

State Supreme Court rules on AUTO's 18th amendment suits



The **B**ULLETIN

Informing Washington state's fuel marketers since 1985



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The Washington State Supreme Court has ruled in favor of AUTO and its members' challenge to the tribal motor fuel tax compacts negotiated by Governor Gregoire. On August 30, 2012, the court reversed a lower court ruling that granted the state's request for dismissal on the grounds that a citizen can not challenge any agreement reached between the state and a treaty tribe.

The citizens of Washington have averted a constitutional crisis and the suit is headed back to the courthouse in Grays Harbor County where the case will be heard on its merits.

The rationale used by the Office of Attorney General to convince the lower court to throw the suit out was a classic "Catch 22". McKenna's office argued that AUTO had to name the tribes in the suit or it had to be dismissed (it names only the Governor). The AG then argued if AUTO did name the tribe it had named a sovereign identity and the suit must be dismissed again.

In the oral hearing before the Supreme Court, the AG's staff were asked point blank if there was no instance where even if the Governor took a bribe that a citizen would have a legal right to object? Not if it was a treaty tribe was the response.

In the 5-4 decision, the majority opinion discounted

continued on page 6



Chevron's recent announcement that it will supply Costco with fuels and promote Safeway's Club Card at Chevron branded stations has left many branded marketers wondering about the future of their own branded stations.

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Other stories inside this issue:

- Returning to the UK where the hypers are "kings"
- Employee UST operator certification required by December 31, 2012, WDOE can cut off fuel supply
- Study finds gasoline consumption in WA and OR fell to its lowest level in 50 years
- Tesoro attempts to buy ARCO from BP

Oh, the things that spread across the internet.....

They first dressed the truck up with the guy tied down on the roof. The driver and passengers put on Moose heads. Then they went down the toll road Interstate, causing 16 accidents.

Yes; alcohol was involved... Yes; they went to jail...



The AUTO Bulletin is produced quarterly by the Automotive United Trades Organization (AUTO), a non-profit trade organization representing Washington's independent gasoline retailers since 1985. It is distributed to approximately 1,600 vendors, jobbers and retailers via www.autowa.org.

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OUTLOOK



By
Tim Hamilton
 Executive Director
 AUTO

Well, the election cycle is in full bloom. Can't watch TV without a flood of ads coming at you. Turn on the radio in your vehicle and here they come again. Can't even sort out the regular junk mail at the post office as the garbage cans are stuffed clear full of mailers of smiling politicians.

Ever notice how all seem to be promising they are the solution to all the problems we face from the war in Afghanistan to the cost overruns on the new floating bridge over Lake Washington? Here's a thought. How do they always seem to get 50 votes for a tax increase after they get to Olympia when all seemingly promised during the elections to either oppose all new taxes while pushing for reductions in existing taxes?

Can you imagine finding a candidate that actually believes what is said or printed in their campaign ads? Well, I went through numerous Democratic and Republican campaign materials and found the only accurate ones were ads that didn't say anything at all.

When watching or reading the ads, I'm often reminded of that old saying "*That dude doesn't let the facts get in the way of a good story.*" Which leads to the latest curious development in election behavior in the United States: the emergence of "fact checkers".

False or misleading campaign ads seems to lead the pack on job creation with an explosion of fact-checker professionals who compare the facts to campaign speeches and advertisements and publicize the results. It began back to 2003 with FactCheck.org, an award winning project of the University of Pennsylvania's bipartisan Annenberg Public Policy Center.

Of course, the interest shown by the public led the political hacks to form front groups that post web sites that primarily fact-check their founders opponents while ignoring their own candidates.

A favorite of conservatives and Republicans is called NewsBusters.org launched in 2005. Its web site states its purpose as "*exposing and combating liberal media bias.*" Now, for those who lean towards the progressive point of view, PoliticalCorrection.org may be on point. Founded in 2010, its purpose is to "*highlight*

conservatives' extreme rhetoric and show Americans the real nature of today's Republican Party."

It is not surprising that this has all led to the latest scheme introduced by the political hacks of secretly funded web sites that "fact-checks the fact-checkers".

Sadly, I have no choice but to report that even the facts as we all know them to be can no longer be trusted. Gone is the day when one could believe what they hear with their own ears or see with their own eyes. Especially, if it comes streaming down from the internet where the "truth" seems obsolete as a floppy drive.

This election cycle has shown candidates and campaigns have degraded so far away from factual accuracy that the only bi-partisan view left on the scene seems to be the commitment that all candidates will stray far away from the truth as possible when running for election.

When I was in grade school, Allen Shepard became the first American in space. My elderly grandmother would tell me that it was all a hoax. "Tricks played with a camera," she would mutter. Then, just after I got out of high school, Neil Armstrong landed on the moon and Grandma literally exploded. She was convinced the footage of the first walk on the moon was shot in a movie studio and it was "*All a bunch of lies by the politicians to use as an excuse to raise our taxes and cut my social security.*"

Now, my Dad was quick to remind me that Grandma came into Grays Harbor in a sailing ship and floated a log raft up to Elma where her family homesteaded. All her life she heard "*You could no more do this or that than put a man on the moon.*" It was simply impossible for the first 90-plus years of her life and she wasn't about to buy in when she saw it on CBS nightly news even if Walter Cronkite was the anchor.

Then again, maybe it was more about Grandma's distrust of politicians than admiration for Hollywood.

Believe it or not, Grandma's view survives to this day. According to a poll on Debate.org's web site, 27% of Americans still believe the moon landing was faked. Don't be surprised if that number climbs significantly by the end of this election cycle.



