



Legal
1055 West Seventh Street
Post Office Box 2570
Los Angeles, California 90051-0570
Telephone 213 486 2435

Beth S. Dorris
Senior Attorney

March 10, 1995

ENVIRONMENTAL
PROTECTION
95 MAR 15 PM 1:20

Scott O. Seery, CHMM
Senior Hazardous Materials Specialist
Department of Environmental Health
Hazardous Materials Division
80 Swan Way, Rm. 200
Oakland, CA 94621

Via Facsimile & US Mail

Re: Unocal Station 3771, 4191 First Street, Pleasanton (the "Site")

Dear Mr. Seery:

Pursuant to your request, attached are materials on the corporate succession of Armour Oil Company and San Diego Armour Oil Company. A brief summary also is attached. You might find it significant that Armour Oil Company has never been dissolved. Rather, the company was *suspended* in 1994 for failure to pay franchise taxes.

As requested, we also have looked for bankruptcy records. A company named "Armour Oil Company" appears to have been in Chapter 11 reorganization proceedings in southern California in 1984 or so. (The attached case cites the Armour Oil proceedings as Case No. LA 84-29720-JD Ch. 11, Adv. No. LA 85-0674-JD.) This does not necessarily foreclose legal action against Armour Oil, though. There are many situations under which a company that has gone through a Chapter 11 reorganization, or its insurers, can still be held liable.

We have not yet received certain pertinent records from the California Secretary of State. When we receive them, we will send them to Unocal and you. The additional records may provide further information on the identity of shareholders and officers. We also are still searching our records for application materials and to see if a personal guarantee existed.

In your phone message yesterday, you indicated that Unocal's counsel is analyzing the corporate history and plans to provide you with a more detailed analysis. Accordingly, I am sending to Unocal a duplicate of the materials enclosed herewith. We also will be glad to discuss with Unocal's counsel and you the successor liability and bankruptcy issues raised in this case. Please do not hesitate to call me at (213) 486-2435.

Very truly yours,

Beth S. Dorris

Attachments

Armour Oil Company
Cordova Corporation, aka Armour Oil Co.

- Merged out into Cordova Corporation, aka Armour Oil Co. (4/77)
- Changed name from Armour Management Corporation to Armour Oil Oil Company (4/77)
- Merged in Armour Service of Montclair, Inc. (1/78)
- Merged in San Diego Armour Oil Company (formerly named "Armour Service of Anaheim, Inc.") (1/86)
- Changed name from Armour Oil Company to ? (1/86)
- Merged in Mampton-Armour Oil, Inc. (VA N.Q.) and Norfolk-Armour Oil, Inc. (1/86)
- FTB suspension (4/94)



ARCO Products Company

Legal Department
1055 West Seventh Street
P.O. Box 2570
Los Angeles, CA 90051-0570

FACSIMILE TRANSMISSIONDATE: 2/24/95 TIME: 9:40

TO: Schott O. Seery, CHMM
FIRM: Department of Environmental Health
FACSIMILE NO.: (510) 337-9335
CC: _____

FROM: Beth S. Dorris TELEPHONE NO.: (213) 486-2435
FACSIMILE NO.: (213) 486-0930

NO. OF PAGES (INCLUDING COVER SHEET): 27 If you do not receive all pages of this transmission or have experienced a transmission problem, please call Sajja Sultani at (213) 488-1540.

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MESSAGE:

Corporate Records on Armour Oil & Related Companies

(In chronological order)

Date Of Inc.	Company/No.	Address	Status	State Of Inc.	Comments
09/25/1953	Armour Oil Company, 278576	Box 81002, San Diego, Ca 92138	Merged 4/25/77 (DD051446)	California	
06/10/1960	Cordova Corporation, 397732 (aka Armour Oil Co. ~1977-1986) President O B Armour	P O Box 85302, San Diego, Ca 92138	Suspended 04/01/1994	California	Many corporate amendments ¹
07/20/1960	San Diego Armour Oil Company Registered Agent H O Armour President O B Armour	P O Box 85302, San Diego, Ca 92138	Merged 1/15/86	California	Many corporate amendments ²

1

04/25/1977: Merged In Armour Oil Company (Amendmt. No. A0176791). Corp. No. 6002015

01/30/1978: Survivor-Merged In C0399860 Armour Service Of Montclair, Inc.; Corp No. 00397732

01/15/1986: Survivor-Merged In C0399882 San Diego Armour Oil Company

01/15/1986: Name Changed From Armour Oil Company

01/15/1986: Merged In Mampton-Armour Oil, Inc. (Va N.Q.) And Norfolk-Armour Oil, Inc.

02/15/1994: Secretary Of State Delinquency

04/01/1994: Franchise Tax Board Suspension

²01/08/1968: Name Change From Armour Service Of Anaheim, Inc.

01/15/1986: Merger Outgoing-Merged Into C0397732 Armour Oil Company (lka Cordova)

07/20/1960	Armour Service Of Montclair, Inc., 399860	P. O. Box 81002, San Diego, Ca 92138	Merged 1/30/78 (DD060237)	California	(Merged Into C0397732 Armour Oil Company)
12/19/1960	Torrance Armour Oil Co. Agent, 406684 O. B. Armour President O. B. Armour	Box 81002, San Diego, Ca 92110	Dissolved 12/29/78	California	Some corporate changes ³
Unknown	Armour Oil Texas, Inc. Incorporators: Norman A. Zable, Sylvia Cotten, Gladys Guthrie	Registered Office: 1507 MCTL BK Building, Dallas, TX	Dead (Dissolution) (01/31/1964)	Texas	
12/18/1962	New York-Armour Oil, Inc.	100 State St., Rm. 738 Albany, NY 12207	Inactive	New York	
06/23/66	Texas Armour Oil Co., Inc. Incorporator, O.B. Armour, Roy J. True and Gladys Cobb	P. O. Box 81002 San Diego, Ca 92138	Dead 3/17/80 Charter Forfeited (Failure To Pay Franchise Tax)	Texas	Many related companies ⁴

³06/13/1972: Name Change From Armour Oil Torrance, Inc.
01/30/1978: Certificate Of Election To Dissolve
12/29/1978: Certificate Of Dissolution

⁴The following were listed as parent companies:

Parent Company

Alabama Armour Oil Co.
Abc Service Station, Ca

Gee Service Station, Ca
Armour Service Of Montclair
San Diego Armour Oil Co.
Armour Oil Torrance, Inc
Armour Service Of Florida, Inc.
Armour Service Of Georgia, Inc.
Armour Service Of Illinois, Inc.
Iowa Armour Oil Co.
Louisiana Armour Oil Co.
Armour Service Of Oklahoma, Inc.
New Jersey Armour Oil Co.
Armour Oil Of New York, Inc.
Albany Armour Oil, Inc.
South Carolina Armour Oil, Inc.
Texas Armour Oil Co.
Armour Oil Hampton, Inc.
Armour Oil Norfolk, Inc.
Armour Oil Wisconsin, Inc.

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*** THIS DATA IS FOR INFORMATION PURPOSES ONLY. CERTIFICATION CAN ONLY BE OBTAINED THROUGH THE OFFICE OF THE CALIFORNIA SECRETARY OF STATE. ***

CALIFORNIA SECRETARY OF STATE, CORPORATE RECORD.

NAME: ARMOUR OIL COMPANY

TYPE OF CORPORATION: ARTICLES OF INCORPORATION (DOMESTIC)

CORPORATE STATUS: MERGED OUT

DATE OF INCORPORATION/QUALIFICATION: 09/25/1953

MAILING ADDRESS: BOX 81002, SAN DIEGO, CA 92138

REGISTERED OFFICE: CA

STATEMENT OF OFFICERS FILE NUMBER: 47046

STATEMENT OF OFFICERS FILE DATE: 04/21/76

TAX-BASIS: STOCK

CORPORATE NUMBER: 278576

HISTORY:

DATE: 04/25/1977

TRANSACTION: MERGER

COMMENT: MERGED OUT

AMENDMENT NO: DD051446

ENTER LEXDOC TO ORDER COPIES OF THE ORIGINAL FILING AND RELATED DOCUMENTS

4TH DOCUMENT of Level 1 printed in FULL format.

*** THIS DATA IS FOR INFORMATION PURPOSES ONLY. CERTIFICATION CAN ONLY BE OBTAINED THROUGH THE OFFICE OF THE TEXAS SECRETARY OF STATE AND THE TEXAS COMPTROLLER OF PUBLIC ACCOUNTS. ***

TEXAS SECRETARY OF STATE, CORPORATE RECORD

Name: ARMOUR OIL TEXAS, INC.

Type of Corporation: DOMESTIC PROFIT

Status: DEAD

Status Comment: DISSOLUTION

Status Date: 01/31/1964

Filing Date: 10/20/1961

Duration: PERPETUAL

State of Incorporation: TEXAS

Registered Agent: NORMAN A ZABLE

Registered Office: 1507 MCTL BK BLDG
DALLAS, TEXAS

Capital/Stock: 100 AT \$ 10

Incorporators: NORMAN A ZABLE, DALLAS
SYLVIA COTTEN, DALLAS
GLADYS GUTHRIE, DALLAS

Number: 00178383-00

* ENTER LEXDOC TO ORDER A CERTIFICATE OF GOOD STANDING OR OTHER DOCUMENTS *

4TH STORY of Level 1 printed in FULL format.

Copyright 1989 The Times Mirror Company
Los Angeles Times

July 7, 1989, Friday, San Diego County Edition

SECTION: Metro; Part 2; Page 10; Column 1; Metro Desk

LENGTH: 454 words

HEADLINE: GASOLINE SPILL FORCES MANY FROM HOMES

BYLINE: By LORI GRANGE, Times Staff Writer

BODY:

A tanker truck carrying gasoline overturned Thursday afternoon in Southeast San Diego, spilling about 500 gallons onto a street and triggering the evacuation of hundreds of residents from nearby homes.

About 75 San Diego firefighters, scores of police officers and at least 10 fire trucks responded about 3:15 p.m. to the three-alarm accident on Ocean View Boulevard near 33rd Street and Interstate 15. The accident drew hundreds of onlookers and shut down the southbound lanes of the interstate for more than two hours while officials transferred the tanker's fuel to another vehicle.

Many of the bystanders were residents of the apartment buildings and small houses that line Ocean View and 33rd Street and who were ordered out of their homes by officials shortly after the accident.

Driver Unhurt

The driver of the **Armour Oil Co.** tanker, Rolland Upson, was not hurt, and no one else was either, officials said.

The vehicle, which had turned north onto Ocean View from I-15, lay sprawled on its right side on the sidewalk as officials cleaned up the spill.

About 500 gallons of the 8,800 gallons in the tanker immediately gushed about 200 yards down the street, trickling down an embankment overlooking the southbound lanes of the freeway, authorities said.

After roping off the area and evacuating residents in a three-block radius, firefighters plugged the tanker's leak to slow the spill to 1 to 2 gallons a minute, according to Capt. Larry Cooke, a Fire Department spokesman. Officials then sprayed the truck with foam and built a small earthen dam reaching halfway across Ocean View to prevent the gas from traveling farther.

"The accident is quite severe, quite hazardous," Cooke said as officials prepared to transfer the remaining fuel in the tanker to nearby trucks. "The potential of that amount of gasoline is awesome. It could be nasty."

Uncertain of Cause

Authorities were uncertain Thursday evening what caused the truck to overturn and expected to complete their investigation today.

