



SUBPOENA DUCES TECUM

Issued Pursuant to Rule 3.34(b), 16 C.F.R. § 3.34(b)(1997)

<p>1. TO</p> <p>The PBN Company Three Embarcadero Center San Francisco, California 94111 Attention: Legal Department</p>	<p>2. FROM</p> <p>UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION</p>
-----------------------------------------------------------------------------------------------------------------------------------------	------------------------------------------------------------------------------

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things - or to permit inspection of premises - at the date and time specified in Item 5, at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

<p>3. PLACE OF PRODUCTION OR INSPECTION</p> <p>Federal Trade Commission Attention: John Roberti, Esq 600 Pennsylvania Avenue, NW NJ-6264 Washington, DC 20580</p>	<p>4. MATERIAL WILL BE PRODUCED TO</p> <p>Federal Trade Commission</p> <hr/> <p>5. DATE AND TIME OF PRODUCTION OR INSPECTION</p> <p>March 31, 2003 9:30 AM</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------

6. SUBJECT OF PROCEEDING

In the Matter of Union Oil Company of California, Docket No. 9305

7. MATERIAL TO BE PRODUCED

See attached Specifications, Definitions, and Instructions

<p>8. ADMINISTRATIVE LAW JUDGE</p> <p>Federal Trade Commission Washington, D.C. 20580</p>	<p>9. COUNSEL REQUESTING SUBPOENA</p> <p>John Roberti (202) 326-3775</p>
------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------

<p>DATE ISSUED</p> <p>MAR 6 2003</p>	<p>SECRETARY'S SIGNATURE</p> <p><i>Donald L. Clark</i></p>
--------------------------------------	------------------------------------------------------------

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

SUBPOENA *DUCES TECUM* ISSUED ON
BEHALF OF COMPLAINT COUNSEL IN
UNION OIL COMPANY OF CALIFORNIA, INC.

FTC Docket No. 9305

A. SPECIFICATIONS

For the period of time in which you had any relationship with or performed any services for Unocal, organizational charts for your organization as a whole and organizational charts and personnel directories for each business unit, group, division, and affiliated company of your organization that had any consulting or other relationship with, or performed services for, Unocal.

2. Documents sufficient to identify the name and position of each employee that had any communications with, or performed any work for or on behalf of, Unocal.*
3. All documents relating to any agreement or contract between your company and Unocal.
4. All documents relating to your company's duties, retention, or work for or on behalf of Unocal.
5. All documents relating to the Unocal Patents, including but not limited to memos, press releases, drafts and notes.
6. All documents relating to Unocal and RFG, including but not limited to memos, press releases, drafts and notes concerning Unocal and RFG.
7. All documents relating to Unocal and CARB, including but not limited to memos, press releases, drafts and notes.
8. All documents relating to Unocal and the EPA, including but not limited to memos, press releases, drafts and notes.
9. All documents prepared by, or received from, Unocal relating to: (a) RFG; (b) CARB; (c) EPA; (d) the Unocal Patents; or (e) the licensing of Unocal intellectual property.
10. All documents prepared for, or sent to, Unocal relating to: (a) RFG; (b) CARB; (c) EPA; (d) the Unocal Patents; or (e) the licensing of Unocal intellectual property.
11. All documents prepared in connection with your work with Unocal relating to: (a) RFG; (b) CARB; (c) EPA; (d) the Unocal Patents; or (e) the licensing of Unocal intellectual

property.

12. All documents relating to any communication with any Unocal employee, consultant or agent relating to: (a) RFG; (b) CARB; (c) EPA; (d) the Unocal Patents; or (e) the licensing of Unocal intellectual property.
3. All documents relating to any Unocal licensing agreement relating to the Unocal Patents.
14. All documents relating to any communication with any government official relating to RFG or the Unocal Patents.
15. All documents relating to any policy relating to the retention or destruction of documents.
16. All documents relating to the retention or destruction of any documents called for by this Subpoena, including but not limited to any communications with Unocal and/or anyone representing Unocal relating to the retention or destruction of documents.

B. INSTRUCTIONS

1. Unless modified by agreement with the staff of the Federal Trade Commission, each specification of this Subpoena requires a complete search of "the company" as defined in Paragraph "A" of the Definitions below.
2. Unless otherwise specified, each of the specifications calls for documents and information dated, generated, received, or in effect after January 1, 1988. This Subpoena shall be deemed continuing in nature so as to require production of all documents responsive to any specification included in this Subpoena produced or obtained by the company up to thirty calendar days prior to the date of the company's full compliance with this Subpoena. If there are no documents responsive to any particular specification, so state in your response.
3. If the company withholds any responsive document or masks or redacts any portion of any responsive document based on a claim of privilege, you must assert all such claims of privilege or the like on or before the date set for the subpoena return. In addition, you must provide the Commission with a log describing the privilege claim and all facts supporting the claim ("Privilege Log"). For each withheld, masked, or redacted document, the Privilege Log shall list the following: (a) author(s); (b) date; (c) addressee(s); (d) all recipients of the original and any copies, including "cc:" and "bcc:" recipients; (e) a description of the subject matter; (f) a description identifying each attachment to the document; (g) the page length of the document; (h) the basis for the privilege (e.g., attorney-client or work product); and (i) for redacted documents, the document control number. Additionally, for each document withheld under a claim that it constitutes or contains attorney work product, the Privilege Log shall list: (j) whether the document was prepared in anticipation of litigation or for trial, (k) the related parties, (l) case number, (m) complaint filing date, and (n) court name. For each person listed as

an author, addressee or other recipient, state the full name, title, and employer or firm, denoting all attorneys with an asterisk. The description of the subject matter shall describe the nature of each document in a manner that, though not revealing information itself privileged, provides sufficiently detailed information to enable the Commission to assess the applicability of the privilege claimed.

