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Lois D. Cashell,

Secretary.

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Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of December 12 Through December 16, 1994

During the week of December 12 through December 16, 1994, the decisions and orders summarized below were issued with respect to 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.

Request for Exception

Olympic Oil Co., Inc., 12/14/94, LEE-0160

Olympic Oil Co., Inc. (Olympic) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA-782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." Olympic claimed that it should be relieved of the requirement because it had been filing the form since January 1993 and because the task took the firm's limited office staff over four hours to complete each month. In considering this request, the DOE found that Olympic was not suffering gross

inequity or serious hardship. Accordingly, on October 24, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. Neither Olympic nor any other party filed an Objection to that Proposed Decision and Order, so the DOE issued it in final form.

Refund Applications

Garrison Fuel Oil of L.I., Inc., 12/12/94, RF272-92317

The DOE issued a Decision and Order concerning the Application for Refund of a claimant in the Subpart V crude oil overcharge refund proceeding. The DOE determined that the applicant resold the refined petroleum products that formed the basis of its application and thus passed on the costs of any overcharges to its customers. The DOE concluded that the claimant had not shown that it was injured by any of the overcharges associated with the gallons that it purchased. Accordingly, the DOE denied the Application for Refund.

Texaco Inc./D & B Texaco, 12/14/94, RF321-20008, RF321-2009

Donald Maile requested refunds based on purchases of Texaco products made by two service stations that he operated. Mr. Maile's estimates of the outlets' purchases were based only on his memory of his businesses, and the DOE relied instead on information obtained from Texaco; in one case, the purchase volume provided by Texaco was much lower than Mr. Maile's estimate. In addition, the evidence submitted strongly suggested that Mr. Maile's

businesses were operated as partnerships. Accordingly, the DOE issued a Decision granting Mr. Maile one-half of the refund due to each station.

Texaco Inc./H&R Texaco Station, 12/13/94, RR321-168

The DOE issued a Decision and Order concerning a Motion for Reconsideration filed by Howell and Richard Sumrall in the Texaco Inc. special refund proceeding on behalf of H&R Texaco Station (H&R), a reseller located in Evansville, Indiana. A refund previously had been granted for purchases made by the station from 1972 through January 1977. However, it came to the attention of the DOE that this refund was incorrectly based on a time period during which the Sumralls did not operate the station. In the Motion, the Sumralls satisfactorily documented the time period during which they operated the station and established that the correct refund amount was in excess of the previously received refund amount. The total amount of the additional refund granted to the Sumralls in this Decision was \$579 (\$404 principal plus \$175 interest).

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.

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| Atlantic Richfield Company/Lowell O. Volden | RF304-13926 | 12/12/94 |
| Atlantic Richfield Company/Rice Brothers Service | RF304-15451 | 12/13/94 |
| Avis Rent A Car | RF272-93539 | 12/14/94 |
| Bellmawr Borough School Dist. et al | RF272-79811 | 12/13/94 |
| Bjorklund Trucking Inc | RC272-276 | 12/15/94 |
| Blackwell Cooperative Elevator Association et al | RF272-94767 | 12/13/94 |
| Chatham County Board of Education et al | RF272-94931 | 12/14/94 |
| Enron Corp./Jayson's Bottle Gas | RF340-111 | 12/12/94 |
| Frankston Reliance Gas Co., Inc | RF340-121 | |
| Gulf Oil Corporation/Leo J. Ketchell, Inc | RF300-14544 | 12/14/94 |
| Hefley Trucking Co. et al | RF272-84988 | 12/13/94 |
| Kentucky Transfer Line, Inc., et al | RF272-96127 | 12/14/94 |
| Texaco Inc./Charles H. Fortinberry et al | RF321-6754 | 12/15/94 |
| Texaco Inc./Crestwood Service et al | RF321-19335 | 12/15/94 |
| Texaco Inc./Gold Beach Texaco et al | RF321-20269 | 12/15/94 |
| Texaco Inc./Goodyear Tire & Rubber Company et al | RF321-20607 | 12/13/94 |
| Texaco Inc./National Steel Corporation et al | RF321-20800 | 12/15/94 |
| Texaco Inc./Tipton's Service Station et al | RF321-12779 | 12/13/94 |
| Union Camp Corporation | RF272-95151 | 12/14/94 |
| Union Camp Corporation | RF272-95162 | |