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Los Angeles Times, July 7, 1989

Officials, fearful that the tanker could explode or catch fire during the

transfer of fuel, kept the neighborhood blocked off until after 9 p.m.

Explaining that spills such as Thursday's are commonplace, Cooke added: "Usually, you have fires to go along with it, and lose a lot of lives. We're just lucky it didn't explode."

Some evacuated residents, however, said they were anxious to return to their homes.

"I didn't think it was that serious," said Lucy Tauese, 19, a former student who, along with her four nieces and nephews, had been waiting for hours behind a police blockade.

"I just heard the thing fall, and, when we came out to see it, they told us to evacuate our apartments."

GRAPHIC: Photo, Containing a Spill -- Firemen pour foam on a tanker truck that overturned on Ocean View Boulevard near 33rd Street and Interstate 15, leaking 500 gallons of gasoline, shutting down the interstate for more than two hours and forcing evacuation of hundreds of area residents. VINCE COMPAGNONE / Los Angeles Times

LANGUAGE: ENGLISH

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CALIFORNIA SECRETARY OF STATE, CORPORATE RECORD.

NAME: ARMOUR SERVICE OF MONTCLAIR, INC.

TYPE OF CORPORATION: ARTICLES OF INCORPORATION (DOMESTIC)

CORPORATE STATUS: MERGED OUT

DATE OF INCORPORATION/QUALIFICATION: 07/20/1960

MAILING ADDRESS: P. O. BOX 81002, SAN DIEGO, CA 92138

REGISTERED OFFICE: CA

STATEMENT OF OFFICERS FILE NUMBER: 156944

STATEMENT OF OFFICERS FILE DATE: 07/20/77

TAX-BASIS: STOCK

CORPORATE NUMBER: 399860

HISTORY:

DATE: 01/30/1978

TRANSACTION: MERGER

COMMENT: OUTGOING-MERGED INTO C0397732 ARMOUR OIL COMPANY

OTHER CORP NO: 00397732

AMENDMENT NO: DD060237

SURVIVING CORPORATION: ARMOUR OIL COMPANY; 00397732

ENTER LEXDOC TO ORDER COPIES OF THE ORIGINAL FILING AND RELATED DOCUMENTS

5TH STORY of Level 1 printed in FULL format.

Copyright 1987 The Times Mirror Company
Los Angeles Times

June 28, 1987, Sunday, Home Edition
Correction Appended

SECTION: Business; Part 4; Page 4; Column 4; Financial Desk

LENGTH: 432 words

HEADLINE: SOUTHLAND STATS

BODY:

LARGEST BANKRUPTCY LAW FIRMS

Los Angeles firms compose one-third of the nation's 15 largest.

Note: This table may be divided, and additional information on a particular entry may appear on more than one screen.

Firm	Bankruptcy Attorneys	Total Attorneys
1. Stutman, Treister & Glatt (Los Angeles)	22	29
2. Murphy, Weir & Butler (San Francisco)	20	30
3. Stroock & Stroock & Lavan (New York)	19	300
4. Robinson, Wolas & Diamant (Los Angeles)	18	18
5. Winston & Strawn (Chicago)	17	NA
6. Levin, Weintraub & Cramas (New York)	15	16
7. Gendel, Raskoff, Shapiro & Quittner (Los Angeles)	13	50
Anderson & Adams (Baton Rouge, La.)	13	20
9. Shannon, Grace, Ratliff & Miller (Fort Worth)	12	55
10. Hertzberg, Jacob & Weingarten (Detroit)	11	25
Levene & Eisenberg (Los Angeles)	11	11
12. Kroger, Gardis & Regas (Indianapolis)	10	15
13. Weil, Gotshal & Manges (Houston)	9	310
Wright, Lindsey & Jennings (Little Rock, Ark.)	9	52
ullmeyer, Kupetz, Baumann & Rothman (Los Angeles)	9	17

Firm	Clients
1. Stutman, Treister & Glatt (Los Angeles)	Wickes Cos.; Bank of America in Evans Products case
2. Murphy, Weir & Butler (San Francisco)	Bank of America in Evans Products; creditors committee in Wickes Cos.
3. Stroock & Stroock & Lavan (New York)	Creditors in Manville and W.T. Grant; creditors committee in Wheeling

Los Angeles Times, June 28, 1987

4. Robinson, Wolas & Diamant (Los Angeles)
Aetna Life in North

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Angeles)	American Car	
5. Winston & Strawn	North American Car;	
(Chicago)	Pettibone	
6. Levin, Weintraub	Pennzoil in Texaco;	
& Crammes (New York)	LTV; Food Fair	
7. Gendel, Raskoff,	Imperial	
Shapiro & Quittner	International	
(Los Angeles)		
Anderson & Adams	Trustee in Gulf	
(Baton Rouge, La.)	Union; Hollanger	
	Noteholders	
9. Shannon, Grace,	committee in Texas	
Ratliff & Miller	Int'l;	
	Great Western Sugar	
(Fort Worth)	Co.	
10. Hertzberg,	Michigan	
Jacob & Weingarten	Transportation Co.;	
(Detroit)	trustee	
	in Ironton Coke Co.	
	Security Pacific	
Levene & Eisenberg	Finance in Wickes	
(Los Angeles)	Cos.	
12. Kroger, Gardis		
& Regas	Merchants National	
(Indianapolis)	Bank (creditor);	
	Ford Motor Credit	
	Co. (creditor)	
13. Weil, Gotshal &	Dreco Energy	
Manges (Houston)	Service;	
	Exxon in	
	Commonwealth Oil	
	McCrary's Farm	
Wright, Lindsey &	Supply; Sibley	
Jennings	Engineering	
(Little Rock, Ark.)		
	Trustee in Bubble	
Sullmeyer, Kupetz, Baumann & Rothman ,	Oil	Up Corp.; Armour
(Los Angeles)		

Source: Turnarounds & Workouts

CORRECTION-DATE: July 12, 1987, Sunday, Home Edition

CORRECTION:
FOR THE RECORD

The Los Angeles law firm of Danning, Gill, Gould, Diamond & Spector, with 20 ankrupcty attorneys, should have been included in a list of the nation's largest bankruptcy law firms published June 28 in the Business section. The list was compiled by Turnarounds & Workouts, a newsletter published in Washington.

GRAPHIC: Table, LARGEST BANKRUPTCY LAW FIRMS

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Los Angeles Times, June 28, 1987

LANGUAGE: ENGLISH

34TH STORY of Level 1 printed in FULL format.

Copyright 1976 The New York Times Company: Abstracts
Information Bank Abstracts
WALL STREET JOURNAL

December 13, 1976, Monday

SECTION: Page 10, Column 1

LENGTH: 15 words

JOURNAL-CODE: WSJ

ABSTRACT:

Armour Oil Co receives \$3.2 Million Defense Supply Agency contract for fuel oil (S).

LANGUAGE: ENGLISH

35TH STORY of Level 1 printed in FULL format.

Copyright 1975 The New York Times Company: Abstracts
Information Bank Abstracts
WALL STREET JOURNAL

November 21, 1975, Friday

SECTION: Page 2, Column 4

LENGTH: 86 words

JOURNAL-CODE: WSJ

ABSTRACT:

Standard Oil of Calif gets \$12.2 Million Defense Supply Agency contract for gasoline and distillate fuels. Armour Oil receives \$6.5 million distillate and residual fuel contract from agency. Shell Oil also awarded \$4.5 Million contract for gasoline from agency. Bata Shoe receives \$3.1 Million contract for cold-weather rubber boots. Armco Steel subsidiary, Hitco, gets \$5.1 Million Navy contract for submarine equipment. TRW gets \$3 million Air Force contract for Minuteman missile targeting program (S).

LANGUAGE: ENGLISH

6TH STORY of Level 1 printed in 100 VAR KWIC format.

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DAILY REPORT FOR EXECUTIVES

June 16, 1987, Tuesday

SECTION: TAXATION AND ACCOUNTING; NEW TAX DECISIONS AND RULINGS; Court
Decisions; DER No. 114; Pg. H-3

LENGTH: 3761 words

HEADLINE: BANKRUPTCY -- INTEREST ON DEBTOR'S DEFERRED FEDERAL TAX PAYMENTS BASED
ON COMMERCIAL LOAN RATES

BODY:

* Debtor must pay the government interest on deferred federal tax payments at the rate the debtor would pay a commercial lender for a loan of equivalent amount and duration, considering the risk of default and any security. (CA9; Sneed, J.; In re Camino Real Landscape Maintenance Contractors, No. 86-6165, 6/5/87)

Facts: This is a consolidated government appeal in three bankruptcy cases. Camino Real Landscape Maintenance Contractors, Inc., Hadrian Construction, Inc., and Armour Oil Co., the debtors, each filed a petition for reorganization under Chapter 11 of the Bankruptcy Code. The government filed a proof of claim for unpaid taxes. The government's claims were entitled to seventh priority under 11 U.S.C. 504(a)(7). The debtors submitted plans of reorganization that proposed to defer payment of the tax claims under 11 U.S.C. 1129(a)(9)(C). That section permits a court to confirm a plan if the holders of the tax claims consent, or if they "will receive on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim, of a value, as of the effective date of the plan, equal to the allowed amount of such claim."

... 5) The Ninth Circuit Bankruptcy Appellate Panel's decision with respect to Armour is affirmed. The bankruptcy court considered relevant factors in fixing the Section 1129(a)(9)(C) rate on Armour's deferred tax payments.

Full Text: These three cases, arising out of chapter 11 reorganizations, pose a single issue. That is, what rate of interest on deferred payments of federal taxes will provide the government with payments having a present value equal to the allowed amount of its claim, as required by 11 U.S.C. | 1129(a)(9)(C). We hold that the debtor must pay the government interest at the rate the debtor would pay a commercial lender for a loan of equivalent amount and duration, considering the risk of default and any security. Accordingly we uphold the judgment of the Bankruptcy Appellate Panel in the matter of Armour Oil Co. (Armour). We reverse the judgments of the district court in the matters of Camino Real Landscape Maintenance Contractors, Inc. (Camino Real) and Hadrian Construction, Inc. (Hadrian).

I.

FACTS AND PROCEEDINGS BELOW

Each of the three debtors in these consolidated cases filed a petition for reorganization under chapter 11 of the Bankruptcy Code. The government filed a proof of claim for unpaid taxes in each proceeding. The government's claims

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were entitled to seventh priority. n1 11 U.S.C. | 507(a)(7). The debtors submitted plans of reorganization that proposed to defer payment of the tax

15TH STORY of Level 1 printed in FULL format.

Proprietary to the United Press International 1983

May 25, 1983, Wednesday, AM cycle

SECTION: Washington News

DISTRIBUTION: California

LENGTH: 537 words

BYLINE: By CHRIS CHRYSTAL

DATELINE: WASHINGTON

BODY:

A three-vehicle collision that exploded into a fireball and killed seven people in a tunnel near Oakland, Calif., last year was caused by a drunk driver and inadequate emergency procedures, the National Transportation Safety Board said Wednesday.

Errors by two other drivers and the presence of a tanker full of gasoline inside Caldecott Tunnel also were blamed for the disaster.

The board's report on the April 7, 1982 accident called for a ban on hazardous material, such as gasoline, in all California highway tunnels and urged the state transportation department to install hazard warning equipment in the tunnel and develop an emergency plan for all its tunnels.

