OHA Hearing Officer issued an opinion on a request for review from an individual employed by a Hanford contractor whose DOE security clearance had been suspended. The individual's "Q" access authorization was suspended after Richland security officials concluded that she had provided false or misleading information to the DOE about her arrest for driving while intoxicated (DWI) in