Attention All Dealers-

R & B Systems, Inc. is a COP branded jobber and station operator based in Spokane, Washington with over 30 years experience in the industry. R&B is looking for station owners who are quality operators that would like to be supplied by a wholesaler that respects the rights of the dealer and offers "*dealer friendly*" contracts that are easy to read and understand.

R & B is currently offering branded supply contracts to select dealers through out WA, OR, and ID that:

- include competitive branding incentives and other type funding that can cover the costs of re-imaging and other forms of station upgrades;
- sets the wholesaler margin to a negotiated level in clear and precise language for the entire length of the contract;
- provides the dealer with the ability to easily verify the wholesale margin;
- provides the dealer the ability to easily verify the actual freight costs to the station;
- does not include provisions such as rights of first refusals or deed restrictions that infringe upon the dealer's property rights; and
- provides the dealer the flexibility to sell or exit the industry without incurring liquidated damages or financial penalties.

If you are a quality operator that has a supply contract that grants you the ability to chose a new supplier or, it has expired or is due to expire shortly, you owe it to yourself to call Bob Beal, President of R& B Systems, Inc. at (509) 892-5186. Or, E-mail him at <rbeal2@msn.com>



News Release

Washington Department of Ecology news
FOR IMMEDIATE RELEASE – Aug. 15, 2012
12-268

Ecology adopts changes to improve underground storage tank safety

OLYMPIA – The Washington Department of Ecology (Ecology) has adopted changes to the state's rule for preventing leaks from underground storage tank systems containing petroleum and other hazardous substances.

The Legislature directed Ecology to revise the rule to implement changes to the state's compliance program required by state and federal laws. The program addresses the serious threat that leaking systems pose to human health and the environment. Leaks from underground storage tank systems can contaminate groundwater, the source of drinking water for 60 percent of Washington's residents.

Ecology currently regulates more than 9,500 systems at more than 3,600 facilities throughout the state. A majority of the systems are located at gas stations. Others are owned and operated by other businesses and by local, state and federal governments.

Each year, about 50 new releases are confirmed at regulated facilities. The rule changes – which take effect Oct. 1, 2012 – will help to reduce the number and severity of those releases. The rule changes:

- Authorize Ecology to stop regulated substances from being delivered to systems that don't comply with regulatory requirements.
- Require training for people who operate and maintain systems. Operators must be trained by Dec. 31, 2012.
- Require secondary containment of new tanks and pipes.
- Require containment under new dispenser systems.

Ecology held a public comment period in the spring. The agency hosted public hearings in April in Spokane, Yakima, Bellevue, and Lacey.

Documents related to the rule are posted on [the Toxics Cleanup Program's website](#).

This action is exempt from Gov. Chris Gregoire's executive order that suspends non-critical rule work. The adopted rule amendments are needed to maintain Ecology's federally delegated underground storage tank program and to continue to receive federal funding for the work.

[See more information](#) about the rule suspension on Ecology's website.

Supreme Court, continued from page 1

many of the States' arguments defending the Governor's compacts with tribal station operators with:

- *“Moreover, the notion that potentially unconstitutional government conduct must be redressed through the legislature is frankly astonishing given the bedrock principle that it is emphatically the province and duty of the judicial department to say what the law is.”*

- *“Sovereign immunity is meant to be raised as a shield by the tribe, not wielded as a sword by the State.”*

- *“While the tribes are necessary parties whose joinder is not feasible due to sovereign immunity, in the circumstances of this case they are not indispensable. We reverse the trial court's order of dismissal and hold that this action can proceed without the tribes “in equity and good conscience” under CR 19(b).5.*

The largest hurdle facing the suit (whether or not any citizen could challenge) was cleared by the court's ruling. The facts of the case are fairly clear and AUTO is



Former Supreme Court Justice Phil Talmadge defended the 18th Amendment and other constitutional rights of AUTO's members and motorists before the Supreme Court in both suits. He hammered home the point that while tribal sovereignty should be respected, the Governor and tribal representatives should not be allowed to suspend the constitution and rights of the rest of the citizens when cutting secretive deals behind closed doors.

confident this decision is only the first with more to come.

Some of the key points of the compacts that AUTO predicts the state will have trouble addressing before a trial judge include:

- the state constitution reserves actions on taxation exclusively for the legislature. Yet, the Governor entered into secretive deals with the tribes granting tribal station operators a kickback of 28 cents per gallon of the taxes paid at the pump effectively granting them an exemption of 75% of the state motor fuel tax rate even though no exemption is found under state or federal law or treaty;

- Expenditures out of the state treasury must be appropriated by the Legislature and no appropriation has occurred for the approximately \$100 million in payments sent so far to the tribes;

- The 18th amendment requires that all transportation related motor fuel taxes be placed into the motor vehicle account and used exclusively on public roads yet the state has no ability to confirm what happens to all the taxes built into the price paid by motorists at the pump and sent over to the tribes; and

- State tax policy may not be discriminatory in its application and the tribal station operators are receiving approximately 28 cents per gallon in payments that are denied all others.

Editorial comment- AUTO believes this ruling by the Supreme Court is truly a major victory for all the citizens and the small businesses that live or operate in the state of Washington. The decision is available for review or downloading at <http://www.autowa.org>.

State Supreme Court ruling ends AUTO HST suit

On Oct 4th, the Supreme Court issued its ruling on AUTO's suit challenging the HST tax. The suit challenged a lower court dismissal ruling on three points:

- 1) Laches (AUTO waited too long to file the suit);
- 2) the HST tax on “possession” of petroleum products was in fact a disguised excise tax on motor fuels; and
- 3) all excise taxes on motor fuel sold for consumption on public highways must be deposited into the motor vehicle account and dedicated to roads.