The board blamed the fiery disaster on three causes; a drunken driver who stopped her Honda sedan in the tunnel, an inattentive truck driver whose Armour Oil Co. rig hit the car, and a bus that overtook the truck too rapidly.

A fireball engulfed the 3,371-foot-long tunnel, killing the bus driver, the Honda driver and five people in three other vehicles. The truck driver ran from the tunnel and survived.

Damage from the disaster was estimated at \$2.7 million.

The accident at 12:12 a.m. began when the Honda struck a curb inside the two-lane, one-way tunnel, stopped in the left lane and was hit by the tank truck carrying 8,800 gallons of gasoline.

An AC Transit Company of Oakland bus hit the Honda and the gasoline truck, which overturned, rupturing its tanks and spilling fuel.

The driver of the bus, which had no passengers, was thrown to the pavement and killed. Leaking gasoline from the ruptured tank ignited and started a small fire, which exploded within three minutes, filling the tunnel with flames.

Everyone inside the tunnel was burned to death.

Caldecott Tunnel has no television monitoring equipment or signals to alert incoming traffic of an emergency, the safety board said.

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Proprietary to the United Press International, May 25, 1983

'Had it been so equipped, a tunnel operator could have reduced the tunnel

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speed limit and turned traffic signals to red within 10 seconds after viewing the small car's initial accident," the report said.

"Both the gasoline truck and the transit bus probably still would have been outside the tunnel and would have been stopped by red lights at the tunnel entrance," the report concluded.

Tunnel employees failed to follow CalTrans emergency procedures, which caused a delay in notifying the Highway Patrol and fire department, the safety board said.

The board said danger existed because state did not have authority to prohibit trucks carrying flammable and hazardous cargoes, except explosives, from entering the tunnel and because lane changing and passing was permitted.

Board member G.H. Patrick Bursley concurred with the report and recommendations, but issued a dissenting statement that omitted the drunk driver from blame for causing the accident.

Her blood alcohol level was 0.17 percent, compared to the legal intoxication limit in California of 0.10 percent.

Bursley said the truck and bus drivers were at fault for striking a stopped car. He also said the presence of gasoline in the tunnel contributed to the severity of the accident.

The board conducted a hearing with its investigators on the accident last January.

LANGUAGE: ENGLISH

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CALIFORNIA SECRETARY OF STATE, CORPORATE RECORD.

NAME: CORDOVA CORPORATION

TYPE OF CORPORATION: ARTICLES OF INCORPORATION (DOMESTIC)

CORPORATE STATUS: SUSPENDED

DATE OF INCORPORATION/QUALIFICATION: 06/10/1960

FTB SUSPENSION DATE: 04/01/1994

FTB SUSPENSION CODE: SUSPENDED

MAILING ADDRESS: P O BOX 85302, SAN DIEGO, CA 92138

REGISTERED AGENT: HENRY OGDEN ARMOUR

REGISTERED OFFICE: 3500 ESTUDILLO STREET
SAN DIEGO, CA 92110

PRESIDENT: O B ARMOUR
821 SAN ANTONIO PLACE
SAN DIEGO, CA 92106

STATEMENT OF OFFICERS FILE NUMBER: 313093

STATEMENT OF OFFICERS FILE DATE: 07/21/88

TAX-BASIS: STOCK

CORPORATE NUMBER: 397732

HISTORY:

DATE: 04/25/1977
TRANSACTION: MERGER
COMMENT: MERGED IN ARMOUR OIL COMPANY
OTHER CORP NO: 60022015
AMENDMENT NO: A0176791

DATE: 04/25/1977
TRANSACTION: MERGER
COMMENT: NAME CHANGE FROM: ARMOUR MANAGEMENT CORPORATION
OTHER CORP NO: 00397732
AMENDMENT NO: A0176791

DATE: 01/30/1978
TRANSACTION: MERGER
COMMENT: SURVIVOR-MERGED IN C0399860 ARMOUR SERVICE OF MONTCLAIR, INC.
OTHER CORP NO: 00399860

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CALIFORNIA SECRETARY OF STATE, CORPORATE RECORD.

AMENDMENT NO: A0186510

DATE: 01/15/1986

TRANSACTION: MERGER
COMMENT: SURVIVOR-MERGED IN C0399882 SAN DIEGO ARMOUR OIL COMPANY
OTHER CORP NO: 00399882
AMENDMENT NO: A0310248

DATE: 01/15/1986
TRANSACTION: CERTIFICATE OF AMENDMENT
COMMENT: NAME CHANGED FROM: ARMOUR OIL COMPANY
OTHER CORP NO: 00397732
AMENDMENT NO: A0310250

DATE: 01/15/1986
TRANSACTION: MERGER
COMMENT: MERGED IN MAMPTON-ARMOUR OIL, INC. (VA N.Q.) AND NORFOLK-ARMOUR
OIL, INC.
OTHER CORP NO: 60022016
AMENDMENT NO: A0310249

DATE: 02/15/1994
TRANSACTION: SECRETARY OF STATE DELINQUENCY

DATE: 04/01/1994
TRANSACTION: FRANCHISE TAX BOARD SUSPENSION

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NEW YORK DEPARTMENT OF STATE, CORPORATE RECORD

NAME: NEW YORK-ARMOUR OIL, INC.

TYPE: DOMESTIC BUSINESS

STATUS: INACTIVE

STATUS-COMMENT: DISSOLUTION BY PROCLAMATION

DURATION: PERPETUAL

DATE OF INCORPORATION/QUALIFICATION: 12/18/1962

COUNTY OF PRINCIPAL OFFICE: ALBANY

NUMBER: 152867

STOCK:

NUMBER OF SHARES	STOCK TYPE	VALUE PER SHARE
100	NO PAR VALUE	\$ 0.0

HISTORY:

DATE	TRANSACTION	MICROFILM-NO
03/24/1993	DISSOLUTION BY PROC. (DOM. BUSINESS)	DP-862033
12/07/1967	AMENDMENT (DOM. BUSINESS)	652820-4
12/18/1962	INCORPORATION (DOM. BUSINESS)	356773

PRIOR-NAMES:

DATE	NAME	TYPE	MICROFILM-NO
12/18/1962	ARMOUR OIL NEW YORK, INC.	ACTUAL	356773

PROCESS ADDRESS:

ARMOUR OIL NEW YORK, INC.
100 STATE ST.
RM. 738
ALBANY, NY 12207

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CALIFORNIA SECRETARY OF STATE, CORPORATE RECORD.

NAME: SAN DIEGO ARMOUR OIL COMPANY

TYPE OF CORPORATION: ARTICLES OF INCORPORATION (DOMESTIC)

CORPORATE STATUS: MERGED OUT

DATE OF INCORPORATION/QUALIFICATION: 07/20/1960

MAILING ADDRESS: P O BOX 85302, SAN DIEGO, CA 92138

REGISTERED AGENT: H O ARMOUR

REGISTERED OFFICE: 3500 ESTUDILLO ST
SAN DIEGO, CA 92110

PRESIDENT: O B ARMOUR
821 SAN ANTONIO PLACE
SAN DIEGO, CA 92106

STATEMENT OF OFFICERS FILE NUMBER: 314087

STATEMENT OF OFFICERS FILE DATE: 08/12/85

TAX-BASIS: STOCK

CORPORATE NUMBER: 399882

HISTORY:

DATE: 01/08/1968
TRANSACTION: CERTIFICATE OF AMENDMENT
COMMENT: NAME CHANGE FROM: ARMOUR SERVICE OF ANAHEIM, INC.
OTHER CORP NO: 00399882
AMENDMENT NO: A0093489

DATE: 01/15/1986
TRANSACTION: MERGER
COMMENT: OUTGOING-MERGED INTO C0397732 ARMOUR OIL COMPANY
OTHER CORP NO: 00397732

SURVIVING CORPORATION: ARMOUR OIL COMPANY; 00397732

ENTER LEXDOC TO ORDER COPIES OF THE ORIGINAL FILING AND RELATED DOCUMENTS

ARMOUR, HENRY
VICE PRESIDENT
(BOTH OFFICER AND DIRECTOR)
PO BOX 81002
SAN DIEGO, CALIFORNIA 92138

HARGREAVES, HARRY
SECRETARY
(BOTH OFFICER AND DIRECTOR)
PO BOX 81002
SAN DIEGO, CALIFORNIA 92138

HARGREAVES, HARRY
TREASURER
(BOTH OFFICER AND DIRECTOR)
PO BOX 81002
SAN DIEGO, CALIFORNIA 92138

Number: 00225750-00

* ENTER LEXDOC TO ORDER A CERTIFICATE OF GOOD STANDING OR OTHER DOCUMENTS *

*** THIS DATA IS FOR INFORMATION PURPOSES ONLY. CERTIFICATION CAN ONLY BE OBTAINED THROUGH THE OFFICE OF THE TEXAS SECRETARY OF STATE AND THE TEXAS COMPTROLLER OF PUBLIC ACCOUNTS. ***

TEXAS SECRETARY OF STATE, CORPORATE RECORD

Name: TEXAS ARMOUR OIL CO., INC.

Tax Address: PO BOX 81002
SAN DIEGO, CALIFORNIA 92138

Type of Corporation: DOMESTIC PROFIT

Status: DEAD

Status Comment: CHARTER FORFEITED (failure to pay franchise tax)

Status Date: 03/17/1980

Filing Date: 06/23/1966

Duration: PERPETUAL

State of Incorporation: TEXAS

Registered Agent: ROY J TRUE

Registered Office: MERCANTILE BANK BLDG
DALLAS, TEXAS

Parent Company: ALABAMA ARMOUR OIL CO.
% Owned: 100

ABC SERVICE STATION, CA
State: C
% Owned: 100

GEE SERVICE STATION, CA
State: C
% Owned: 100

ARMOUR SERVICE OF MONTCLAIR
State: CALIFORNIA
% Owned: 100

SAN DIEGO ARMOUR OIL CO.
State: CALIFORNIA
% Owned: 100

ARMOUR OIL TORRANCE, INC.
State: CALIFORNIA
% Owned: 100

ARMOUR SERVICE OF FLORIDA, INC.
% Owned: 100

ARMOUR SERVICE OF GEORGIA, INC.

% Owned: 100

ARMOUR SERVICE OF ILLINOIS, INC.

% Owned: 100

IOWA ARMOUR OIL CO.

% Owned: 100

LOUISIANA ARMOUR OIL CO.

% Owned: 100

ARMOUR SERVICE OF OKLAHOMA, INC.

% Owned: 100

NEW JERSEY ARMOUR OIL CO.

% Owned: 100

ARMOUR OIL OF NEW YORK, INC.

% Owned: 100

ALBANY ARMOUR OIL, INC.

State: NEW YORK

% Owned: 100

SOUTH CAROLINA ARMOUR OIL, INC.

% Owned: 100

TEXAS ARMOUR OIL CO.

% Owned: 100

ARMOUR OIL HAMPTON, INC.

State: VIRGINIA

% Owned: 100

ARMOUR OIL NORFOLK, INC.

State: VIRGINIA

% Owned: 100

ARMOUR OIL WISCONSIN, INC.

% Owned: 100

Capital/Stock: 100 AT \$ 10

Tax Year: 1980

State Tax ID: 017512318027

Incorporators: O B ARMOUR, SAN DIEGO, CALIFORNIA
ROY J TRUE, DALLAS, TEXAS
GLADYS COBB, DALLAS, TEXAS

Officers and Directors:

ARMOUR, C B

PAGE 24

TEXAS SECRETARY OF STATE, CORPORATE RECORD

PRESIDENT
(BOTH OFFICER AND DIRECTOR)
PO BOX 81002
SAN DIEGO, CALIFORNIA 92138

10TH DOCUMENT of Level 1 printed in FULL format.

