

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of a total of \$338,267.90, plus accrued interest, in crude oil overcharges obtained by the DOE from King Petroleum, Inc., *et al.*, Case No. LEF-0125 (King), and Billy Bridewell, William J. Cobb, *et al.*, Case No. LEF-0126 (Bridewell). The OHA has determined that the funds obtained from King and Bridewell, 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).

DATES AND ADDRESSES: Applications for Refund from the crude oil funds should be clearly labeled "Application for Crude Oil Refunds" and should be mailed to Subpart V Crude Oil Overcharge Refunds, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Applications for Refund must be filed in duplicate no later than June 3, 1996. Any party who has previously filed an Application for Refund should not file another Application for Refund from the present crude oil funds. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the procedures are finalized.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Roger Klurfeld, Assistant Director, Office of Hearings and Appeals, 1000 Independence Avenue, S.W., Washington, DC 20585 (202) 586-2094 (Mann); 586-2383 (Klurfeld).

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute a total of \$338,267.90, plus accrued interest, remitted to the DOE by King Petroleum, Inc., *et al.*, and Billy Bridewell, William J. Cobb, *et al.*, to the DOE. The DOE is currently holding these funds in an interest bearing account 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 monies 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.

Applications for Refund must be postmarked no later than June 3, 1996. As we state in the Decision, any party who has previously submitted a refund application in the crude oil proceedings should not file another Application for Refund. The previously filed crude oil application will be deemed filed in all crude oil proceedings as the proceedings are finalized.

Dated: February 1, 1995.

George B. Breznay,

Director, Office of Hearings and Appeals.

Implementation of Special Refund Procedures

Names of Firms: King Petroleum, Inc., *et al.*; Billy Bridewell, William J. Cobb, *et al.*

Date of Filing: May 26, 1994

Case Numbers: LEF-0125; LEF-0126

On May 26, 1994, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA), to distribute funds which King Petroleum, Inc., *et al.*, (King) and Billy Bridewell, William J. Cobb, *et al.*, (Bridewell) remitted to the DOE pursuant to settlements between the parties and the DOE. King has remitted a total of \$1,245.04, while Bridewell has remitted a total of \$337,022.86.

In accordance with the procedural regulations codified at 10 CFR. part 205, subpart V (Subpart V), the ERA requests in its Petition 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.

I. Background

On July 29, 1988, the DOE issued a Remedial Order to King for violations of the mandatory petroleum price and allocation regulations governing the resale of crude oil. Prior to the issuance of the Remedial Order, the parties filed in appropriate courts for protection under Chapter 7 of the U.S. Bankruptcy Code. Pursuant to the settlement of those proceedings, the DOE has collected a total of \$1,245.04. These funds are being held in an interest-bearing escrow account maintained at the Department of the Treasury pending a determination regarding their proper disposition.

On March 23, 1984, the DOE issued a Remedial Order to Bridewell for violations of the mandatory petroleum price and allocation regulations related to Bridewell's production and sale of crude oil during the period of November 16, 1973 through August 31, 1976. The matter was referred to the Department of Justice for enforcement in April 1976. On February 15, 1987, the parties

entered into a Compromise Settlement Agreement to resolve all civil liability in this matter. Subsequently, several of the parties filed for protection with the U.S. Bankruptcy Court for Eastern Texas. The DOE has collected a total of \$337,022.86 in settlement of this matter. These funds are being held in an interest-bearing account pending a determination regarding their proper disposition.

II. Jurisdiction and Authority

The Subpart V regulations set forth general guidelines which may be used by the OHA in formulating and implementing a plan of distribution of funds received as a result of an enforcement proceeding. The DOE policy is to use the Subpart V process to distribute such funds. 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 (PODRA), *Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

III. The Proposed Decision and Order

We considered the ERA's Petition that we implement a Subpart V proceeding with respect to the King and Bridewell funds and determined that such a proceeding was appropriate. On August 8, 1994, we issued a Proposed Decision and Order (PDO) setting forth the OHA's tentative plan to distribute these funds. See 59 FR 41755 (August 15, 1994). In the PDO, we stated that the DOE had previously established June 30, 1994 as the final deadline for filing an Application for Refund from the crude oil funds. See 58 FR 26318 (May 3, 1993). Since the PDO was issued after June 30, 1994, we proposed that we would accept no Applications for Refund for the King and Bridewell funds.

Since the issuance of the Proposed Decision and Order, it has been decided to re-open the crude oil proceeding. See 59 FR 55656 (November 8, 1994). The new closing date for this proceeding has been tentatively set for June 3, 1996. *Id.* Accordingly, we have decided that, contrary to the Proposed Decision and Order issued on August 15, 1994, we will accept Applications for Refund for the King and Bridewell funds in the manner set forth below.

IV. The Refund Procedures**A. Crude Oil Refund Policy**

We adopt the tentative determination of the PDO to distribute the funds obtained from King and Bridewell in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986) (the MSRP). 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.), 6 Fed. Energy Guidelines ¶ 90,509 (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