The court ruled in AUTO's favor on the first two.
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HST suit, continued from page 6

Then, unfortunately it broke with legal tradition by ruling that the 18th Amendment to the state constitution does not require that excises taxes on motor fuel be used for transportation purposes.

The confusing part of the 18th Amendment is it has two separate and seemingly opposite, statements regarding where taxes collected on motor fuels must be deposited and used. The “enactment” sections seem to clearly state that any excise tax placed on motor fuel must be deposited into the motor vehicle account and dedicated to transportation. Then, the “proviso” section provides that the state can collect a tax on fuels and use it for other purposes provided the tax had a stated purpose other than transportation.

The state argued the proviso gave it the authority to tax motor fuels for any purpose it chose and AUTO’s position would negate the proviso entirely. AUTO argued that the proviso was placed into the 18th to “grandfather in” taxes that existed back at the time the 18th was approved by the voters and the state’s position would effectively eliminate the enactment sections which should rise above the proviso.

The Supreme Court came down with a third scenario wherein both positions could stand together. If the Legislature passes a tax on motor fuels dedicated to transportation, the taxes collected must be deposited into the 18th protected account. If the new tax is intended for a purpose other than transportation, the tax collected is left to the Legislature’s discretion every January when it convenes in Olympia just as all other taxes.

AUTO’s attempt to stop the Legislature from raiding and diverting tax dollars that the public was promised would be used for a specific purpose over to another purpose came out somewhat a “mixed bag”. If in the future the Legislature passes a motor fuel tax or license fee wherein the public is told it will be used on roads, the 18th will protect it from diversion. However, if the Legislature wants to pass a tax on fuels intended for non-transportation purposes and then divert it later, it may do so as well.

The single high note is politicians in Olympia will no longer be able to credibly hide behind creative language that attempts to disguise a proposed tax as something other than what it is....an increased tax rate built into the price of fuel paid by motorists at the pump.


 The logo for Jackson Oil features the words "JACKSON OIL" in a bold, red, sans-serif font. The text is enclosed within a thick, red, stylized swoosh that curves under the letters, resembling a drop or a protective shield.

OPERATING COMPANY FOR PACWEST ENERGY

jacksonoilco.com

Chevron's alliance with Costco and Safeway raises concern over the future of branded stations

Many branded marketers have been dismayed seeing their brand go up at nearby tribal stations. Other branded dealers who have dodged that bullet often face low-ball hypermarket outlets running from 15-20 cents below them on the street.

It seems like all the branded marketers are waiting for their supplier to respond with some game plan to address falling volumes at their historically branded stations. While Chevron dealers were quick to point out management has promised repeatedly that it would never supply the hypers, that went out the window as Chevron announced it would supply the Costco stations in Southern California.

The company recently announced it had bested other bidders and will begin supplying southern California Costco stations as early as September of 2012. Precisely how much volume the big box retailer will get from Chevron is unknown but Costco volumes are estimated at close to 20,000 barrels per day in the region (840,000 gallons per day). Many Costco sites are pumping 500,000 gal/month or more.

Historical Costco suppliers in previous years have included Tesoro, IPC and PDI. Costco wouldn't comment, but sources note Costco has a deal with a major trucking firm which would enable it to pick up product from any of Chevron's truck loading racks. Chevron stressed that only Chevron (and Texaco) branded marketers are eligible to purchase gasoline with the highly touted Techron additive.

Costco is viewed as a very attractive customer by most majors, thanks to its huge volumes and excellent credit. Other majors, including BP, ExxonMobil and Phillips 66, have aggressively bid for Costco supply contracts in California and other parts of the country.

Chevron follows Shell/Kroger by teaming up with grocer Safeway

Right on the heels of the Costco announcement, Chevron proclaimed it was partnering up with Safeway to accept its Club Card for discounts on fuel at Chevron branded stations. A pilot project will be launched in S. CA where it will be supplying the Costco outlets.

Chevron's choice of Southern CA as the pilot project immediately raised eyebrows. Unlike WA where it has a huge fleet of stations, Safeway doesn't have that many of its outlets offering fuels. It would seem natural that Chevron stations might actually see an increase in volume as new customers without a Safeway fuel outlet in their neighborhood pull into a Chevron to capitalize on their rewards earned while shopping regularly at a Safeway.

It will be interesting what Chevron management says to dealers in the NW when it tries to roll the program out up here. If they use volume growths experienced in CA during the rollout pilot, one could expect the dealers up here to be disappointed with actual results.

Many branded marketers are skeptical of finding value for the dealer. As one longtime Chevron dealer with a Safeway next door said "For the life of me, I can not figure out why a Safeway customer would drive out of their parking lot and into to my station to use a reward card when my pump starts out 20 cents more than the one he just passed by coming out of the Safeway. Personally, I'd prefer Chevron just charge all its dealers the same wholesale price as Safeway pays and we could get our volumes up on our own."



Many branded dealers worry the major oil companies are abandoning their branded networks. Some even predict the companies will eventually brand hypermarket grocer locations nearby their historical dealers.

Editorial note- Decades later, returning to the UK where the hyper evolution began. Reprinted from <http://www.thisismoney.co.uk/> (09-08-2012)

Are Britain's supermarkets to blame for the devastation of independent petrol retailers by deliberately selling at a loss?

Supermarket price wars are devastating Britain's small petrol stations owners, with claims that one a day is going out of business. Sainsbury's, Tesco, Asda and Morrisons have this year embarked on an unprecedented war to attract hard-hit consumers and the cost of fuel has been central to their campaign.