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CALIFORNIA SECRETARY OF STATE, CORPORATE RECORD.

NAME: TORRANCE ARMOUR OIL CO.

TYPE OF CORPORATION: ARTICLES OF INCORPORATION (DOMESTIC)

CORPORATE STATUS: DISSOLVED

DATE OF INCORPORATION/QUALIFICATION: 12/19/1960

MAILING ADDRESS: BOX 81002, SAN DIEGO, CA 92110

REGISTERED AGENT: O. B. ARMOUR

REGISTERED OFFICE: 2085 KURTZ STREET
SAN DIEGO, CA 92110

PRESIDENT: O. B. ARMOUR
2085 KURTZ STREET
SAN DIEGO, CA 92110

STATEMENT OF OFFICERS FILE NUMBER: 42

STATEMENT OF OFFICERS FILE DATE: 01/03/78

TAX-BASIS: STOCK

CORPORATE NUMBER: 406684

HISTORY:

DATE: 06/13/1972
TRANSACTION: CERTIFICATE OF AMENDMENT
COMMENT: NAME CHANGE FROM: ARMOUR OIL TORRANCE, INC.
OTHER CORP NO: 00406684
AMENDMENT NO: A0122600

DATE: 01/30/1978
TRANSACTION: CERTIFICATE OF ELECTION TO DISSOLVE
AMENDMENT NO: DD060618

DATE: 12/29/1978
TRANSACTION: CERTIFICATE OF DISSOLUTION
AMENDMENT NO: DD071120

ENTER LEXDOC TO ORDER COPIES OF THE ORIGINAL FILING AND RELATED DOCUMENTS

Newspaper Coverage Referencing Armour Oil

(In Reverse Chronological Order)

- An Armour Oil Company tanker truck carrying gasoline overturned, spilling 500 gallons of the 8,800 gallons in the tanker and not injuring the driver of the Armour Oil Co. tanker,
Los Angeles Times
July 7, 1989, Friday, San Diego County Edition
GASOLINE SPILL FORCES MANY FROM HOMES
- * • Armour Oil is listed as being represented by one of Los Angeles's largest bankruptcy firms, Sullmeyer, Kupetz, Baumann & Rothman.
Los Angeles Times
June 28, 1987, Sunday, Home Edition
LARGEST BANKRUPTCY LAW FIRMS
- * • Camino Real Landscape Maintenance Contractors, Inc., Hadrian Construction, Inc., and Armour Oil Co., debtors who filed a petition for reorganization under Chapter 11 of the Bankruptcy Code, jointly seek a consolidated government appeal.
1987 THE BUREAU OF NATIONAL AFFAIRS, INC
June 16, 1987, Tuesday
BANKRUPTCY -- INTEREST ON DEBTOR'S DEFERRED FEDERAL TAX
- A \$4.4-million out-of-court settlement was reached in lawsuits resulting from a crash that took seven lives near Orinda in 1982. Armour Oil Co., operators of the truck, were to pay \$1 million.
Los Angeles Times
August 18, 1985, Sunday, Home Edition
- * • Armour Oil was involved in a three-vehicle collision in 1982 that killed seven people in a tunnel near Oakland, California when inattentive truck driver for Armour Oil Co. hit the car and then was hit by a bus. The truck driver ran from the tunnel and survived. Everyone inside the tunnel was burned to death.
United Press International 1983
May 25, 1983, Wednesday, AM cycle
- * • Armour Oil Co. receives \$3.2 Million Defense Supply Agency contract for fuel oil.
WALL STREET JOURNAL
December 13, 1976, Monday
ABSTRACT
- * • Armour Oil receives \$6.5 million distillate and residual fuel contract from a government agency.
WALL STREET JOURNAL
November 21, 1975, Friday

* full copies provided
via US Mail,
not facsimile
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7TH STORY of Level 1 printed in FULL format.

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Los Angeles Times

August 18, 1985, Sunday, Home Edition

SECTION: Part 1; Page 2; Column 6; Metro Desk

LENGTH: 120 words

HEADLINE: THE STATE

BODY:

A \$4.4-million out-of-court settlement has been reached in lawsuits resulting from the fiery Caldecott Tunnel crash that took seven lives near Orinda in 1982. In the accident, an AC Transit Bus, swerving to avoid a stalled car, smashed into a gasoline truck, which exploded in flames. Under terms of the settlement approved by a Contra Costa County Superior Court judge, heirs of six of the victims will divide \$1.5 million, and Caltrans will receive \$2.9 million for damage to the tunnel. AC Transit will pay \$2.9 million, Armour Oil Co., operators of the truck, will pay \$1 million and Clough Equipment, builders of the truck, will pay \$500,000. A lawsuit by the widow of the seventh victim is still pending.

LANGUAGE: ENGLISH

2ND CASE of Level 1 printed in FULL format.

IN RE: ARMOUR OIL COMPANY, Debtor. ARMOUR OIL COMPANY,
Plaintiff, v. NATIONAL LABOR RELATIONS BOARD, REGION 32, and
GENERAL TRUCK DRIVERS, WAREHOUSEMEN, HELPERS, AUTOMOTIVE
EMPLOYEES, LOCAL 315, INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA,
Defendants

In re ARMOUR OIL CO.

Case No. LA 84-20720-JD Chapter 11, Adv. No. LA 85-0674-JD

UNITED STATES BANKRUPTCY COURT FOR THE CENTRAL DISTRICT OF
CALIFORNIA

120 L.R.R.M. 3006

May 21, 1985, Decided and Filed; June 5, 1985, entered;
Adopted May 23, 1985

COUNSEL: AILEEN A. ARMSTRONG, Assistant General Counsel for Special Litigation,
National Labor Relations Board, Washington, DC.

PAUL EGGERT, Regional Attorney, Oakland, CA, ATTORNEYS FOR DEFENDANT NATIONAL
LABOR RELATIONS BOARD.

JUDGES: JAMES R. DOOLEY, UNITED STATE BANKRUPTCY JUDGE

OPINIONBY: DOOLEY

OPINION: FINDINGS OF FACT AND CONCLUSIONS OF LAW

DOOLEY, U.S.B.J.

The issue before the Court is whether a preliminary and/or permanent injunction should issue against the National Labor Relations Board ("the Board") enjoining it from proceeding with an unfair labor practice case presently pending against Armour Oil Company, the Plaintiff and Debtor. The Plaintiff contends that the Board's proceedings are subject to the automatic stay provisions of the Code and that this Court has jurisdiction not only to enjoin the Board but to hear the unfair labor practice case. The Board has moved to dismiss the complaint on the ground that the Bankruptcy Court lacks jurisdiction to adjudicate an unfair labor practice and to enjoin a Board proceeding. For the reasons stated below, the Plaintiff's request for injunctive relief, both preliminary and permanent, is denied.

FINDINGS OF FACT

1. The General Truck Drivers, Warehousemen, Helpers, Automotive Employees, Local 315, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America ("the Union") has been the exclusive collective bargaining representative of the employees of the Plaintiff and Debtor, Armour Oil Company, in a unit found appropriate by the National Labor Relations Board ("the Board") since approximately 1970. Plaintiff and the Union have been signatories to a series of collective bargaining agreements, the most recent of which is effective from September 9, 1983 through June 30, 1986. Plaintiff has not

sought to reject said agreement in this Court.

2. On approximately October 8, 1984, Plaintiff closed its Martinez, California facility allegedly without bargaining with the Union concerning the effects of Plaintiff's decision to close the Martinez facility.

3. On October 19, 1984, Plaintiff filed a petition for reorganization under Chapter 11 in the United States Bankruptcy Court for the Central District of California.

4. On November 2, 1984, the Union filed a charge, amended on December 13, with the Board's Thirty-Second Region in Oakland, California, alleging that the Company's refusal to bargain was a violation of the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151 et seq., and on March 7, 1985, the Board's Regional Director for its Thirty-Second Region issued an Amended Complaint and Notice of Hearing alleging that the Plaintiff, by failing and refusing to bargain with the Union concerning the effects of its decision to close the Martinez plant, was engaging in unfair labor practices affecting commerce within the meaning of Sections 8(a)(5) and (1) of the National Labor Relations Act, 29 U.S.C. Sec. 158(a)(5) and (1). (Board Case No. 32-CA-4883.) The Regional Director set a date of May 20, 1985 for the administrative hearing on the unfair labor practice complaint, and filed a contingent Proof of Multiple Claims for Wages, Salaries, or Commissions with this Court for an unliquidated amount.

5. On April 3, 1985, Plaintiff forwarded an Application for Removal under 28 U.S.C. Sections 1452 and 1334 to the United States Bankruptcy Court for the Northern District of California. (Adversary Action No. 4-85-0072.) On April 19, 1985, the Board filed a motion to dismiss the application for removal on the ground that the Board's unfair labor practice proceeding is an action by a governmental unit to enforce its regulatory power and hence is not removable under 28 U.S.C. Sec. 1452. On April 25, 1985, the Bankruptcy Court for the Northern District of California issued an ex parte order granting the Board's motion and denying the application for removal.

6. On April 9, 1985, Plaintiff filed the instant complaint for preliminary and permanent injunctive relief and an ex parte application for a temporary restraining order. A hearing was held on the ex parte application in this Court on April 11, 1985, at which time the Court refused to issue a temporary restraining order. On April 25, 1985, the Plaintiff and the Board, respectively represented by counsel, appeared in this Court at a hearing on the merits of the request for preliminary and permanent injunctive relief.

Based on the oral argument by counsel and the pleadings filed herein by Plaintiff and the Board, I hereby make the following:

CONCLUSIONS OF LAW

A. 28 U.S.C. Sec. 362(b)(4) exempts from the automatic stay "the commencement or continuation of an action by a governmental unit to enforce such unit's police or regulatory power." The National Labor Relations Board is a "governmental unit," and an unfair labor practice proceeding under the National Labor Relations Act, 29 U.S.C. 151 et seq. is an action by the Board to enforce its regulatory power. Accordingly, the Board's proceeding is not automatically stayed. See, *In re Adams Delivery Service, Inc.*, Bkrtcy. App., 24 B.R. 589, 59 (RAP, 9th Cir. 1982); *NLRB v. Evans Plumbing Co.*, 439 F.2d 791, 293 (5th Cir.

12B L.R.R.M. 3006

1981); *Ahrens Aircraft, Inc. v. NLRB*, 703 F.2d 23, 24 (1st Cir. 1983).

B. The National Labor Relations Board is the exclusive public agent chosen by Congress to enforce the provisions of the Labor Act, including the appropriate remedy for a violation of the Act, subject to review by the courts of appeals. 29 U.S.C. Sec. 160(e) and (f); *Nathanson v. NLRB*, 344 U.S. 25, 27 (1952); *In re Tucson Yellow Cab Co., Bkrcy. App.* 27 B.R. 621, 623 (BAP, 9th Cir. 1983). The Board continues to exercise this authority even though an employer may be subject to bankruptcy proceedings. *Nathanson v. NLRB*, supra; *Nathan Yorke v. NLRB*, 709 F.2d 1138, 1142-1143 (7th Cir. 1983), cert. denied, U.S. , 104 S. Ct. 1276; *In re Brada Miller Freight Systems, Inc.*, 16 B.R. 1002, 1013 (N.D. Ala. 1981). The forum of the Board is, therefore, the appropriate one for the determination of whether or not the Plaintiff has committed an unfair labor practice.

