

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