Morrisons is offering loyalty points on its new fuel card while Asda has launched a price comparison app for mobile phones to convince shoppers it has the cheapest fuel. Both Sainsbury's and Tesco have offered money off to shoppers. Sainsbury's has offered 10p off a litre return for a certain spend in its shops (pence = 16 cents x 3.8 ltrs = approx. 61 cents per US gallon).

Brian Madderson, chairman of the Retail Motor Industry Federation, is pinning his hopes on a major review by the Office of Fair Trading into petrol and diesel prices at the pump, something for which he has been lobbying for months. He is hoping the OFT inquiry will support his members, who believe that unfair and predatory pricing by the supermarkets and some major oil companies is making it impossible for them to compete.

The RMI, which represents 6,000 small petrol stations, even claims that because supermarkets sell petrol at a loss, consumers could be encouraged to use more fuel. There are now about 8,000 small petrol retailers compared with



Confident of its aggressive price on the pole sign, Asda has launched a price comparison application for mobile phones that allows motorists to compare the prices at competitive stations in the same area.



Morrisons is one of the larger chain grocers that have engaged others in a "price war" using its loyalty points on its new fuel card.

21,000 two decades ago and 40,000 in 1966. And the RMI predicts that in five years there will be only 1,200 supermarket and major oil company petrol garages left. It seems the OFT has certainly taken on board some of these concerns.

In its preamble to why RMI had launched the review it said: "Some practices of supermarkets and major oil companies may be making it more difficult for independent retailers to compete. 'This could reduce competition in the sector if it leads to independent retailers closing.'

But many have also blamed the Government and hikes in fuel tax for soaring petrol prices. It takes 60 per cent of every litre of petrol in tax – the highest rate in Europe. Luxemburg is the least taxed at just 47p a litre.

The OFT inquiry comes at a time when the supermarkets have proved particularly effective at building up a huge stake in the £32billion petrol market. And with the

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UK Supermarkets, continued from page 9

recession dragging on, households are keen to save even one or two pence a litre, particularly those families whose livelihoods depend on the use of a car.

Supermarkets last year accounted for 45 per cent of total fuel sales from just 1,316 sites compared with 37.4 per cent in 2010 according to the Energy Institute and market analyst Experian Catalist. In this period, Tesco, which has 493 outlets, has consolidated its position as the leading fuel retailer, with 15.5 per cent of a market in which petrol sales are falling and diesel demand growing.

In the lead up to the announcement of a review last week, RMI has been gathering evidence from its members to support the argument that the supermarkets have been involved in unfair pricing.

Madderson said that small garages typically make only 5p in profit on a litre of petrol. The major supermarkets were using tactics, described as 'loss leading', which cut at least 5p off a litre assuming the shopper spent a certain amount in store.

Recently, Sainsbury's revved up the competition by offering 10p off a litre if £60 was spent in a store or online. Experts say that would wipe out its profit to tempt shoppers to buy food.

Tesco offered 50p a litre off if customers bought branded products, suggesting the brands Nescafe, Heinz and Procter & Gamble's Fairy Liquid had contributed to the petrol discount. And it is not just the supermarkets, who are in Madderson's sights.

He also blamed the major oil companies for unfair dual pricing. That means they sell to their own garages at one price and then to an independent retailer down the road at a higher price. He said the result was that about 300 small retailers were going out of business a year. 'They simply cannot compete,' he said. Madderson went on to accuse the supermarkets of treating a 'precious depleting resource' as 'just like a can of baked beans'.

According to a local price comparison site which collects its information from drivers using fuel cards, there is huge regional variance of petrol prices as well as differences between stations run by the same firm.

In Harrogate for example, Asda was last week selling at 133.7p a litre and Sainsbury's and Morrisons at 132.9p. But at Raynes Park, North Cheam, Sutton and Epsom, all in Surrey, two Tesco stores, Sainsbury's, Shell and an independent were listed as 136.9p, closer to the national average. In Wareham, Dorset, the price was 140.9p at one independent.

Supermarkets said the market was working competitively and effectively. Supermarket sources said some larger chains can change prices overnight at individual stations although Asda has said it strives towards a national pricing policy.

On its website and android app – and from next month its iPhone app – motorists will be able to check petrol prices against the average, the highest and lowest prices in a given area.

Andy Peake, Asda's Petrol Trading Director said: 'We welcome the OFT's decision to look into petrol and diesel prices. At Asda we are committed to doing everything we can to bring motorists the lowest possible fuel prices. Our preference would be that everyone charged a national price for fuel, that way drivers would be treated as equals regardless of where they live.'



In addition to rock bottom street prices, Sainsbury's offers an additional cash discount tied to grocery purchase volume inside its markets.

Study finds NW per capita consumption of gasoline has fallen to its lowest level in 50 years

“In total—and despite population increases—residents of Washington and Oregon consumed about 4 percent less total gasoline in 2011 than they did in 2002”- Sightline Institute

A recently published study by the Sightline Institute, a Seattle based think tank, found gasoline consumption in WA and OR is apparently on a permanent decline. The primary causes referenced by the authors were the higher prices for fuel, larger portions of the population unemployed or retired, and more efficient vehicles.

Remarkably, the increase in population occurring in the NW over the last several decades was totally negated by a large drop in per capita consumption. Weekly per person gasoline consumption in WA and OR fell to its lowest level in 50 years (Figure 1 on right).

Similar changes in personal habits were found when the Sightline compared the per person average annual miles driven from 1980 to 2010. The per capita vehicle travel has fallen by a whopping one-fifth since 1999 (Figure 2 below).