C. Neither a preliminary nor a permanent injunction is appropriate in the instant circumstances, where there appear to be no valid reasons to enjoin the Board's proceeding. The Board is better equipped than this Court to make unfair labor practice determinations (Cf. *NLRB v. Rildisco and Rildisco*, U.S. , 104, S. Ct. 1188, 1200 (1984)); the Bankruptcy Court for the Northern District of California has refused to allow the removal of the Board's proceeding; and the Board's proceeding will not threaten the assets of the debtor's estate. (*In re Bel Air Chateau Hospital, Inc.*, 611 F.2d 1248, 1251 (9th Cir. 1979); *In re Tucson Yellow Cab Co., Inc.*, supra; *In re Brada Miller Freight Systems, Inc.*, 16 B.R. 1002, 1012-1013 (N.D. Ala. 1981)). In the event the Board finds that an unfair labor practice has been committed and perfects its proof of claims this Court will determine questions of allowability and distribution under the Bankruptcy Code. Accordingly, Plaintiff's request for injunctive relief will be denied.

RECOMMENDATION

The Bankruptcy Court finds that the Board's unfair labor practice proceeding is an action by a governmental unit to enforce such unit's regulatory power and, accordingly, is exempt from the automatic stay provision of the Code (see 28 U.S.C. 362(b)(4)) and from removal to Bankruptcy Court (see 28 U.S.C. 1452); and it further finds that the forum of the National Labor Relations Board is proper for resolution of the alleged unfair labor practice case and for perfection of the Board's proof of claim. The Bankruptcy Court having denied Plaintiff's request for injunctive relief, it is hereby

RECOMMENDED, that the District Court dismiss the complaint, and that each party bear its own costs.

Dated at Los Angeles, California this 21st day of May, 1985.

ORDER ADOPTING FINDINGS OF FACT AND CONCLUSIONS OF LAW ARMOUR OIL COMPANY, AND DENYING PRELIMINARY AND PERMANENT INJUNCTION - May 23, 1985, Filed; June 5, 1985, Entered

The hearing on the motion brought by Armour Oil Company ("Armour") for a preliminary injunction and permanent injunction against the National Labor Relations Board, Region 32 ("NLRB") and the General Truck Drivers,

120 L.R.R.M. 3006

Warehousemen, Helpers, Automotive Employees, Local 315, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America ("Teamsters") was heard by the bankruptcy court on April 25, 1985 at 10:30 a.m. Armour appeared through Sulmeyer, Kupetz, Baumann & Rothman, a professional corporation by Jan E. Copley; the NLRB appeared through Corinna L. Metcalf. No appearance was made on behalf of the Teamsters. Based upon the Proposed following Findings of Fact and Conclusions of Law and the recommendation of the bankruptcy court, it is hereby

ORDERED:

1. The bankruptcy court's proposed findings of fact and conclusions of law are adopted.
2. Armour's complaint for a preliminary and permanent injunction is denied.
3. Each party shall bear its own costs.

1ST CASE of Level 1 printed in FULL format.

In Re Camino Real Landscape Maintenance Contractors, Inc., Debtor; United States Of America, Plaintiff-Appellant, v. Camino Real Landscape Maintenance Contractors, Inc., Defendant-Appellee; In Re Hadrian Construction, Inc., Debtor; United States Of America, Plaintiff-Appellant, v. Hadrian Construction, Inc., Defendant-Appellee; In Re Armour Oil Company, Debtor; United States of America, Plaintiff-Appellant v. Armour Oil Company, Defendant-Appellee

In re Camino Real Landscape Maintenance Contrs.

Nos. 86-6165, 86-6174, 86-6310

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

818 F.2d 1503; 1987 U.S. App. LEXIS 7161; 88-1 U.S. Tax Cas. (CCH) P9225; 61 A.F.T.R.2d (P-H) 496; Bankr. L. Rep. (CCH) P71,859; 16 Collier Bankr. Cas. 2d (MB) 1341; 17 Collier Bankr. Cas. 2d (MB) 1341

April 8, 1987, Argued and Submitted
June 5, 1987, Filed

PRIOR HISTORY:

[**1] Appeal from the United States District Court for the Southern District of California, James W. Meyers, Chief Bankruptcy Judge, Presiding, D.C. Nos. CV-86-0150-G, CV-85-3000-G, and CC-86-1103.

COUNSEL: Raymond W. Hepper, for the Plaintiff/Appellant.

Diane H. Sparrow, Richard R. Ravreby, David S. Kupetz, for the Defendants/Appellees.

JUDGES: Joseph T. Sneed, Robert Boochever and David R. Thompson, Circuit Judges.

OPINIONBY: SNEED

OPINION: [*1504] SNEED, Circuit Judge:

These three cases, arising out of chapter 11 reorganizations, pose a single issue. That is, what rate of interest on deferred payments of federal taxes will provide the government with payments having a present value equal to the allowed amount of its claim, as required by 11 U.S.C. § 1129(a)(9)(C). We hold that the debtor must pay the government interest at the rate the debtor would pay a commercial lender for a loan of equivalent amount and duration, considering the risk of default and any security. Accordingly we uphold the judgment of the Bankruptcy Appellate Panel in the matter of Armour Oil Co. (Armour). We reverse the judgments of the district court in the matters of Camino Real Landscape Maintenance Contractors, Inc. (Camino Real) and [**2] Hadrian Construction, Inc. (Hadrian).

ENVIRONMENTAL
PROTECTION
95 MAR 15 PM 1:20

818 F.2d 1503, *1504; 1987 U.S. App. LEXIS 7161, **2;
88-1 U.S. Tax Cas. (CCH) P9225; 61 A.F.T.R.2d (P-H) 496

I.

FACTS AND PROCEEDINGS BELOW

Each of the three debtors in these consolidated cases filed a petition for reorganization under chapter 11 of the Bankruptcy Code. The government filed a proof of claim for unpaid taxes in each proceeding. The government's claims were entitled to seventh priority. n1 11 U.S.C. § 507(a)(7). The debtors submitted plans of reorganization that proposed to defer payment of the tax claims under 11 U.S.C. § 1129(a)(9)(C). That section permits a court to confirm a plan if the holders of tax claims consent, or if they "will receive on account of such claim deferred cash payments, over a period not exceeding six years after the date of assessment of such claim, of a value, as of the effective date of the plan, equal to the allowed amount of such claim." Id.

-Footnotes-

n1 Section 507(a)(7) applies only to "unsecured claims of governmental units." (Emphasis added.) A large portion of the government's tax claim against Camino Real was secured by tax liens. Secured claims are not entitled to priority under § 507(a)(7), so 11 U.S.C. § 1129(a)(9)(C) does not apply to them. This case raises only an issue concerning the interpretation of § 1129(a)(9)(C). However, language similar to the language of § 1129(a)(9)(C) appears in 11 U.S.C. §§ 1129(a)(7) and 1129(b)(2)(A) -- subsections that apply to secured claims. Hence our analysis in this case will be useful to courts in considering secured, as well as unsecured, tax claims. See *United States v. Neal Pharmacal Co.*, 789 F.2d 1283, 1284 n.2 (8th Cir. 1986).

-End Footnotes-

[**3]

The government objected to the rates of interest on tax payments that were proposed under the three plans. Hadrian and Camino Real proposed to pay interest at a rate equal to the rate of increase in the Consumer Price Index. Armour proposed to pay interest at the treasury bill rate. The government requested interest at the rate set by 26 U.S.C. § 6621 for delinquent taxes. This rate was 11% on the effective dates of the plans in Hadrian and Camino Real, and 10% on the effective date of the plan in Armour.

In Hadrian, the bankruptcy court fixed the rate at 9% on the government's claim. The court selected the 9% rate after noting that the yields on treasury bonds, notes, and bills were 9.3%, 9.11%, and 9.8%. Excerpt of Record (E.R.) at 14-15. The same court approved the plan proposed by Camino Real after ordering that debtor to pay interest at 9% on the government's claim. The court noticed that treasury notes yielded 8.4% at the time. E.R. at 47. A different bankruptcy court, in approving the plan proposed by Armour, ordered the debtor to pay 8% interest on the government's claim. That court considered the treasury bill rate (7.02%), E.R. at 105, the § 6621 [**4] rate (11%), E.R. at 111-12, current market conditions, id., interest rates generally paid by borrowers, E.R. at 113, and the fact that the [*1505] government's claim was secured, E.R. at 113-14.

The government appealed to the district court the Hadrian and Camino Real orders. The district court consolidated the cases and affirmed without an

818 F.2d 1503, *1505; 1987 U.S. App. LEXIS 7161, **4;
88-1 U.S. Tax Cas. (CCH) P9225; 61 A.F.T.R.2d (P-H) 496

opinion. The government appealed the Armour order to the Ninth Circuit Bankruptcy Appellate Panel. The panel affirmed, relying on its prior decision in *In re Welco Industries, Inc.*, 60 Bankr. 880 (Bankr. 9th Cir.), appeal dismissed for lack of juris., No. 86-3918 (9th Cir. 1986). The government then appealed all three decisions to this court, which ordered the appeals consolidated.

II.

STANDARD OF REVIEW

We review de novo the district court's decision. Hence we review the bankruptcy court's findings of fact for clear error, and its conclusions of law de novo. *In re Acequia, Inc.*, 787 F.2d 1352, 1357 (9th Cir. 1986). We review the bankruptcy appellate panel's decision in the same fashion. *In re Center Wholesale, Inc.*, 759 F.2d 1440, 1445 (9th Cir. 1985).

III.

DISCUSSION

A. Calculating Present Value.

The government contends [**5] that under none of the plans will it receive that to which it is entitled, viz., "deferred cash payments . . . of a value, as of the effective date of the plan, equal to the allowed amount of [its tax claims]," 11 U.S.C. § 1129(a)(9)(C). We agree with regard to the plans proposed by Hadrian and Camino Real. We turn to the legislative history for support. The House Report says that "value, as of the effective date of the plan," as used in § 1129(a)(9)(C) and several other sections of the Bankruptcy Code, "indicates that the promised payment under the plan must be discounted to present value as of the effective date of the plan." H.R. Rep. No. 595, 95th Cong., 1st Sess. 408, reprinted in 1978 U.S. Code Cong. & Admin. News 5963, 6364. The joint explanatory statement of Senator DeConcini and Representative Edwards confirms that a present value analysis was intended. 124 Cong. Rec. 32,406, 34,006 (1978).

A standard bankruptcy treatise explains what a present value analysis entails.

The appropriate discount rate must be determined on the basis of the rate of interest which is reasonable in light of the risks involved. Thus, in determining the discount rate, the court must consider [**6] the prevailing market rate for a loan of a term equal to the payout period, with due consideration of the quality of the security and the risk of subsequent default.

5 Collier on Bankruptcy para. 1129.03[4][f][i], at 1129-65 (15th ed. 1987). If the government receives interest at a rate equal to the appropriate discount rate, its aggregate receipts over the payment period will equal the present value of its tax claims. This is what § 1129(a)(9)(C) requires.

