

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of September 15 through September 19, 1997]

Date	Name and location of applicant	Case No.	Type of submission
9/17/97	VSO-0175	Personnel Security Hearing	Request for Hearing Under 10 C.F.R. Part 710. If granted: An individual employed by the Department of Energy would receive a hearing under 10 C.F.R. Part 710.
9/17/97 Per- sonnel Se- curity Hear- ing.	VSO-0176	Personnel Security Hearing	Request for Hearing Under 10 C.F.R. Part 710. If granted: An individual employed by the Department of Energy would receive a hearing under 10 C.F.R. Part 710.
9/17/97	Personnel Security Hearing	VSO-0177	Request for Hearing Under 10 C.F.R. Part 710. If granted: An individual employed by the Department of Energy would receive a hearing under 10 C.F.R. Part 710.
9/18/97	Personnel Security Hearing	VSA-0139	Request for Review of Opinion under 10 C.F.R. Part 710. If granted: The August 14, 1997 Opinion of the Office of Hearings and Appeals Case No. VSO-0139 would be reviewed at the request of an individual employed by the Department of Energy.
9/19/97	Pillsbury Co., Minneapolis, MN	RR272-303	Request for Modification/Rescission.

[FR Doc. 97-29741 Filed 11-10-97; 8:45 am]
BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY**Office of Hearings and Appeals****Implementation of Special Refund Procedures**

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy announces the procedures for disbursement of \$2,451,396 (plus accrued interest) in alleged or adjudicated crude oil overcharges obtained by the DOE from Crude Oil Purchasing, Incorporated (Case No. LEF-0058), Jaguar Petroleum, Incorporated (Case No. LEF-0059), Westport Energy Corporation/Westport Petroleum Corporation (Case No. LEF-0113), and Gratex Corporation/Compton Corporation (Case No. VEF-0012). The OHA has determined that the funds obtained from these firms, plus accrued interest, will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

FOR FURTHER INFORMATION CONTACT: Bryan F. MacPherson, Assistant Director, Office of Hearings and Appeals, Washington, DC 20585-0107, (202) 426-1571.

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order sets forth

procedures that the DOE will use to distribute a total of \$2,451,396, plus accrued interest, remitted to the DOE by (1) Crude Oil Purchasing, Incorporated, (2) Jaguar Petroleum, Incorporated, (3) Westport Energy Corporation & Westport Petroleum Corporation, and (4) Gratex Corporation/Compton Corporation. The DOE is currently holding these funds in interest bearing escrow accounts pending distribution.

The OHA will distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986)(the MSRP). Under the MSRP, crude oil overcharge moneys are divided among the federal government, the states, and injured purchasers of refined petroleum products. Refunds to the states will be distributed in proportion to each state's consumption of petroleum products during the price control period. Refunds to eligible purchasers will be based on the volume of petroleum products that they purchased and the extent to which they can demonstrate injury. Because the June 30, 1995, deadline for the crude oil refund applications has passed, no new applications from purchasers of refined petroleum products will be accepted.

Dated: October 29, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy**Implementation of Special Refund Procedures**

Names of Firms: Crude Oil Purchasing, Incorporated; Jaguar Petroleum, Incorporated; Westport Energy Corporation & Westport Petroleum Corporation; Gratex Corporation/Compton Corporation.

Dates of Filings: July 20, 1993; July 20, 1993; September 9, 1993; March 23, 1995.

Case Numbers: LEF-0058, LEF-0059, LEF-0113, VEF-0012.

The Economic Regulatory Administration (ERA) of the Department of Energy filed four Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA). In the petitions, ERA asks OHA to distribute funds remitted to the DOE pursuant to settlements between Crude Oil Purchasing, Incorporated (COP), Jaguar Petroleum, Incorporated (Jaguar), Westport Energy Corporation & Westport Petroleum Corporation (Westport), Gratex Corporation and its parent, Compton Corporation (Gratex/Compton). A total of \$2,451,396, plus interest, is available for restitution. All of these funds are now being held in interest-bearing escrow accounts pending a determination regarding their proper disposition.

In accordance with the procedural regulations codified at 10 C.F.R. Part 205, Subpart V, the ERA requests in its Petitions that the OHA establish special refund procedures to remedy the effects of any regulatory violations which were resolved by these settlements. This Decision and Order sets forth the OHA's final plan to distribute these funds.¹

I. Background

On September 21, 1982, DOE and COP entered into a Consent Order which resolved all pending or potential claims that DOE had or may have

¹ For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, see Petroleum Overcharge Distribution and Restitution Act of 1986, 15 U.S.C. 4501-07, and Office of Enforcement, 9 DOE ¶82,508 (1981).

against COP relating to COP's compliance with the federal petroleum price and allocation regulations during the period from January 1, 1973 to January 27, 1981. There is a total of \$93,750, plus interest, available from COP for restitution.

On May 31, 1983, DOE and Jaguar entered into a Consent Order which resolved all pending or potential claims that DOE had or may have against Jaguar relating to Jaguar's compliance with the federal petroleum price and allocation regulations during the period from November 14, 1979 to January 27, 1981. There is a total of \$64,500, plus interest, available from Jaguar for restitution.