Branded stations get a “double whammy”

Branded station operators in the NW are often reporting volume losses of 20-80% over that last decade. It's

uncommon to find one that hasn't dropped at least 20 percent. Obviously, a drop of 4% in statewide consumption since 2002 should not equate to the volume drops reported by many branded dealers.

Editorial Note- Site specific factors such as changes in the traffic patterns, and pricing decisions or other management functions can play a role in declining volumes. If the public is consuming less each year, the pool of available customers declines which is also a factor contributing to losses of volume.

When a branded station operated with quality management and margins barely above credit card costs experiences a 20-50 percent loss in volume, it's not reduced consumption. Most likely, one can assume the grocers or big box “hyper” marketers have arrived in full force. Or, a new tribal station opened in the area.

Even though the consumption is dropping, the major concern of many branded marketers is the major oil companies appear to be abandoning them by selling fuel out the back door to the hypers at prices well below those charged for its branded fuel. Therein lies the biggest problem marketers face today. When will the majors provide a branded wholesale price that allows the dealer to compete at retail with the hypers and other chain retailers?

Figure 1

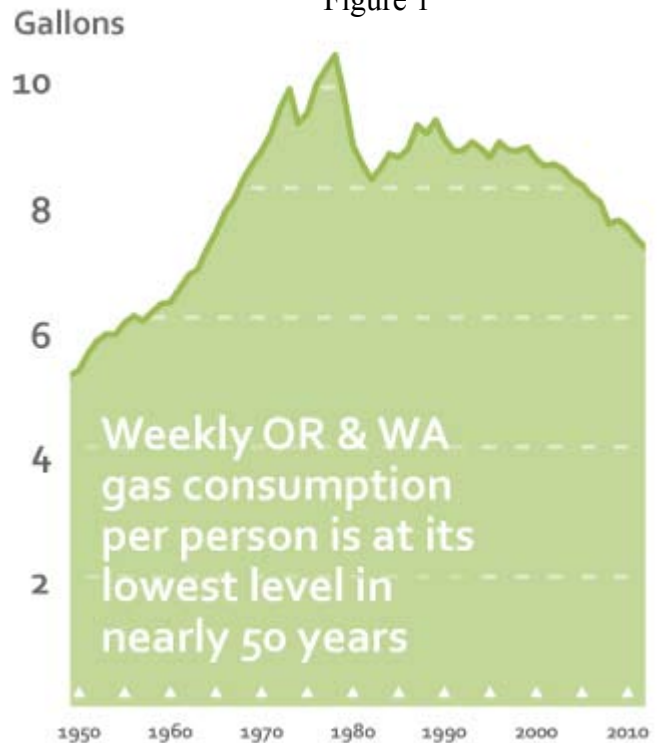
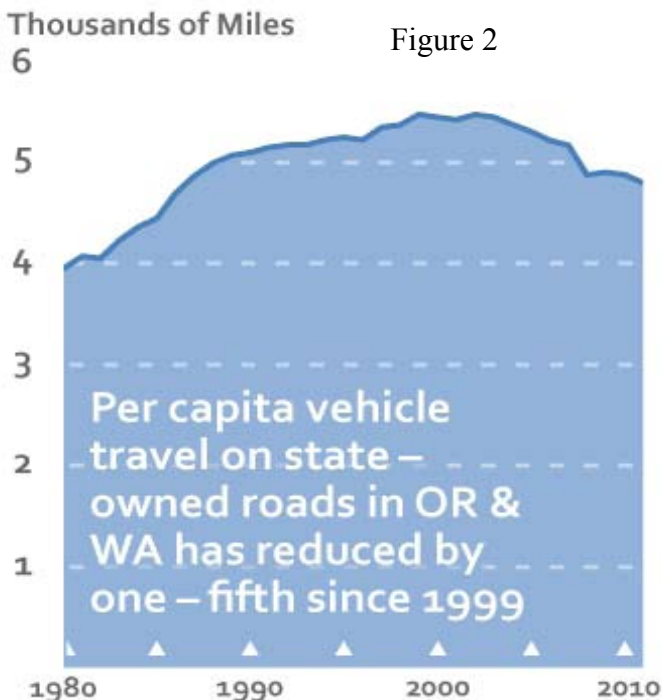


Figure 2





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The AUTO BULLETIN has gone digital!

First published in 1985, the AUTO BULLETIN has been mailed to all motor fuel retailers and wholesalers within our data bases regardless of whether or not they are members. We have done so as a service to the industry.

Due to the ever-escalating costs of printing and postage, the hard copy mail era of the BULLETIN has come to an end. It's simply too much paper and ink to deliver in a cost effective manner. While exciting to us in some ways, in others it is sad to report that last hard copy of the Bulletin was printed and mailed in May of 2010. The Bulletin has gone digital and rather than the postman, it is the internet that will provide the delivery in the future.

The good news

We hope to continue to keep all the industry informed on issues of importance to marketers in WA. A quick move to <http://www.autowa.org> followed by a click on the Bulletin button and down comes the latest issue. You'll be able to download, view, store, and print the BULLETIN from your own computer.

One can also browse our library of previous issues at any time as well. Want to read a past edition? No problem and you won't have to look at all those coffee cup stains or try to read faded print as in the past.

The mail carrier is not totally out of the loop

We want to make sure all in the industry continue to have the opportunity to read the BULLETIN. Since gathering email addresses is an extremely difficult task in our industry, AUTO hopes to continue to mail the lower-cost postage card size alert shown above to let everyone know that their new issue is waiting for them at the AUTO web site.