All agree the above quotation from Collier on Bankruptcy states the proper rule. Both of the circuit courts that have considered the meaning of § 1129(a)(9)(C) have relied on it. *United States v. Neal Pharmacal Co.*, 789 F.2d

818 F.2d 1503, *1505; 1987 U.S. App. LEXIS 7161, **6;
88-1 U.S. Tax Cas. (CCH) P9225; 61 A.F.T.R.2d (P-H) 496

1283, 1285 (8th Cir. 1986); In re Southern States Motor Inns, Inc., 709 F.2d 647, 651 (11th Cir. 1983), cert. denied, 465 U.S. 1022, 79 L. Ed. 2d 680, 104 S. Ct. 1275 (1984). The Ninth Circuit Bankruptcy Appellate Panel also quoted it. Welco, 60 Bankr. at 882. Indeed, the government relies on it. Appellant's Opening Brief at 30.

Unanimity disappears upon application, however. The government, for example, argues that the proper interest rate for deferred taxes is determined by a very specialized market. That market, [**7] it insists, must be determined by applying 26 U.S.C. § 6621. The proper rate is that which this section makes generally applicable to deferred federal taxes. Id. at 39; Appellant's Reply Brief at 7 n3.

We reject the government's suggestion that the interest rate on deferred taxes for purposes of § 1129(a)(9)(C) is fixed as § 6621 provides. The legislative history of [*1506] § 1129(a)(9)(C) indicates that the rate of interest on deferred taxes should be the rate of interest that the debtor would pay to borrow a similar amount on similar terms in the commercial loan market. The debtor's characteristics determine the interest rate. The creditor's characteristics are irrelevant. Hence the fact that a particular debt arises from taxes due to the government does not affect the appropriate interest rate. It continues to be determined by the commercial loan market.

B. The Relevance of the Interest Rate on Treasury Obligations.

The government is correct when it argues that a bankruptcy court may not calculate the § 1129(a)(9)(C) rate on the basis of interest rates paid on treasury obligations. The treasury rate is the government's cost of borrowing, which is relatively quite low because [**8] to the lender the government's obligation is a short-term, low risk investment. The obligation of a private borrower is quite different; its creditworthiness is not the same as the federal government's. It cannot borrow money on the favorable terms available to the government.

Thus, in Hadrian and Camino Real the designated rate of interest is incorrect. In both the bankruptcy court relied on the rate of interest on treasury obligations. The court slipped into this position by reasoning that the government could borrow at the treasury rate to replenish its funds while it waited for the debtor to make payments. Congress did not provide for such an approach. Under the bankruptcy court's approach, the government would incur an unconditional obligation to repay the money it was required to borrow, and would receive in exchange only an inherently risky promise by the debtor to repay the same amount over the applicable time period at essentially the same rate paid by the government on its obligation. The government would be worse off as a result of the exchange. To be properly compensated, it must receive the rate of interest based on the debtor's cost of borrowing, not the government's. [**9] See Neal, 789 F.2d at 1286. There is not indication that Congress meant to subsidize debtors undergoing reorganization by making available to them the government's own favorable rate of interest.

Nevertheless, the government overstates its case when it declares that "rates applicable to Treasury obligations . . . are wholly irrelevant." Appellant's Opening Brief at 34. The interest rate on treasury bills is one indicator of the range of prevailing market interest rates. It is an appropriate starting point

818 F.2d 1503, *1506; 1987 U.S. App. LEXIS 7161, **9;
88-1 U.S. Tax Cas. (CCH) P9225; 61 A.F.T.R.2d (P-H) 496

for calculating the § 1129(a)(9)(C) rate of interest. See 5 Collier on Bankruptcy para. 1129.03[4][f][ii], at 1129-63 n.45. Moreover, the government's preferred rate, the § 6621 rate, now will be based on treasury rates. 26 U.S.C. § 6621(a)(2). Rates of interest on treasury obligations reflect the proper return on a riskless loan after adjustment for inflation. Only the estimated cost of deferring present use by the lender and the projected rate of inflation influence this rate. A lender to one other than the government also must include in his return a significant element to compensate for the risk of default. It follows that treasury rates are relevant to -- but not the same [**10] as -- the § 1129(a)(9)(C) rate.

C. The Relevance of the Interest Rate on Delinquent Federal Income Tax Payments.

At the times when the rates were set in these cases the § 6621 rate was based on the prime rate, the most favorable short term rate the commercial banks charged their most trustworthy customers. While it is true the § 6621 rate compensates the government more adequately than would the treasury bill rate, it remains true that Congress did not make it the § 1129(a)(9)(C) rate. Both the Eighth and Eleventh Circuits have refused to adopt the § 6621 rate. It is not an appropriate proxy for the relevant market rate. The § 6621 rate could lag behind the true market rate and thus be disadvantageous to the government. Moreover, it does not take account of the duration of the deferment of present use, the security, or the risk. Finally, Congress used the phrase "value, as of the [*1507] effective date of the plan" in other sections of the Bankruptcy Code that have nothing to do with the deferred payment of taxes. Congress presumably intended the phrase to have a single meaning in all cases, including this one. Neal, 789 F.2d at 1288-89; Southern States, 709 F.2d at 651-52 & [**11] n.6.

The United States points out that, under the new tax law, a lag will no longer exist because the § 6621 rate will be adjusted monthly. This does not correct a deeper problem, however. The § 6621 rate reflects tax objectives, not those of the bankruptcy law. It is true that in the 1986 amendments to the Internal Revenue Code, Congress chose to conform the § 6621 rates to the prevailing level of interest rates in the economy. See H.R. Rep. No. 426, 99th Cong., 1st Sess. 849 (1985); S. Rep. No. 313, 99th Cong., 2d Sess. 184 (1986). But this has not always been the case. From 1935 until the 1960s, Congress fixed the rate higher than prevailing market interest rates in order to encourage taxpayers to pay their taxes promptly. See S. Rep. No. 1357, 93d Cong., 2d Sess. 19, reprinted in 1974 U.S. Code Cong. & Admin. News 7478, 7495. Congress might return to this policy, or choose another policy consistent with perceived tax objectives. n2

-----Footnotes-----

n2 With respect to deferred payments of state and local taxes, these concerns are already more than hypothetical. Section 1129(a)(9)(C) applies to all tax payments, not just federal tax payments. According to the government's analysis, a debtor must pay interest on deferred state and local taxes at the rate that the state or local government charges on delinquent tax payments. These statutory rates may include a punitive element that is contrary to the purposes of the Bankruptcy Code. See, e.g., In re Fi-Hi Pizza, Inc., 40 Bankr. 258, 269-71 (Bankr. D. Mass. 1984) (court infers a punitive intention behind Massachusetts' rate of 18% on delinquent taxes and, in a well-reasoned

818 F.2d 1503, *1507; 1987 U.S. App. LEXIS 7161, **11;
88-1 U.S. Tax Cas. (CCH) P9225; 61 A.F.T.R.2d (P-H) 496

opinion, sets the § 1129(a)(9)(C) rate at 13.5% to reflect current market rates); see also *In re Venable*, 48 Bankr. 853, 856-57 (S.D.N.Y. 1985) (debtor ordered to pay interest on city's prepetition real estate tax lien at 14% under 11 U.S.C. § 1325(a)(5)(B)(ii), despite provision in city charter setting rate on unpaid taxes at 18%). These examples illustrate the dangers inherent in pegging the § 1129(a)(9)(C) rate to rates imposed on delinquent taxes. The interest rates on delinquent taxes can reflect a desire to punish, which is inimical to financial rehabilitation of the debtor.

- - - - -End Footnotes- - - - -
[**12]

The government in effect contends that taxes deferred under § 1129(a)(9)(C) are taxes "not paid on or before the last date prescribed for payment," within the meaning of 26 U.S.C. § 6601(a), which therefore must incur interest at the rate prescribed under § 6621. This analysis ignores the fact that § 1129(a)(9)(C) postpones the "last date prescribed for payment." Therefore § 6621, by its own terms, does not apply.

We readily acknowledge, however, that as long as the § 6621 rate tracks market rates, a bankruptcy court may consider it when setting the interest rate under § 1129(a)(9)(C). See *Neal*, 789 F.2d at 1288 (§ 6621 rate is "clearly relevant" to setting the § 1129(a)(9)(C) rate, but cannot be adopted as a *per se* rule); *Southern States*, 709 F.2d at 653 (adopting the § 6621 rate because the government found it adequate and market rates were higher). But the § 1129(a)(9)(C) rate is not the § 6621 rate as a matter of law.

D. The Relevance of Other Factors.

While the government concedes in principle that the § 1129(a)(9)(C) rate should reflect the term of deferment of present use and risk of default, as affected by any security, it contends that none of the debtors in these [**13] cases introduced sufficient evidence to make these adjustments. We agree with this observation with respect to *Hadrian* and *Camino Real*. We disagree with respect to *Armour*.

First, the bankruptcy court in *Armour* considered evidence that interest rates had declined since the § 6621 rate was last adjusted. This trend in due course would affect all interest rates. Therefore the evidence was relevant. Second, the *Armour* court reduced the § 1129(a)(9)(C) rate because the government's claim was secured. The § 6621 rate is not reduced when the government has a tax lien to secure payment of delinquent taxes by an ordinary taxpayer. The adjustment was proper because market interest rates are usually [**1508] lower when a loan is secured. See *Neal*, 789 F.2d at 1288 n.11.

Finally, the *Armour* court increased the treasury bill rate by 2% for risk, then decreased it by 1% to account for the security. The government claims that the magnitude of these adjustments was arbitrary. To some degree that may be true. But rough estimates are better than no estimates. We are willing to rely on the expertise of the bankruptcy judge in a case such as this, particularly where no contrary evidence [**14] was introduced. A bankruptcy court should be accorded substantial deference in these matters because it has "almost daily experience with the rates charged by actual commercial lenders and other financier's [sic] of chapter 11 debtors." *In re Fi-Hi Pizza*, 40 Bankr. 258,

818 F.2d 1503, *1508; 1987 U.S. App. LEXIS 7161, **14;
88-1 U.S. Tax Cas. (CCH) P9225; 61 A.F.T.R.2d (P-H) 496

271 (Bankr. D. Mass. 1984). We uphold the bankruptcy court's judgment here.

IV.

CONCLUSION

It follows that we reject the government's argument that it is entitled to interest at the 26 U.S.C. § 6621 rate on tax payments deferred under 11 U.S.C. § 1129(a)(9)(C). We hold that the bankruptcy court must make a case-by-case determination of what interest rate the reorganizing debtor would have to pay a creditor in order to obtain a loan on equivalent terms in the open market. In Hadrian and Camino Real, the bankruptcy court erroneously equated the § 1129(a)(9)(C) rate with the government's borrowing costs, as evidenced by the rate of interest on treasury obligations. We reverse the district court judgments upholding these decisions and remand to the district court with instructions to remand to the bankruptcy court for a determination of the correct § 1129(a)(9)(C) rates in accordance with this opinion. For **[**15]** reasons already stated, we affirm the decision in Armour.

AFFIRMED as to No. 86-6310.

REVERSED as to Nos. 86-6165 and 86-6174.

of 6

This Agreement is made as of the 17th day of October, 19 83, between **ARCO Petroleum Products Company** (a division of Atlantic Richfield Company incorporated in Pennsylvania) with an office at 400 South El Camino Real, San Mateo, California 94402-0811 hereinafter referred to as "ARCO", and Armour Oil Company #1 hereinafter referred to as "Buyer" with delivery premises at 4191 1st Street, Pleasanton, California 94566 (herein called "premises").