On May 11, 1983, the EAR issued a Proposed Remedial Order (PRO) to Westport alleging overcharges in the resale of crude oil during the period from June 1980 to November 1980. OHA dismissed this PRO after Westport was discharged in bankruptcy and DOE was entitled to receive payments under the bankruptcy reorganization plan. Under Westport's Second Amended Liquidating Plan of Reorganization, approved by the U.S. Bankruptcy Court for the District of Colorado on July 30, 1986, Westport was required to make payments to DOE, and OHA was directed to distribute to the Westport escrow account %35 of any refunds that it granted to Westport in other refund proceedings. Thus far, DOE has collected a total of \$126,172 from Westport. That amount, plus interest, is available for restitution.

ERA filed claims in the bankruptcy cases of Gratex and Compton alleging overcharges in the resale of crude oil during the period from December 1978 to December 1980. On April 27, 1984, ERA issued a PRO to Gratex and Compton based on these same facts. On October 18, 1988, the United States Bankruptcy Court for the Northern District of Texas approved a Compromise Agreement in the Gratex proceeding which obligated Gratex to pay DOE a lump sum plus a percentage of future distributions made to unsecured creditors. In 1992, the United States Bankruptcy Court for the Northern District of Texas approved a compromise agreement in the Compton proceeding. Thus far, Gratex and Compton have paid to the DOE the sum of \$2,166,974. This amount, plus interest, is available for restitution.

II. The Proposed Refund Procedures

On April 22, 1997, we issued a proposed Decision and Order (PDO) that tentatively concluded that ERA's Petitions for the Implementation of Special Refund Procedures with respect

to the funds collected from these four firms should be approved. Notice of Proposed Implementation of Special Refund Procedures, 62 Fed. Reg. 23444 (April 30, 1997). In each case, we proposed to distribute these funds in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 Fed. Reg. 27899 (August 4, 1986) (the MSRP). The MSRP has been the basis for the distribution in these Subpart V proceedings of all crude oil funds DOE has obtained. See Order Implementing the MSRP, 51 Fed. Reg. 29689 (August 20, 1986); Notice regarding the Order Implementing the MSRP, 52 Fed. Reg. 11737 (April 10, 1987).

The MSRP was issued as a result of a court-approved Settlement Agreement. *In re: The Department of Energy Stripper Well Exemption Litigation*, 653 F. Supp. 108 (D. Kan. 1986) (the Stripper Well Settlement Agreement). The MSRP establishes that 40 percent of the crude oil funds will be remitted to the federal government, another 40 percent to the states, and up to 20 percent may be initially reserved for payment of claims to injured parties. The MSRP also specifies that any monies remaining after all valid claims by injured purchasers are paid be disbursed to the federal government and the states in equal amounts.

OHA did not receive any comments on the PDO, and we adopt its tentative determination to distribute the funds remitted by COP, Jaguar, Westport, and Gratex/Compton in accordance with the MSRP. Accordingly, we will reserve 20 percent of these funds for direct refunds to claimants.² The remaining 80 percent of the funds collected from these firms shall be disbursed in equal shares to the states and the federal government for indirect restitution. Refunds to the states will be in proportion to the consumption of petroleum products in each state during the period of price controls, as set forth in Exhibit H of the Stripper Well Settlement Agreement, 6 Fed. Energy Guidelines ¶ 90,509 at 90,687. When disbursed, these funds will be subject to the same limitations

² It is no longer possible to file an Application for Refund from the crude oil funds as the final deadline for such Applications was June 30, 1995. See 60 FR 19914 (April 21, 1995). A party that submitted a timely claim in the crude oil refund proceeding need not file another claim in order to share in the funds at issue in this Decision. OHA is currently paying crude oil refund claims at the rate of \$0.0016 per gallon. We will decide whether additional refunds will be made when we are better able to determine how much additional money will be collected from firms that have either outstanding obligations to the DOE or enforcement cases currently in litigation.

and reporting requirements as all other crude oil monies received by the states under the Stripper Well Settlement Agreement. If additional funds are subsequently collected from these firms after the issuance of this Decision and Order, such funds shall be distributed in the same manner.

It Is Therefore Ordered That:

(1) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller of the Department of Energy shall take all steps necessary to transfer the full balances from the following accounts: approximately \$93,750, plus all accrued interest, from the Crude Oil Purchasing, Incorporated subaccount (Account No. 6A0X00269T), approximately \$64,500 plus all accrued interest from the Jaguar Petroleum, Incorporated subaccount (Account No. 640X00444T), approximately \$126,172, plus all accrued interest from the Westport Energy Corporation & Westport Petroleum Corporation subaccount (Account No. 6C0X00292Z), approximately \$2,166,974 plus all accrued interest from the Gratex Corporation/Compton Corporation subaccount (Account No. 6A0X00340W), for a total of approximately \$2,451,396, plus all accrued interest, pursuant to Paragraphs (2), (3), and (4) of this Decision.

(2) The Director of Special Accounts and Payroll shall transfer \$980,558 (plus interest) of the funds obtained pursuant to Paragraph (1) above into the subaccount denominated "Crude Tracking—States," Number 999DOE003W.

(3) The Director of Special Accounts and Payroll shall transfer \$980,558 (plus interest) of the funds obtained pursuant to Paragraph (1) above into the subaccount denominated "Crude Tracking—Federal," Number 999DOE002W.

(4) The Director of Special Accounts and Payroll shall transfer \$490,280 (plus interest) of the funds obtained pursuant to Paragraph (1) above into the subaccount denominated "Crude Tracking—Claimants 4," Number 999DOE010Z.

(5) This is a final Order of the Department of Energy.

Dated: October 29, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

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