Keep an eye out in the future for your next card alert to come by "snail mail". If someone sorts your mail for you, make sure they don't "round file" the alert card without telling you. Then, join us at <http://www.autowa.org> and download your latest version of the BULLETIN.

While at the web site, use the contact form to send us an email and let us know what you think of the latest issue. We'd love to hear from you.



WeSellStations.com

McCallen & Sons, Inc. aka wesellstations.com has been serving the gas station dealers of Washington for over 24 years. There is no substitute for EXPERIENCE!

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76	Sold "As -Is, Where -Is, Battle Ground. Currently closed.	\$495K
76	Store sales avg \$55K/mo. Stanwood, includes R.E.	\$649K
76	Olympia. 40K/mo + gal & \$42K/mo store. Hwy location.	\$699K
76	Olympic Peninsula. Carwash, Deli, over \$64K/mo store.	\$699K
None	No supply contract. Room for Deli, Laundromat, RV parking.	\$699K
Cardlock	Site generates \$110K annually. 59,746 sf of real estate	\$750K
None	Receiver sale, Lynnwood w/R.E. Separate rental spaces. Huge	\$870K
Tesoro	Store sales avg \$46K/month. Absentee owner. Near I-5.	\$895K
76	Receiver sale. Olympia, store sales over \$60/month.	\$1.1M
ARCO	Located off I-5 interchange. High volumes and high margins	\$1.75M
76	Recently remodeled. Annual gross profit over \$500K.	\$1.8M
Shell	Add'l income \$1,500/mo. Includes 19K sf raw land.	\$1.89M
76	Moses Lake. High daily traffic counts. Fully remodeled kitchen	\$2.3M
ARCO	INCREDIBLY HIGH GAS VOLUMES. Financing available for qualified candidate. Gas sales avg 290K/mo.	\$2.6M



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The recent price spike could derail Tesoro's plan to buy ARCO from BP

Consumer groups in California have launched a full court press to block Tesoro's attempt to buy ARCO from BP. They keep pointing to the current price spike that pushed pumps over \$5 as proof the market is already stacked against motorists.

Some experts are calling the proposed \$2.5-billion deal the biggest shift in California's petroleum business in decades. Critics agree and have asked state and federal regulators to block it on the grounds it will lead to higher pump prices in the West, especially in S. California.

The proposed deal includes:

- the ARCO brand name;
- the real estate and supply contracts at over 800 Arco branded outlets in the SW;
- the 265,000 barrel per day Carson refinery near LA with assorted pipes and truck loading terminals; and
- inventories of crude and other products.

The groups forming the opposition say the deal would make Tesoro the largest refiner in the West, reduce competition and likely lead to even higher pump prices in the West.

"We need more competition in California, not less," said Charles Langley of the Utility Consumers' Action Network in San Diego. "We need to see if there are any other suitable buyers."

Jamie Court, president of Santa Monica based Consumer Watchdog, said the latest price jump "is proof positive that we have too few refiners controlling too much gasoline" and that the proposed acquisition "is a recipe for huge sticker shock for consumers at the pump."

Court's group has sent a letter to state Atty. Gen. Kamala D. Harris urging her to block the sale on antitrust grounds. "It is in refiners' self-interest to restrict production and supply, taking higher profits from selling less but more expensive gasoline," they claimed. "Tesoro's purchase of the BP refinery will intensify the ability of one or two companies to control output and supply." Harris confirmed that she was opening an investigation into the transaction "...to ensure competition in the marketplace is maintained and consumers are protected."

ARCO stations priced amongst the lowest

On most days, a visit to GasBuddy.com will show more than half of California's lowest-cost stations were flying the Arco brand. At the same time, stations supplied by Tesoro under the USA and Shell brands averaged nearly a nickel and up to 20 cents a gallon higher than Arco's average price.

The LA Times found GasBuddy showed the price for regular gasoline from May through August at Arco sta-



Consumer advocates fear BP's proposed sale of the ARCO brand and all its stations and supply contracts in the SW to Tesoro would eliminate the lowest price competitor in the region.

Tesoro/ARCO continued from page 14

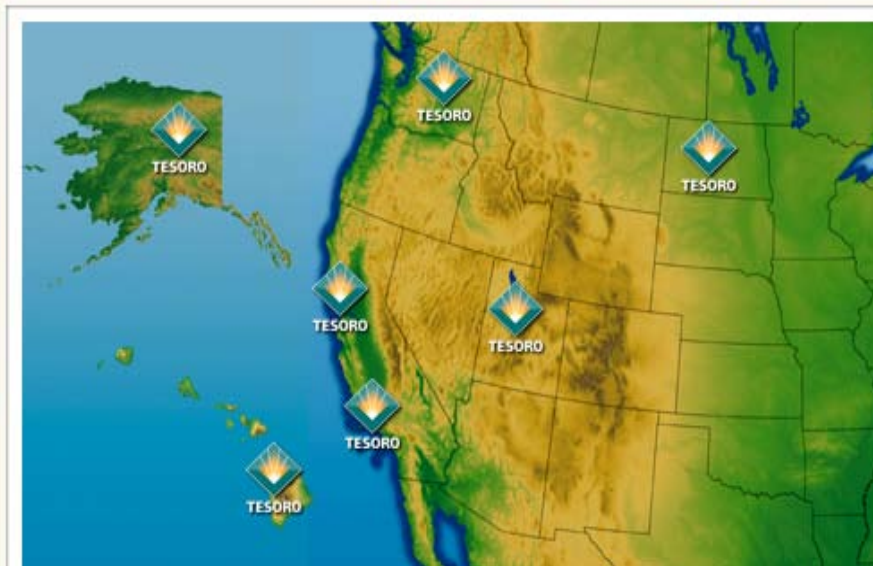
tions averaged \$3.891 a gallon. Tesoro's USA stations averaged \$3.935, and its Shell branded stations were at \$4.068.

