

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.

Dated: April 18, 1995.

**George B. Breznay,**  
 Director, Office of Hearings and Appeals.  
*Pitcher Sales Inc. Lewiston, Utah*  
*Reporting Requirements VEE-0004*

Pitcher Sales, Inc. (Pitcher) filed an Application for Exception from the provision of filing Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report" and Form EIA-863, entitled "Petroleum

Product Sales Identification Survey." The Exception request, if granted, would relieve Pitcher from the obligation of filing Form EIA-782B and Form EIA-863. On April 4, 1995, the Department of Energy issued a Proposed Decision and Order which determined that the Exception request be denied.

[FR Doc. 95-10159 Filed 4-24-95; 8:45 am]  
 BILLING CODE 6450-01-P

**Notice of Issuance of Decisions and Orders During the Week of March 6 Through March 10, 1995**

During the week of March 6 through March 10, 1995, the decisions and

orders summarized below were issued with respect to applications for 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.

**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.

Gulf Oil Corporation/Tom's Countryside Gulf	RF300-21597	03/09/95
A-1 Gulf	RF300-21598	
City of Westbrook	RF300-21705	
Texaco Inc./Penn Mart Texaco et al	RF321-16971	03/09/95
Texaco Inc./Ron Garrett's Texaco et al	RF321-18209	03/09/95

**Dismissals**

The following submissions were dismissed:

Name	Case No.
A. Scott Hartman Texaco	RF321-20468
AG Pro Co-Op	RF272-97230
Bailey's Texaco	RF321-19770
Ballard Gulf	RF300-21304
Cape Girardeau S.D. No. 63	RF272-88990
Capital Transport Company, Inc	RF272-97066
Cedar Flats Texaco	RF321-20686
Elliot Tire Distributors	RF304-14109
Farmers Cooperative Co	RF272-92417
Feaster & Sons Oil Distributors, Inc	RF321-20701
Flasher Farmers Union Oil Co	RF272-92082
Guthrie County Rural Electric Coop	RF272-92053
Hank's Texaco in Aromas	RF321-17141
Hank's Texaco on Abbott	RF321-17140
Hunter Grain Company	RF272-97255
M.G. Inc	RF272-94045
Peh Texaco	RF321-16969
Plains Equity Exchange & Coop	RF272-92079
Princeton Circle	RF321-16973
Union Oil Company of Maine, Inc	RF321-20609
Woodbury County Rural Electric Co	RF272-92008

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.

**George B. Breznay,**  
 Director, Office of Hearings and Appeals.  
 [FR Doc. 95-10160 Filed 4-24-95; 8:45 am]  
 BILLING CODE 6450-01-P

**Notice of Issuance of Decisions and Orders During the Week of January 30 Through February 3, 1995**

During the week of January 30 through February 3, 1995 the decisions and orders summarized below were issued with respect to appeals and 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**

*Lloyd Makey, 2/1/95, VFA-0019*

Lloyd Makey filed an Appeal from a determination issued to him by the

Assistant Inspector General for Investigations. In that determination, the Assistant Inspector General released several documents responsive to Mr. Makey's request under the Freedom of Information Act. In his Appeal, Mr. Makey contended that the DOE search was inadequate. In considering the Appeal, the DOE confirmed that the Assistant Inspector General followed procedures which were reasonably calculated to uncover responsive documents. Accordingly, the DOE denied the Appeal.

**Requests for Exception**

*Coker Oil, Inc., 2/2/95, LEE-0161*

Coker Oil, Inc., filed an Application for Exception from the requirement that it file Form EIA-782B, the "Reseller/Retailer's Monthly Petroleum Product Sales Report." The DOE found that the firm was not affected by the reporting requirement in a manner different from other similar firms, and consequently was not experiencing a special hardship, inequity, or unfair distribution of burdens. Accordingly, the firm's Application for Exception was denied.

