

BEFORE THE STATE BOARD OF EQUALIZATION  
OF THE STATE OF CALIFORNIA

DECISION OF THE BOARD

*In the Matter of the Petition of TEXACO U.S.A. Claim for Refund Under the Hazardous Substances Tax Law*

*Appearances:*

|                                                                                             |                                                                         |
|---------------------------------------------------------------------------------------------|-------------------------------------------------------------------------|
| <i>For Claimant:</i>                                                                        | John T. McKenna<br>Attorney at Law<br>Ronald B. Bruckman<br>Tax Analyst |
| <i>For Department of<br/>Toxic Substances Control:</i>                                      | Ramon Perez<br>Staff Attorney                                           |
| <i>For Department of Special<br/>Taxes and Operations, State<br/>Board of Equalization:</i> | Jeffrey George<br>Supervising Tax Auditor                               |

This Decision considers the merits of a claim for refund, filed pursuant to Revenue and Taxation Code Section 43452, of a hazardous waste generator fee in the amount of \$1,212.50. The claim for refund was heard and taken under consideration by the Board on November 4, 1991 in Torrance, California.

Texaco U.S.A. (the "claimant") generated hazardous waste at its Kern Front Area site between January 1, 1988 and June 30, 1988, but no waste was generated at that site during the second half of 1988.

Health and Safety Code Section 25205.2 requires every generator of hazardous waste to pay the Board a fee for each generator site for each calendar year, or portion thereof, if at least five tons of hazardous waste were generated at the site during the year. Section 25205.1(e) defines "generator" to mean "a person who generates volumes of hazardous waste on or after July 1, 1988, . . . at an individual site commencing on or after July 1, 1988, . . ."

The statutory sections governing the imposition of the hazardous waste generator fee indicate the Legislature's intent that the fee be applied on a site-by-site basis. Claimant did not meet the definition of a "generator" as to the Kern Front Area site because it did not generate hazardous waste at that site on or after July 1, 1988. Therefore, claimant does not owe a generator fee for calendar year 1988 concerning the waste it generated at the Kern Front Area site during the first half of 1988.

For the reasons expressed in this Decision, the claim for refund is granted.

Adopted at Sacramento, California, this 21st day of April, 1993.

Brad Sherman, Chairman  
Ernest Dronenburg, Jr., Member  
Winnie Scott, Member  
Attested by: Burton W. Oliver, Executive Director