Tesoro picked up the Shell brand in S.CA when it bought the Shell Marteniz refinery next door to BP's unit in Carson and 250 of its stations back in 2007. It also grabbed 140 USA stations and its brand at the same time. Then, last year it picked up 241 Thrifty stations when BP's real estate leases on the sites expired. Somewhere in the middle, Shell also assigned all its jobber's and their Shell branded supply contracts in the Rockies to Tesoro with a license right to continue to use the Shell brand.

The proposed deal with BP would grant Tesoro the ownership of the ARCO retail brand. Tesoro will give a license right back to BP so it can continue to use the ARCO brand in N. CA, Oregon, and WA using supply from the BP refinery in Cherry Point, WA. BP will also retain ownership of the controversial ampm convenience store brand and franchise it to Tesoro for use in the Southwest.



Tesoro currently retails fuels under the Tesoro, USA, and Shell labels at approximately 1375 stations of which 590 are company operated. The addition of 800 ARCO stations in the SW will give the company two major oil brands,



Tesoro currently operates 7 refineries, making it a major player in the West Coast and Rockie regions. If it acquires Carson, it will be the dominate force in refining in the US Pacific rim.

Tesoro executives have expressed confidence that the deal will get by regulators. The Federal Trade Commission has declined to discuss the review, which is expected to last into next year.

Editorial- Tesoro may have more trouble getting regulatory approval than their responses to the meda show. The West is already home to the highest prices in the nation and many antitrust experts will agree that the lack of competition is at least part of the reason for those high prices.

Facing growing resistance, Tesoro recently offered selling its existing refinery in Martinez it previously acquired from Shell to mitigate the problem. Whether or not the state Ag(s) or the feds will accept this as a solution is yet to be seen.

Close call for dealer's new sign

When Dan Amundsen decided to put in a new electronic price sign at his Juanita Firs 76 in Kirkland, he was convinced it would attract attention. He just may have underestimated the allure the new sign might have on some passing motorists.

On October 13, 2012, the Amundsen family and crew experienced a "close encounter" as a motorist traveling at a high rate of speed came up the sidewalk and flipped over sliding up to within a foot of their new and very spendy sign.

The driver was transported to Harborview with serious injuries.



Fortunately, none of the crew or customers on the islands were injured when the driver careened off the street out front.



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Flying J's acquisition of Maverik reunites a family business after 44 years

FJ Management Inc., formerly known as Flying J, recently announced it is acquiring a majority stake in Maverik Inc. Based in Salt Lake City, Maverik recently expanded its fleet of nearly 250 stores into WA with new locations popping up from Spokane over to the TriCities ending (currently) in Sunnyside.

The two companies are not strangers. The acquisition by FJ brings back together two branches of the Call family.

Nearly 60 years ago, brothers Reuel and Osborne Call started out together in the fuel business. After 10 years Reuel bought out Osborne. Osborne's son, Jay Call went on to found Flying J Inc.

The two sides of the family operated 44 years on their own. The merger will see Osborne's granddaughter Crystal Call Maggelet and Ruel's grandsons Mike and Brad Call all come together again.

FJM and Maverik will operate independently with their current management teams. *"FJM and Maverik remain committed to all our current customers, suppliers and employees, and look forward to this adventure together,"* said Crystal Maggelet, CEO of FJM in a statement. The



Maverik c-stores will remain under its current logos and Flying J will do the same.



family expects the deal to be complete by early December.

FJ Management operates out of Ogden, Utah as a holding company with ownership positions in the Big West refinery in N. Salt Lake, Pilot Flying J travel centers and other petroleum related businesses.

Maverik's "Adventure's First Stop" c-stores operate across 10 states allowing the company to claim it's the largest independent marketer doing business long the West slopes of the Rockies. The company's recently gone "aggressive" in opening new locations including entry in the state of WA.

Figure 1 (left) shows the current Maverik locations in WA that are either operating or "coming soon."

Excerpt from September 2, 2012 , Tacoma News Tribune, by Jordan Schrader

Democrat-leaning tribes find ally in Republican McKenna

On several fronts, Rob McKenna has become an unlikely ally of the tribal governments that have helped maintain Democratic Party control in Olympia. Indian tribes haven't abandoned the Democrats by any measure, as Jay Inslee has outraised McKenna more than 5-to-1 among tribes.

Rob McKenna is siding with Indian tribes and against some fellow Republicans in the Legislature who look to the nontribal gambling industry as a potential jackpot for the state budget.

On several fronts, in fact, McKenna has become an unlikely ally of the tribal governments that have helped maintain Democratic Party control in Olympia. As attorney general, he has visited every reservation in the state — an outreach effort that even a tribal leader who supports rival Jay Inslee calls “unprecedented.”

Tribes have rewarded him with a share of their campaign contributions. The money he has received is far less than Democrat Inslee but still vastly more than other Republicans who have run for governor in the recent past.

“Tribes historically have always leaned Democrat, but over the last 10 years or so we've become more politically astute and we're more attentive to what is the political position of the candidates,” said Inslee backer W. Ron Allen, chairman of the Jamestown S'Klallum Tribe and president of the Washington Indian Gaming Association. “Tribes are being like a lot of special interests out there and they're hedging their bets.”

Indian tribes haven't abandoned the Democrats by any measure. Inslee, with more than \$50,000, has outraised McKenna more than 5-to-1 among tribes. While the Puyallup Tribe, for example, has given equal amounts to both, more tribes have contributed only to Inslee.

