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## Lawsuit Alleges Interior Officials Violated Federal Oil Price Controls

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CHEYENNE, Wyo.—Documents filed in a lawsuit here contain evidence of what may be the most flagrant overcharges in the history of federal oil price controls. And the alleged culprit is the federal government.

Thousands of pages of memos, depositions and other documents filed in federal court here disclose that starting in the early 1970s, officials of the Interior Department systematically disregarded or knowingly violated federal oil price controls. According to the documents, the department overcharged refiners for large amounts of crude oil from wells on federal land. The overcharges, which ended in 1981 when price controls were lifted, may amount to more than \$1 billion, including accrued interest and possible penalties.

"How incredibly ironic that the U.S. government, even as it prosecuted companies for running afoul of the regulations, was busy doing its own variety of overcharges," says William DePaulo, an attorney for a refiner that sued the government for overcharging. The Interior Department recently settled with Mr. DePaulo's client, Plateau Inc., for more than \$1 million, according to Mr. DePaulo. At least two dozen such suits have been settled out of court so far.

### Technical Violations?

Some federal officials who knew there was a problem alerted the Interior Department to it several years ago. But the Interior Department continued the practice. Interior officials contend that any violations were technical and didn't actually cost refiners anything. The issue threatens to become an embarrassment to Energy Secretary Donald Hodel, whose department polices oil price control violations. Mr. Hodel was Undersecretary of the Interior Department from February 1981 to November 1982.

The overcharging began during the tight energy markets of the early 1970s, when many small and independent refiners were willing to pay top dollar to assure a long-term supply of crude oil. At the same time many federal lease holders were paying their royalty obligations to the Interior Department in crude rather than cash, and the department was selling the crude to refiners.

Interior Department supervisors set up pricing formulas that conflicted with those used by the rest of the industry. They often added administrative or transportation charges that weren't allowed under rules of the Energy Department or its predecessor, the Federal Energy Administration. Accord-

ing to court documents, the Interior Department refused to abandon its pricing formulas despite internal doubts and warnings that federal energy regulators would not overlook the violations.

During the spring and summer of 1977, attorneys for the Federal Energy Administration chastised Interior officials for continuing the pattern of overcharges, according to papers filed here. Carl Corrallo, one of the attorneys, wrote a memorandum for the file calling the violations "clear cut and extremely troublesome" in light of a congressional mandate to "impose regulations on all crude oil produced or imported into the United States."

An internal memo circulated among three obviously worried Interior Department attorneys in January 1980 suggests that federal prosecution of corporate pricing violations "means we cannot sit on this issue much longer. (The Energy Department) is now bringing criminal charges against cer-

***The department may have overcharged refiners more than \$1 billion for large amounts of crude oil from wells on federal land, according to court documents.***

tain private oil companies for violating pricing regulations, and the companies are asserting as a defense (Interior's) pricing behavior." Unless something is done, the memo warned, the government "is going to look absolutely terrible."

Federal energy regulators threatened to file formal overcharge allegations in court against the Interior Department several times, but they never carried out the threat. "The U.S. government doesn't often sue itself," says Thomas Newkirk, a deputy general counsel of the Energy Department. He suggests that political pressure and jurisdictional squabbling thwarted aggressive and timely enforcement action.

But the hands of the refiners weren't tied, and they have filed some 50 suits or letters of complaint against the Interior Department, most of them since controls were lifted in 1981. Interior Department officials won't discuss the total refunds involved in the more than two dozen settlements they've negotiated, but they say overcharge refunds will probably amount to tens of millions of dollars.

Interior Department attorneys readily acknowledge that department officials failed to compute the price and establish the category of the disputed crude oil properly, and didn't maintain records required by the Energy Department. But over the years, first internally and then in answer to legal charges, Interior officials have tried to explain the discrepancies in several different ways.

First, Interior Department attorneys insisted that federal price-control laws didn't apply to them because their oil fell under long-established mineral leasing laws. Then they argued that complying with all the paperwork would be too costly and cumbersome. When that line of reasoning didn't convince Energy Department attorneys, the Interior Department's solicitor asserted that the outstanding violations were merely "technical" and didn't hurt the refiners. Finally, the Interior Department said that the Energy Department's price-control experts might not have fully understood the implications of their regulations and never intended refiners to enjoy an unfair "windfall" by finding a loophole and then claiming they were victimized.

### Retroactive Relief

Now the Interior Department is asking Energy Department regulators to grant retroactive relief from federal pricing rules. This would, in effect, absolve Interior officials of all responsibility or blame for past violations. A decision by an Energy Department appeals official is expected soon. Whatever the ruling, debate and litigation over the issue is bound to intensify.

The overcharge issue is especially troublesome for Energy Secretary Hodel. He has argued that sales of royalty oil were an economic boon to small refiners, and that the violations had more to do with "procedural deficiencies" than actual overcharges. When he was second in command at the Interior Department, Mr. Hodel played a prominent role in trying to get Congress to legislate a solution that would absolve the department.

Mr. Hodel has suggested that small refiners are trying to take unfair advantage of the government by claiming they were overcharged. Now, as head of the Energy Department, he may have to decide whether to grant retroactive relief to the Interior Department in pending cases.

Attorneys for Plateau Inc. tried to get Mr. Hodel removed from participation in the retroactive relief case, but the official who was hearing the case refused to order his removal.