Dismissals

The following submissions were dismissed:

| Name | Case No. |
|---|-------------|
| A.R. Fuels, Inc | RF321-20370 |
| Alaska Aerofuel, Inc | LEE-0129 |
| American Synthetic Rubber Corporation | RF321-20788 |

| Name | Case No. |
|--|-------------|
| Apex Management | RF321-12882 |
| Apex Management | RF321-12886 |
| Arcal Energy | RF321-19776 |
| Carolina Freight Carriers Corp | RF321-20367 |
| Commonwealth Propane Co | RF321-20689 |
| Curtis Beard | RF321-14019 |
| East Irondequoit Central Schools | RF272-94795 |
| Francis E. Behrens, Jr | RF304-13308 |
| Gateway Texaco | RF321-12659 |
| GCO Minerals Company | RF321-20822 |
| Gebbie's | RF321-19778 |
| Green's Transport Co., Inc | RF304-13549 |
| Hewlett-Woodmere UFSD | RF272-82414 |
| Ila Mae Welch | RF321-20160 |
| Indiana Bell Telephone Co., Inc | RF321-20371 |
| Interstate Brands Corp | RF321-20368 |
| Jersey Central Power & Light Company | RF321-20787 |
| Kinderhook Central School District | RF272-95678 |
| Lakeside Texaco | RF321-20405 |
| Midwest Petroleum Company | RF321-20450 |
| Munir A. Malik | VFA-0014 |
| Munir A. Malik | VFA-0013 |
| Paul Kelm Arco Service | RF304-14717 |
| Quik Start Food & Texaco | RF321-12872 |
| Teter's Texaco | RF321-20017 |
| The John Stapf Corporation | RF300-18648 |
| Vin's Service | RF321-20806 |
| West End Texaco | RF321-20161 |

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, 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, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 95-4426 Filed 2-22-95; 8:45 am]

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Notice of Issuance of Decisions and Orders During the Week of December 19 through December 23, 1994

During the week of December 19 through December 23, 1994 the decisions and orders summarized below were issued with respect to appeals and applications for exception or 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

E.O. Smelser, 12/21/94, VFA-0011

E.O. Smelser filed a Motion for Reconsideration of the denial by the Office of Hearings and Appeals of his

previous Freedom of Information Act (FOIA) Appeal. In his original FOIA request, Mr. Smelser had requested copies of computer tapes for databases created under a grant program which the DOE had funded. In considering the Motion, the OHA found that Mr. Smelser did not introduce any new evidence or changed circumstances that would warrant granting the motion for reconsideration. Accordingly, the Motion was denied.

Requests for Exception

Bender Oil Company, 12/19/94, LEE-0150

Bender Oil Company (Bender) filed an Application for Exception from the provisions of the Energy Information Administration (EIA) reporting requirements in which the firm sought relief from filing Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." The DOE determined that Bender did not meet the standards for exception relief because it was not experiencing a serious hardship or gross inequity as a result of the reporting requirements. Accordingly, exception relief was denied.

Berreth Oil, Inc., 12/20/94, LEE-0093

Berreth Oil, Inc. (Berreth) filed an Application for Exception from the Energy Information Administration (EIA) requirement that it file Form EIA-782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report," and

Form EIA-821, the "Annual Fuel Oil and Kerosene Sales Report." In considering this request, the DOE found that the firm was not suffering a gross inequity or serious hardship. On July 25, 1994, the DOE issued a Proposed Decision and Order determining that the exception request should be denied. No Notice of Objections to the Proposed Decision and Order was filed at the Office of Hearings and Appeals of the DOE within the prescribed time period. Therefore, the DOE issued the Proposed Decision and Order in final form, denying Berreth's Application for Exception.

Personnel Security Hearing

Albuquerque Operations Office, 12/22/94, VSO-0001

The Office of Hearings and Appeals issued the first Hearing Officer Opinion addressing the continued eligibility of an individual for access authorization under the newly amended provisions of 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." After carefully considering the record in view of the standards set forth in 10 C.F.R. Part 710, the Hearing Officer found that the individual had engaged in criminal behavior which tended to show that she was not honest, reliable, or trustworthy, and that she had omitted significant information from a Questionnaire for Sensitive Positions. The Hearing Officer also found that there were no mitigating