WITNESSETH:

With respect to such petroleum product motor fuels comprising gasolines and gasoline containing materials (herein called "Product") as Buyer may purchase and receive from ARCO and ARCO may sell and deliver to Buyer hereunder during the term hereof, it is agreed that the following terms and conditions shall apply:

Term

1. This Agreement shall commence at 10:00 a.m. on the 17th day of October, 19 83, and shall terminate at 10:00 on the 16th day of October, 19 84. Notwithstanding the foregoing, in the event of the expiration or termination of Buyer's right of possession of the premises to which delivery of Product hereunder is to be made before the end of the term hereof, this Agreement shall automatically terminate concurrently with the expiration or termination of Buyer's right of possession of the premises.

Delivery

2. ARCO agrees to deliver Product sold hereunder to Buyer's premises by such method of delivery, and in such minimum quantities per single delivery, as ARCO shall elect. Buyer agrees that, at all times during the term hereof, Buyer will have available on said premises storage facilities into which said Product may be delivered which shall conform with all laws and governmental regulations and which shall be in such capacity as to be able to receive such quantities of Product as ARCO shall prescribe as minimum deliverable quantities.

Quantity

3. During the term hereof, ARCO agrees to sell and deliver to Buyer for resale from said premises, and Buyer agrees to purchase and receive from ARCO the minimum monthly quantity and minimum quarterly quantity of ARCO's Product as set forth below:

Quarterly Period 1

	Minimum	Maximum
January	<u>129,500</u>	<u>185,000</u>
February	<u>129,500</u>	<u>185,000</u>
March	<u>129,500</u>	<u>185,000</u>

Total quarterly minimum 388,500 gallons

Quarterly Period 2

	Minimum	Maximum
April	<u>129,500</u>	<u>185,000</u>
May	<u>129,500</u>	<u>185,000</u>
June	<u>129,500</u>	<u>185,000</u>

Total quarterly minimum 388,500 gallons

Quarterly Period 3

	Minimum	Maximum
July	<u>129,500</u>	<u>185,000</u>
August	<u>129,500</u>	<u>185,000</u>
September	<u>129,500</u>	<u>185,000</u>

Total quarterly minimum 388,500 gallons

Quarterly Period 4

	Minimum	Maximum
October	<u>129,500</u>	<u>185,000</u>
November	<u>129,500</u>	<u>185,000</u>
December	<u>129,500</u>	<u>185,000</u>

Total quarterly minimum 388,500 gallons

Total annual minimum 1,554,000 gallons

ENVIRONMENTAL PROTECTION
 95 MAR 15 PM 1:21

Signs, Sign Poles And Graphics

6 of 6

22. ARCO, reserving the right of addition, change and substitution, may lend to Buyer signs, sign poles and graphics that are or shall be owned by ARCO and installed at the above premises which shall remain the property of ARCO and removable at any time by ARCO as trade fixtures, but which Buyer shall not remove or permit to be removed from the place of installation. ARCO shall be responsible for maintaining the signs, sign poles and graphics but the Buyer shall be responsible for damage or loss to the signs, sign poles and graphics.

Upon termination or non-renewal of this Agreement for any reason, ARCO shall have the right and Buyer shall permit ARCO to enter upon the premises, with or without legal process, and remove all or any of ARCO's property at the premises.

At its election, ARCO may keep its property in place for a reasonable time after termination or non-renewal of this Agreement to negotiate for its sale or other disposition.

Relationship of Parties

23. Neither Buyer nor any of its employees shall hold itself out at any time as an agent, representative, partner, joint venturer or employee of ARCO. Buyer shall have no authority, right or power to, and shall not bind nor obligate ARCO in any way, manner or thing whatsoever, nor shall Buyer represent that it has any right or power to do so. Buyer shall undertake all obligations herein described as an independent contractor and shall exercise and be responsible for the exclusive control of the premises and all activities conducted therein and therefrom. Buyer shall conduct all business in all Product purchased from ARCO in Buyer's name, conspicuously displaying Buyer's name on the premises as owner and/or operator of the premises.

Prior Agreements

24. This Agreement automatically supersedes and terminates, as of the effective date hereof, any and all other contracts, agreements or understandings, written or oral, between the parties, covering sale and delivery of Product to Buyer at the premises for resale therefrom.

Buyer acknowledges having read this Agreement and fully understanding all of the terms, provisions and conditions hereof.

This Agreement is not binding until executed by Buyer and by an authorized officer or manager of ARCO.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

Buyer: Armour Oil Company #1
Henry O. Adams by: Roger L. Nelson
Date 10/17/83
ARCO Petroleum Products Company
Division of AtlanticRichfieldCompany
Title: Manager, Contract Dealer Acquisitions

Consent and Confirmation

Each of the undersigned, as owner, part owner, mortgagee, or lien holder, for himself, his legal representatives, successor and assigns, in consideration of the installation or continuance in place of signs, sign poles and graphics covered by the foregoing agreement, hereby consents thereto and agrees to be bound by the terms and conditions thereof with respect to installation, removal, substitution, maintenance or disposition, and hereby waives all right to hold, distrain, mortgage, claim or levy upon any of such signs, sign poles and graphics or any part thereof.

WITNESS our signatures this _____ day of _____, 19_____.

Witness: _____ Party in interest to property: _____

of 6

This Agreement is made as of the 12th day of October, 19 84, between **ARCO Petroleum Products Company** (a division of Atlantic Richfield Company-incorporated in Pennsylvania) with an office at 2000 Alameda de las Pulgas, San Mateo, CA 94403

AUSD

hereinafter referred to as "ARCO", and **ARMOUR OIL COMPANY #1** hereinafter referred to as "Buyer" with delivery premises at 4191 1st Street, Pleasanton, CA 94566 (herein called "premises").

WITNESSETH:

With respect to such petroleum product motor fuels comprising gasolines and gasoline containing materials (herein called "Product") as Buyer may purchase and receive from ARCO and ARCO may sell and deliver to Buyer hereunder during the term hereof, it is agreed that the following terms and conditions shall apply:

Term

1. This Agreement shall commence at 10:00 a.m. on the 16th day of October, 19 84, and shall terminate at 10:00 a.m. on the 1st day of November, 19 87. Notwithstanding the foregoing, in the event of the expiration or termination of Buyer's right of possession of the premises to which delivery of Product hereunder is to be made before the end of the term hereof, this Agreement shall automatically terminate concurrently with the expiration or termination of Buyer's right of possession of the premises.

Delivery

2. ARCO agrees to deliver Product sold hereunder to Buyer's premises by such method of delivery, and in such minimum quantities per single delivery, as ARCO shall elect. Buyer agrees that, at all times during the term hereof, Buyer will have available on said premises storage facilities into which said Product may be delivered which shall conform with all laws and governmental regulations and which shall be in such capacity as to be able to receive such quantities of Product as ARCO shall prescribe as minimum deliverable quantities.

Quantity

3. During the term hereof, ARCO agrees to sell and deliver to Buyer for resale from said premises, and Buyer agrees to purchase and receive from ARCO the minimum monthly quantity and minimum quarterly quantity of ARCO's Product as set forth below:

ENVIRONMENTAL PROTECTION

95 MAR 15 PM 1:24

Quarterly Period 1

	Minimum	Maximum
January	152,682	218,116
February	158,210	226,013
March	171,372	244,816

Total quarterly minimum 482,264 gallons

Quarterly Period 2

	Minimum	Maximum
April	142,278	203,253
May	129,500	185,000
June	129,500	185,000

Total quarterly minimum 401,278 gallons

Quarterly Period 3

	Minimum	Maximum
July	129,500	185,000
August	129,500	185,000
September	129,500	185,000

Total quarterly minimum 388,500 gallons

Quarterly Period 4

	Minimum	Maximum
October	36,247	51,781
November	159,301	227,572
December	159,852	227,522

Total quarterly minimum 355,401 gallons

Total annual minimum 1,627,443 gallons

22. ARCO, reserving the right of addition, change and substitution, may lend to Buyer signs, sign poles and graphics that are or shall be owned by ARCO and installed at the above premises which shall remain the property of ARCO and removable at any time by ARCO as trade fixtures, but which Buyer shall not remove or permit to be removed from the place of installation. ARCO shall be responsible for maintaining the signs, sign poles and graphics but the Buyer shall be responsible for damage or loss to the signs, sign poles and graphics.

Upon termination or non-renewal of this Agreement for any reason, ARCO shall have the right and Buyer shall permit ARCO to enter upon the premises, with or without legal process, and remove all or any of ARCO's property at the premises.

At its election, ARCO may keep its property in place for a reasonable time after termination or non-renewal of this Agreement to negotiate for its sale or other disposition.

Relationship of Parties

23. Neither Buyer nor any of its employees shall hold itself out at any time as an agent, representative, partner, joint venturer or employee of ARCO. Buyer shall have no authority, right or power to, and shall not bind nor obligate ARCO in any way, manner or thing whatsoever, nor shall Buyer represent that it has any right or power to do so. Buyer shall undertake all obligations herein described as an independent contractor and shall exercise and be responsible for the exclusive control of the premises and all activities conducted therein and therefrom. Buyer shall conduct all business in all Product purchased from ARCO in Buyer's name, conspicuously displaying Buyer's name on the premises as owner and/or operator of the premises.

Prior Agreements

24. This Agreement automatically supersedes and terminates, as of the effective date hereof, any and all other contracts, agreements or understandings, written or oral, between the parties, covering sale and delivery of Product to Buyer at the premises for resale therefrom.

Buyer acknowledges having read this Agreement and fully understanding all of the terms, provisions and conditions hereof.

This Agreement is not binding until executed by Buyer and by an authorized officer or manager of ARCO.

IN WITNESS WHEREOF the parties have executed this agreement the day and year first above written.

Buyer Title: [Signature] ARCO Petroleum Products Company Division of AtlanticRichfieldCompany
[Signature] J. D. Kowal
Armour Oil Company #1
Date 10/12/84

Handwritten initials and date: 10/12/84

Handwritten signature

Title: _____ Region _____ Manager

Consent and Confirmation

Each of the undersigned, as owner, part owner, mortgagee, or lien holder, for himself, his legal representatives, successor and assigns, in consideration of the installation or continuance in place of signs, sign poles and graphics covered by the foregoing agreement, hereby consents thereto and agrees to be bound by the terms and conditions thereof with respect to installation, removal, substitution, maintenance or disposition, and hereby waives all right to hold, distraint, mortgage, claim or levy upon any of such signs, sign poles and graphics or any part thereof.

WITNESS our signatures this _____ day of _____, 19____.

Witness:

Party in interest to property:

ARCO Petroleum Products Company

400 South El Camino Real
Mailing Address: Box 5811
San Mateo, California 94402
Telephone 415 348 8600



ENVIRONMENTAL
PROTECTION

95 MAR 15 PM 1:21

SS# 90756

October 17, 1983
(Date)
Armour Oil Company #1
(Dealer's Name)
4191 1st Street
(Facility Address)
Pleasanton, CA. 94566
(City State Zip)

Dear Dealer:

There are increasing requirements being developed by local, state and federal agencies designed to better control quality of air, water and the environment. Some of these regulations establishing such requirements at the service station level have already been adopted with fixed compliance dates. Others are in the formative stage both as to the regulation and the compliance date.

These regulations cover, but are not limited to, the use of submerged fill pipes in underground tanks, control of vapors resulting from filling motor vehicle gasoline tanks, restrictions on waste water disposal and occupational safety and health requirements.