“Predominantly,” Allen said, “I think the tribes are still going to lean toward Jay and the Democratic Party.”

McKenna said he thinks contributions “have actually been pretty balanced in this election and I think they'll continue to be balanced.”

That's about the best a Republican can hope for: that tribes will hold back from making major infusions into Democratic Party coffers, as they did in 2008 when the Tulalip, Puyallup and Muckleshoot tribes were three of the biggest donors to PACs for the state party — which in turn helped fund Gov. Chris Gregoire's re-election campaign.

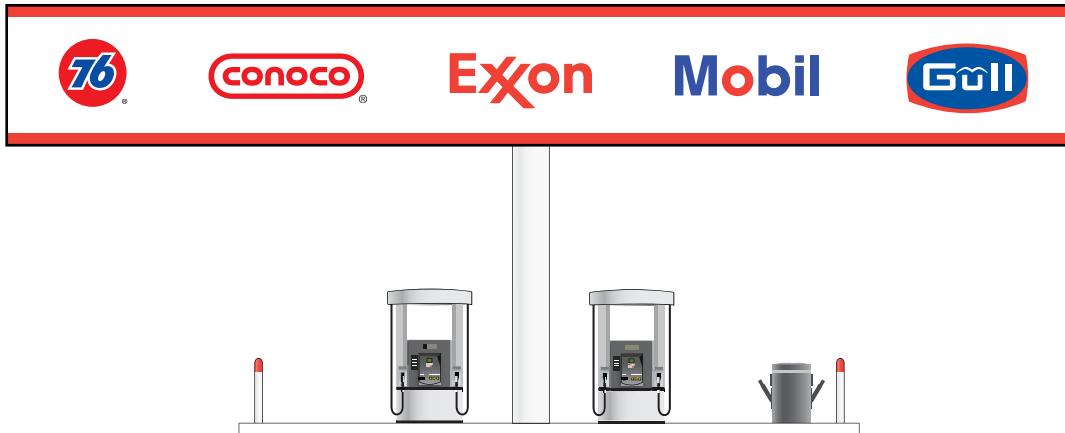
That could still happen again, with six weeks left before ballots go out to voters for the Nov. 6 election.

But so far, instead of the state party, the biggest beneficiaries of tribal money this time around are House and Senate Democrats. Their PACs have received hundreds of thousands of dollars from the Puyallups, Muckleshoots and the Gaming Association's Campaign for Tribal Self-Reliance — more than they took in four years ago. All three are also McKenna donors. (View the entire story at <http://www.thenewstribune.com/2012/09/02/2277744/mckenna-draws-unprecedented-support.html>)



As Attorney General, McKenna has often been criticized for his handling of the tribal motor fuel compacts that AUTO has legally challenged. In addition, his lack of support for Republican legislative proposals that would allow small businesses to compete with tribal casinos while providing funding for public schools has raised eyebrows as well.

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New advertiser joins Bulletin

PetroCard, which has six offices throughout Washington and Oregon and also markets in Oregon, Idaho and Montana, is a new advertiser in the AUTO Bulletin beginning with this issue.

Headquartered in Kent, PetroCard is primarily in the business of providing fuel and value-added fueling services via three divisions -- Fleets, Fuels and Lubricants. It has more than 190 employees.

The Fuels division has two services, unbranded and branded fuel. The unbranded services consist of bulk deliveries within multiple commercial market areas and branded fuels provides multiple major oil company brands such as Conoco, 76, Exxon, Mobil, Shell and the independent label Gull.

According to Senior Vice President Scott Walters who heads up the Fuels division, "We offer creative incentive packages with our many brand options."

Other key PetroCard personnel include: David Harris, CEO/President; and Senior Vice Presidents Aaron Reding (Fleet), Tim Tonani (Lubes). Lanny Michael is Chief Financial Officer.

PetroCard's website is located at www.petrocard.com. Primary phone is toll free at 1-800-950-3835.



AUTO MEMBER Lloyd Williamson has owned and operated Conway Foods 76 in Conway, WA for four years. He recently joined AUTO out of concern over the impact of tribal stations' receiving a state refund of 28 cents per gallon, placing him at a competitive disadvantage. Lloyd supports the suits filed by AUTO to stop the misuse of motor fuel taxes and discrimination against non-tribal station operators by the state. Raised in Louisiana, Williamson is an Army vet and lived in Alaska many years. He has friends and customers who are Native Americans and often explains his view of the situation to customers with the AUTO Bulletin prominently displayed at the counter.

Attention: All WA Motor Fuel Marketers

Please join with Lloyd and other fellow fuel marketers in the effort to stop these unconstitutional and discriminatory tax policies initiated by the state of Washington that are inflicting extreme damage to marketers across the state. For non-members, all it takes is to simply fill out the membership application on the following page.

As an alternative or for those that are already a member of AUTO, please consider helping cover the legal expenses we are incurring by mailing a check payable to AUTO, PO Box 1420, McCleary, WA. Write the word "litigation" on the front of the check.

It's time to put a stop to Washington's discriminatory and unfair taxing policies. Please take the time to support our efforts to correct these erroneous practices of the state government by either joining AUTO or contributing to the litigation effort. Remember, one can either be part of the solution or, part of the problem.



If a problem arises, AUTO members can call on their association

**Who will you turn to?
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Contact Name _____ Phone _____

Mailing Addr. _____ Fax _____

City _____ Zip _____ email address _____

Station physical locations (if different from above)

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Station #2 Addr _____ Brand _____

City _____ Zip _____ Phone _____

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Member's signature _____