4. Documents provided shall be complete and, unless privileged, unredacted, and submitted as found in the company's files (e.g., documents that in their original condition were stapled, clipped or otherwise fastened together shall be produced in such form). Those documents written in a language other than English are to be translated into English; submit the foreign language document, with the English translation attached thereto.
5. In lieu of original hard-copy documents or electronically stored documents, the company may submit legible copies. However, if the coloring of any document communicates any substantive information, the company must submit the original document or a like-colored photocopy. The company may submit photocopies (with color photocopies where necessary to interpret the document), in lieu of original documents, provided that such copies are accompanied by an affidavit of an officer of the company stating that the copies are true, correct and complete copies of the original documents.
6. For specifications marked with an asterisk (*), the company may submit either responsive documents or an affidavit executed by an officer of the company that contains the requested information, as well as the specific source(s) of the information.
7. Mark each page with corporate identification and consecutive document control numbers. Number each box and mark each box with the name(s) of the person(s) whose files are contained in that box. Documents shall be submitted in sturdy cartons and not larger than 1.5 cubic feet.
8. Responsive documents from each person's files shall be produced together, in file folders or with other enclosures that segregate the person's files by specification number. If a document is responsive to more than one specification, produce the document in response to the specification to which it is primarily responsive.
9. The official of your company responsible for preparing the subpoena return shall appear with the documents on the return date. However, you may comply with this subpoena by making full return of all documents or exhibits specified in the subpoena to complaint counsel at the following address: John Roberti, Federal Trade Commission, 601 New Jersey Avenue, N.W., Room 6221, Washington, DC 20580.

C. DEFINITIONS

- A. The terms "you," "your," and "your company" refer to The PBN Company and/or the entity identified in box number 1 on the front page of this Subpoena, its domestic and foreign parents, predecessors, successors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and the directors, officers, trustees, employees, attorneys, agents, consultants and representatives of the foregoing.
- B. The term "relating to" means, in whole or in part: addressing, analyzing, concerning, constituting, containing, commenting on, discussing, describing, identifying, referring to, reflecting, reporting on, stating, dealing with, or in any way pertaining to.
- C. The term "document" means the complete original or a true, correct and complete copy of any non-identical copies of any written or graphic matter, no matter how produced, recorded, stored or reproduced, including, but not limited to, any writing, letter, envelope, telegram, meeting minute, memorandum, statement, affidavit, declaration, book, record, survey, map, study, handwritten note, working paper, chart, index tabulation, graph, tape, data sheet, data processing card, printout, microfilm, index, computer readable media or other electronically stored data, appointment book, diary, diary entry, calendar, desk pad, telephone message slip, note of interview or communication or any other data compilation in your possession, custody or control, including all drafts of such documents. "Document" also includes every writing, drawing, graph, chart, photograph, phono record, tape and other data compilations from which information can be obtained, translated, if necessary, by you through detection devices into reasonably usable form, and includes all drafts and all copies of every such writing or record that contain any commentary, notes or marking whatsoever not appearing on the original.
- D. The use of the singular shall be deemed to include the plural and vice versa. The terms "and" and "or" shall be interpreted liberally as conjunctive, disjunctive or both, depending on the context, so as to have their broadest meaning. Whenever necessary to bring within the scope of a request all the documents that might otherwise be construed to be outside its scope, the use of a verb in any tense shall be construed as the use of the verb in all other tenses. The term "all" includes any and vice versa.
- E. The term "documents sufficient to show" means documents that are necessary and sufficient to provide the specified information.
- F. The term "communication" means any exchange, transfer, or dissemination of information, regardless of the means by which it is accomplished.
- G. The term "Unocal" means Union Oil Company of California, Inc., Unocal Corporation, their domestic and foreign parents, predecessors, successors, divisions, and wholly or partially owned subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, consultants, agents and representatives of the foregoing.

- H. The term "RFG" means reformulated gasoline including, but not limited to: (a) CARB Phase II Reformulated Gasoline; (b) all other Phase II RFG, including EPA Phase II RFG; and (c) reformulated gasoline that complies with any CARB or EPA regulations (including Phase I and Phase III regulations). This term also encompasses all technologies and technical features related to any RFG that complies with CARB or EPA regulations.
- I. The term "Unocal Patents" means any patent, patent application, continuation application or divisional application relating to RFG. This term specifically includes, but is not limited to, United States Patent Nos.: (a) 5,288,393; (b) 5,593,567; (c) 5,653,866; (d) 5,837,126; and (e) 6,030,521.
- J. The term "CARB" means the California Air Resources Board, its predecessors, successors, parents or affiliates; including the Board, its Commissioners, Executive Officers, officers, committees, ad-hoc committees, task forces, working groups, agents, staff, or employees.
- K. The term "EPA" means the United States Environmental Protection Agency, its predecessors, successors, parents or affiliates, including its Administrator, Boards, Commissions, officers, committees, ad-hoc committees, task forces, working groups, agents, staff, or employees.