We suggest that you may want to consult the appropriate regulatory agencies, local, state and federal, for specific information concerning existing and proposed regulations affecting your service station since it is your responsibility to meet these requirements.

Very truly yours,

ARCO PETROLEUM PRODUCTS COMPANY,
A division of Atlantic Richfield Company

By: [Signature]
L. D. Murphy Region Manager

RECEIPT ACKNOWLEDGED THIS 17th DAY OF October, 1983
[Signature]
(Dealers Signature)
Armour Oil Company



Date: FEBRUARY 18, 1988

Subject: DEALER CHANGE/LEASE RENEWAL/CONVERSION/ASSIGNMENT/
~~PERMANENTLY CLOSED~~/SITE ACQUISITION

From/Location: M. A. SNOW SFO REGION

To/Location:	FIELD ENGINEER	R. L. KNUTSON
	MAINTENANCE SUPERVISOR	M. D. McDONALD
	J. A. BARIA	LAURIE POWERS - MG BOOKKEEPING
	LEE ELLEN COLE CPS-250	M. J. SANTA MARIA
	T. A. CRISCIONE	K. M. SCHULTHEIS
	VICKIE ELLIS AP-1881	H. J. SHEETZ
	T. J. ERNANI	P. H. SHOEMAKER
	T. J. FITCH AP-6-109	ADMINISTRATIVE ASSISTANTS

Please be advised that the following changes have been made at the service station listed below:

ENVIRONMENTAL PROTECTION
95 MARCH 5 PM 1:21

1. CIRCLE ONE: DEALER CHANGE/LEASE RENEWAL/CONVERSION/ASSIGNMENT/
PERMANENTLY CLOSED/SITE ACQUISITION/OTHER: _____

2. #: 90756 TELEPHONE: 415/462-1365

3. ACCOUNT NUMBER: 0531079

4. ADDRESS: 4191-1st STREET, PLEASANTON, CA 94566

5. OUTGOING DEALER: SAN DIEGO ARMOUR OIL COMPANY #1

6. INCOMING DEALER: ---

7. TYPE OF PREMISES LEASE: FROM: APPC-38-A (10/81)
TO: ---

8. TYPE OF MINI-MARKET LEASE: FROM: ---
TO: ---

9. EFFECTIVE DATE: ---

10. PRICE ZONE: 7415

11. DATE CLOSED: 12/31/87

12. SALES REPRESENTATIVE: PHIL WRIGHT

ARMOUR OIL COMPANY

February 18, 1988

ENVIRONMENTAL
PROTECTION
95 MAR 15 PM 1:21

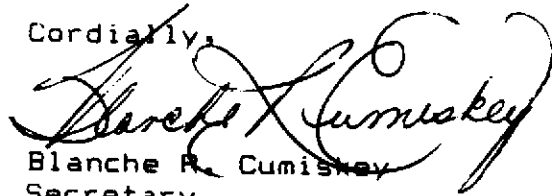
Ms. Michele D. McDonald
ARCO Petroleum Products Company
Box 5811
San Mateo, CA 94402

Dear Ms. McDonald:

Enclosed please find the executed documents that you requested on our Facility #90756 located at 4191 First Avenue, Pleasanton, California. Armour Oil Company stopped operating this location on December 13, 1987. The property was sold to Union Oil Company on February 9, 1988.

If you have further questions, please feel free to call me.

Cordially,



Blanche R. Cumiskey
Secretary

RECEIVED
SAN FRANCISCO REGION

Atlantic Richfield Company

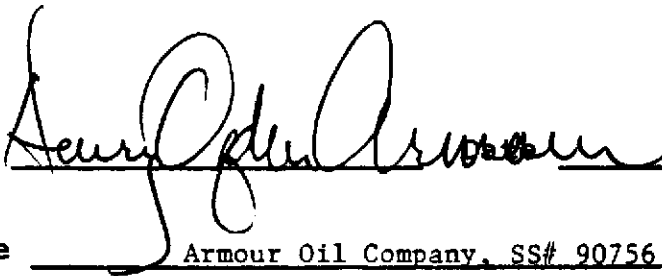
400 South El Camino Real

San Mateo, California 94402-0811

ATTENTION: L. D. Murphy

I have received and read Atlantic Richfield Company's
booklet A Statement to Our Dealers on Resale Prices.
I understand that I am free to establish whatever resale
prices I feel appropriate.

Dealer Signature

 10/17/83

Print Dealer Name

Armour Oil Company, SS# 90756

Station Address

4191 1st Street

Pleasanton, California 94566

ARCO Petroleum Products Company

2000 Alameda de las Pulgas
Mailing Address: Box 5811
San Mateo, California 94402
Telephone 415 571 2400



QUARTERLY MINIMUM DEFAULT NOTICE

FACILITY NUMBER 90756

CERTIFIED MAIL: P 017 611 493
RETURN RECEIPT REQUESTED

OCT 7, 1987

TO: SAN DIEGO ARMOUR OIL CO #1
4191 1ST STREET
PLEASANTON CA 94566

#0531079

SUBJECT: DEFAULT NOTICE

ENVIRONMENTAL
PROTECTION

YOU ARE HEREBY NOTIFIED THAT YOU ARE IN DEFAULT OF YOUR OBLIGATIONS UNDER THE TERMS AND CONDITIONS OF THE CONTRACT DEALER GASOLINE AGREEMENT BETWEEN YOU AND ARCO PETROLEUM PRODUCTS COMPANY, A DIVISION OF ATLANTIC RICHFIELD COMPANY IN EFFECT ON THE DATE OF THE DEFAULT, WHICH AGREEMENT RELATES TO BUSINESS ACTIVITY CONDUCTED BY YOU AT THE ADDRESS SHOWN ABOVE.

FOR THE QUARTER INDICATED BELOW, SAID DEFAULT CONSISTS OF FAILURE TO ORDER AND ACCEPT THE TOTAL MINIMUM QUARTERLY QUANTITY SHOWN BELOW.

YOU ARE HEREBY FURTHER NOTIFIED TO CORRECT SAID DEFAULT BY THE LAST CALENDAR DAY OF THE MONTH OF OCTOBER, 1987. IN ADDITION TO ORDERING AND ACCEPTING THE GALLONS IN DEFAULT SHOWN BELOW, THE MINIMUM MONTHLY QUANTITY FOR THE MONTH OF OCTOBER, 1987, MUST ALSO BE ORDERED AND ACCEPTED.

QUARTER ENDING: SEPTEMBER, 1987

AGREEMENT ARTICLE/SECTION NO. 15(C)

TOTAL MINIMUM QUANTITY	388500
TOTAL GALLONS ORDERED AND ACCEPTED	378418
GALLONS IN DEFAULT	10082

ARCO PETROLEUM PRODUCTS COMPANY,
A DIVISION OF ATLANTIC RICHFIELD COMPANY

S. H. SCHRADER
REGION MANAGER

NOTE: SENT TO CORPORATE OFFICE

BCC: W. E. PAKULSKI, P. A. WRIGHT, P. E. PRITTS

ARCO Petroleum Products Company

2000 Alameda de las Pulgas
Mailing Address: Box 5811
San Mateo, California 94402
Telephone 415 571 2400



CERTIFIED MAIL #: P 485 804 482
RETURN RECEIPT REQUESTED

ENVIRONMENTAL
PROTECTION

95 MAR 15 PM 1:21

MONTHLY MINIMUM DEFAULT NOTICE

FACILITY NUMBER 90756

SEP 9, 1987

TO: SAN DIEGO ARMOUR OIL CO #1
4191 1ST STREET
PLEASANTON CA 94566

SUBJECT: DEFAULT NOTICE

YOU ARE HEREBY NOTIFIED THAT YOU ARE IN DEFAULT OF YOUR OBLIGATIONS UNDER THE TERMS AND CONDITIONS OF THE CONTRACT DEALER GASOLINE AGREEMENT BETWEEN YOU AND ARCO PETROLEUM PRODUCTS COMPANY, A DIVISION OF ATLANTIC RICHFIELD COMPANY IN EFFECT ON THE DATE OF THE DEFAULT, WHICH AGREEMENT RELATES TO BUSINESS ACTIVITY CONDUCTED BY YOU AT THE ADDRESS SHOWN ABOVE.

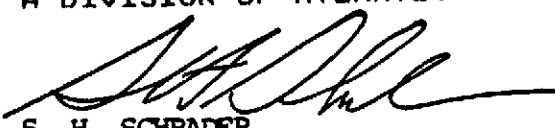
FOR THE MONTH INDICATED BELOW, SAID DEFAULT CONSISTS OF FAILURE TO ORDER AND ACCEPT THE TOTAL MINIMUM MONTHLY QUANTITY SHOWN BELOW.

MONTH OF: AUGUST , 1987

AGREEMENT ARTICLE/SECTION NO. 15(B)

TOTAL MINIMUM QUANTITY	129500
TOTAL GALLONS ORDERED AND ACCEPTED	121777
GALLONS IN DEFAULT	7723

ARCO PETROLEUM PRODUCTS COMPANY
A DIVISION OF ATLANTIC RICHFIELD COMPANY


S. H. SCHRADER
REGION MANAGER

BCC: W. E. PAKULSKI, P. A. WRIGHT

ARCO Petroleum Products Company
2000 Alameda de las Pulgas
Mailing Address: Box 5811
San Mateo, California 94402
Telephone 415 571 2400

ENVIRONMENTAL
PROTECTION

95 MAR 15 PM 1:21

February 24, 1986

FAC90755-L102

S D ARMOUR OIL CO #1
P O BOX 85302
SAN DIEGO CA

92138

Dear ARCO customer:

Federal law and the U. S. Environmental Protection Agency (EPA) regulation have set forth some rules which require certain owners of underground storage tanks to submit notices, as specified, to designated state agencies or departments for each underground tank they own. The purpose of the notification program is to assist EPA and the States in locating and evaluating underground storage tanks. The specifics of these rules are contained in the Federal Register, Volume 50, Number 217, dated November 8, 1985. The rules include the following provisions:

1. Owners of certain underground tanks used to store petroleum or hazardous substances on or after November 8, 1984 must notify designated State or local agencies of the existence of their tanks by May 8, 1986. Owners who bring tanks into use after May 8, 1986, must notify within 30 days.
2. Owners of certain underground tanks used to store petroleum or hazardous substances that were taken out of operation after January 1, 1974 must also be reported unless they were removed from the ground.
3. As appropriate, the notifications must include the age, size, location, the name of the substance stored, and the type of tank.
4. Sellers of petroleum and hazardous substances to be deposited in underground storage tanks must "reasonably notify" the owner or operator of the underground storage tanks of their obligation to register their underground storage tanks.

This letter is being sent to you in response to the requirement that ARCO, as a seller of regulated substances which are to be deposited, inform its customers of their responsibility to register

their underground storage tanks. If you should resell a regulated substance to be deposited in an underground tank, you also have an obligation to inform your customers of their notification responsibility.

Although this notification program is mandated by Federal law, the States have been given the responsibility to implement their own notification programs. All notifications are to be submitted to the designated state agencies. We have attached a listing of the designated state agencies and advise you to contact the agency in your state for further information regarding compliance with state programs. We have also enclosed a copy of the notification form developed by EPA. The States may develop more comprehensive forms which might require additional information.

An underground storage tank that has already been registered in California meets the federal notification requirements for tank owners and no further action is required.

Sincerely,



S. H. Schrader
Region Manager

Attachments