*John E. Retzner Oil Co., Inc., 1/30/95, LEE-0147*

John E. Retzner Oil Company, Inc. (Retzner) filed an Application for Exception from the Energy Information Administration requirement that it file Form EIA-782B, the "Resellers'/Retailers' Monthly Petroleum Product Sales Report." The DOE issued a Proposed Decision and Order on November 4, 1994, that would deny Retzner's application. Retzner filed a Statement of Objections to that Proposed Decision and Order. In the course of reviewing Retzner's objections, the DOE discovered that Retzner's selection in the current sample group of firms required to file Form EIA-782 was the result of a record-keeping error, by which Retzner had been listed twice on the list of firms eligible to participate in the survey. Accordingly, the DOE issued a final Decision and Order granting Retzner's Application for Exception.

*Keith E. Downard, 1/30/95, LEE-0128*

Keith E. Downard filed an Application for Exception from filing Form EIA-782B, "Resellers'/Detailers' Monthly Petroleum Product Sales Report". In considering the request, the DOE found that the firm was not suffering any serious hardship, gross inequity, or unequal distribution of burdens. Accordingly, exception relief was denied.

#### Personnel Security Hearing

*Albuquerque Operations Office, 1/31/95, VSO-0002*

A Hearing Officer from the Office of Hearings and Appeals issued an Opinion regarding the eligibility of an individual for access authorization under the provisions of 10 C.F.R. Part 710. After carefully considering the record of the proceeding in view of the standards set forth in 10 C.F.R. part 710, the Hearing Officer found that the individual: (i) Had omitted significant information from a Questionnaire for Sensitive Positions and from a personnel security interview; (ii) had been diagnosed by a board-certified

psychiatrist as having two mental disorders which could cause a significant defect in the individual's judgment or reliability; (iii) was a user of alcohol habitually to excess; (iv) had possessed and used illegal substances, i.e., marijuana and cocaine; and (v) had exhibited conduct that shows that he is not honest, reliable, or trustworthy. The Hearing Officer rejected the individual's arguments that he had been improperly diagnosed under Diagnostic and Statistical Manual III-R criteria and that the psychiatrist who evaluated him was biased. The Hearing Officer further found no evidence of significant rehabilitation or reformation regarding the individual. Accordingly, the Hearing Officer recommended that the individual's access authorization should not be granted.

#### Implementation of Special Refund Procedures

*King Petroleum, Inc. et al., Billy Bridewell, William J. Cobb, et al., 2/1/95, LEF-0125, LEF-0126*

The DOE issued a final Decision and Order setting forth refund procedures for the distribution of \$337,022.86, plus accrued interest, obtained from King Petroleum, Inc., et al. (King), and Billy Bridewell and William J. Cobb, et al. (Bridewell), in settlement of proceedings relating to violations of the mandatory petroleum price and allocation regulations. The DOE determined that the funds would be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases (the MSRP). Under the MSRP, crude oil overcharge monies are divided among the states (40%), the federal government (40%), and injured purchasers of refined products (20%).

#### Supplemental Order

*David Ramirez, 1/30/95, VWX-0001*

A Hearing Officer of the Office of Hearings and Appeals issued a final order awarding \$38,695.25 for attorney fees and disbursements in a "whistleblower" case under the DOE's Contractor Employee Protection Program, 10 C.F.R. part 708. In prior Decisions, the Hearing Officer found that Brookhaven National Laboratory (BNL) violated the part 708 regulations by directing that David Ramirez, a subcontractor employee, be laid off in reprisal for his making protected safety disclosures, and awarded Mr. Ramirez back pay and reimbursement for all costs and expenses reasonably incurred by him in bringing his complaint, including the legal services rendered in the review phase of the proceeding. The

present Decision approves the attorney's fees request except for the period of time in which the attorney engaged in clerical tasks. For that period, the Decision approves payment at the rate of \$10 per hour, and not at the approved rate for legal services, \$175 per hour.

#### Refund Applications

*Burnup & Sims, Inc., 2/1/95, RA272-65*

The DOE granted an Application for a Supplemental Refund from crude oil overcharge funds to Burnup & Sims, Inc., based upon documentation demonstrating that the purchase volume approved for it in a December 19, 1994 Decision was incorrect.

*LPS Laboratories, Inc., 1/30/95, RF272-97045*

LPS Laboratories, Inc., applied for a refund in the Subpart V crude oil refund proceeding for purchases of mineral spirits and propane used in its chemical manufacturing business. Because of the volume of mineral spirits in certain products, we determined that LPS was a reseller. LPS did not make a detailed showing of injury, and therefore the portion of LPS's Application for mineral spirits was ineligible for a refund. Furthermore, LPS did not show that its purchases of propane, which it used in a rust inhibitor, were separate and distinct from its reseller operations. Therefore, LPS was not eligible to use the end-user presumption of injury, and the entire refund was denied.

*Tesoro Petroleum Corporation/Fletcher Oil Company, 2/2/95, RF326-2851*

Fletcher Oil Company filed an Application for Refund in the Tesoro Petroleum Corporation special refund proceeding. Fletcher sought an above-volumetric refund based upon a claim that it suffered a disproportionate injury with respect to its purchases of No. 2 fuel oil. Fletcher alleged that Tesoro had violated the normal business practices rule by requiring that it take delivery of the fuel oil in Alaska and pay the freight from Alaska to Seattle. Fletcher, however, failed to show that its combined purchase price and freight charge was higher than the lawful price that Tesoro could have charged for the fuel oil if it had been delivered to Seattle. Furthermore, the record indicated that Fletcher's delivered cost of fuel oil from Tesoro was lower than the average cost from other suppliers in Fletcher's marketing area. Fletcher, therefore, failed to demonstrate that its Tesoro purchases placed it at a competitive disadvantage. The DOE found that Fletcher should be granted a volumetric refund. However, since evidence submitted by Fletcher

indicated that the firm's banks of increased fuel oil costs were negative until September 1974, Fletcher's purchases between November 1973 and

September 1974 were excluded from the calculation of its volumetric refund.

**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.

Bulkmatic Transport Company .....	RF272-94066	01/31/95
Clay Central Community School et al .....	RF272-82481	02/03/95
Farmers Co-Op et al .....	RF272-85657	02/03/95
Green Bay Food Co. et al .....	RF272-93697	01/31/95
Gulf Oil Corporation/George C. Miller Brick Co., Inc .....	RF300-21660	01/31/95
Rutherford East .....	RF300-21672	
Rutherford .....	RF300-21673	
Gulf Oil Corporation/Jumping Brook Gulf et al .....	RF300-21511	02/01/95
Gulf Oil Corporation/North Jackson Aviation, Inc. ....	RF300-18401	02/03/95
Hampshire County Board of Education et al .....	RF272-86905	02/03/95
Revere Copper & Brass Inc. et al .....	RF272-90844	02/01/95
Texaco Inc./Higgins Texaco .....	RF321-21055	02/03/95
Texaco Inc./Jamul Texaco et al .....	RF321-20454	01/31/95
Texaco Inc./Johnson & Hurlock Texaco et al .....	RF321-18299	02/03/95
Texaco Inc./Riverview Super Service .....	RF321-13116	02/02/95
Texaco Inc./Rubidoux Texaco et al .....	RF321-20399	02/01/95

**Dismissals**

The following submissions were dismissed:

Name	Case No.
Aircomfort, Inc .....	RF272-94643
Brooks Products, Inc .....	RF272-93525
City of Corry .....	RF272-85888
City of Covina .....	RF272-85997
City of Dinuba .....	RF272-85954
City of Hamlin .....	RF272-85998
City of Mason City .....	RF272-85825
City of Poquoson .....	RF272-96998
Dakota County .....	RF272-85086
Ewing's Texaco .....	RF321-20545
Lamar County .....	RF272-85920
Montgomery County .....	RF272-85996
Pace's Texaco .....	RF321-20586
Simmons Pole & Piling .....	RF300-18835
Township of Glen Ridge .....	RF272-85949
Township of W. Manchester .....	RF272-85943
Village of Cornwall-on-Hudson .....	RF272-85889
Village of Great Neck Plaza .....	RF272-85990

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: April 18, 1995.

George B. Breznay,

**Director, Office of Hearings and Appeals.**

[FR Doc. 95-10161 Filed 4-24-95; 8:45 am]

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**Issuance of Proposed Decision and Order; Week of March 13 Through March 17, 1995**

During the week of March 13 through March 17, 1995, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person

receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, room 1E-234,