

MINUTE ITEM 48

W. 17095

R. Ludlow

CONSIDER THE CONSENT BY THE CITY OF LONG BEACH
FOR THE ASSIGNMENT TO ATLANTIC RICHFIELD COMPANY AND
ULTIMATELY TO ARCO LONG BEACH, INC.
OF MOBIL OIL CORPORATION'S INTEREST IN THE FIELD CONTRACTORS'
SHARE OF THE CONTRACTORS AGREEMENT, LONG BEACH UNIT

Mr. Michael Franchetti, representing Mobil Corporation, spoke before the Commission asking that the record reflect some changes to the agreement sent to staff of the Commission late last week. He wanted to make sure these changes were agreeable to the Commission and, as a matter of record, that the agreement reflected these changes.

Rick Ludlow, Senior Staff Counsel, advised the Commissioners the present calendar item would be amended to insert these clarification phrases and clauses and that it would not change the meaning of the agreement or any of the terms and conditions.

After a short discussion the motion was approved 3-0.

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MINUTE ITEM

This Calendar Item No. 48
was approved as Minute Item
No. 48 by the State Lands
Commission by a vote of 3
to 0 at its 7/15/91
meeting.

CALENDAR ITEM

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SHARE OF THE CONTRACTORS AGREEMENT, LONG BEACH UNIT

ASSIGNOR:

Mobil Oil Corporation
Mobil Place
3000 Pegasus Park Drive
P. O. Box 650232
Dallas, Texas 75265-0232

ASSIGNEE:

ARCO Long Beach, Inc.
Western District
P. O. Box 147
Bakersfield, California 93302

PARTY:

City of Long Beach
Department of Oil Properties
333 West Ocean Boulevard
Long Beach, California 90802

BACKGROUND

In 1965, the City of Long Beach (City) and several oil companies entered into the Contractors' Agreement for the development and production of oil from the eastern extension of the Long Beach tidelands and upland parcels unitized with these tidelands, now known as the Long Beach unit. The Contractors' Agreement provides the rights and obligations of the City and its oil company contractors with respect to the hydrocarbons allocated and the costs attributable to Tract 1 of the Long Beach Unit, which is the portion of the Unit encompassing the City's granted tidelands.

The Contractors' Agreement is divided into a Field Contractor's share and several Nonoperating Contractors' shares. The Field Contractors' share comprises an 80-percent interest in Tract 1. The holder of this share is responsible for conducting the day-to-day field operations in the Long Beach Unit under the direction and control of the City which is the Unit Operator. The holder of this interest is also responsible for taking 80 percent of the oil allocated to Tract 1 and paying 80 percent of the expenses attributable to Tract 1.

The highest bidder for the Field Contractor's share was a group of five oil companies, each with a one-fifth interest. The five companies were Texaco, Inc., Humble Oil and Refining Company (now Exxon), Union Oil Company of California, Socony Mobil Oil Company, and Shell Oil Company. They came to be known by the acronym THUMS. These five companies formed THUMS Long Beach Company, a separate corporation in which each owned 20 percent of the stock, to act as the agent for the five companies to carry out the functions of the Field Contractor. Each of the five companies was jointly and severally liable for performing the functions of the Field Contractor.

In 1989, Atlantic Richfield Company, through its wholly owned subsidiary, ARCO Long beach, Inc., acquired the interests of Texaco, Union, and Shell in the Field Contractor. With a 60-percent interest in the Field Contractor and 60 percent of the THUMS Long Beach Company stock, ARCO Long Beach now holds the controlling share of the Field Contractor. Atlantic Richfield has entered into an agreement with Mobil Oil Corporation under which it will acquire Mobil's 20-percent interest in the Field Contractor and Mobil's 20 percent of the THUMS stock. Thereupon, Atlantic Richfield will assign this interest and portion of stock to ARCO Long Beach and will guarantee the performance of ARCO Long Beach. If this acquisition becomes effective, ARCO Long Beach will hold an 80-percent interest in the Field Contractor, and Exxon would have the remaining 20-percent interest.

Under Article 25 of the Contractors' Agreement, an assignment or other disposition of any interest in the Contractors' Agreement is not valid without the consent of and is subject to terms and conditions imposed by the City Manager of Long Beach acting with the approval of the State Lands Commission.

Atlantic Richfield, through its wholly owned subsidiary, ARCO Long beach, is fully qualified to hold an additional 20-percent

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interest in the Field Contractor. Therefore, staff recommends that the Commission consent to the assignment subject to the terms and conditions set forth in the Findings.

In addition to the consent to the assignment, Mobil Oil has also requested that it be released from all liability under the Contractors' Agreement on matters arising subsequent to the effective date of the assignment. In December 1989, when Texaco, Union, and Shell assigned their interest in the Contractors' Agreement to Atlantic Richfield, they were released from liability for matters arising under the Contractors' Agreement occurring after the effective date of the assignment.

Commission staff is agreeable to releasing Mobil from liability under the Contractor's agreement for events that occur after the effective date of the assignment provided, however, that Mobil agree to enter into an Assignment Consent Agreement with the City of Long Beach substantially in the form attached to this Calendar Item as Exhibit "A".

AB 884:
N/A

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that his activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 21065 and 14 Cal. Code Regs. 15378.

EXHIBIT:

- A. Terms of Assignment Consent Agreement

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. CODE REGS. 15378.
2. APPROVE THE CONSENT BY THE CITY MANAGER OF LONG BEACH TO THE ASSIGNMENT TO ARCO LONG BEACH, INC. OF THE INTEREST OF MOBIL OIL CORPORATION IN THE FIELD CONTRACTOR'S SHARE IN THE CONTRACTORS' AGREEMENT, LONG BEACH UNIT. THE CONSENT SHALL

STATE THAT MOBIL OIL CORPORATION SHALL REMAIN JOINTLY AND SEVERALLY LIABLE FOR ANY MATTERS ARISING UNDER OR AFFECTING THE PERFORMANCE OF THE FIELD CONTRACTOR'S DUTIES UNDER THE CONTRACTORS' AGREEMENT OCCURRING PRIOR TO THE EFFECTIVE DATE OF THE ASSIGNMENT, ANYTHING IN ANY AGREEMENT BETWEEN ATLANTIC RICHFIELD COMPANY AND MOBIL OIL CORPORATION TO THE CONTRARY NOTWITHSTANDING, AND FURTHER PROVIDED, THAT MOBIL OIL CORPORATION ENTER INTO AN ASSIGNMENT CONSENT AGREEMENT WITH THE CITY OF LONG BEACH SUBSTANTIALLY IN THE FORM ATTACHED TO THIS CALENDAR ITEM AS EXHIBIT "A".

3. FIND THAT THE ASSIGNMENT SHALL NOT BE EFFECTIVE UNTIL ARCO HAS CONSENTED IN WRITING NOT TO WITHHOLD, BASED UPON ANY RIGHT OR CLAIM OF SET-OFF OR RECOUPMENT EITHER AT LAW OR EQUITY, ANY NET PROFIT PAYMENT UNDER THE CONTRACTORS' AGREEMENT DUE THE CITY OF LONG BEACH, AS TRUSTEE FOR THE STATE OF CALIFORNIA, TO RECOVER MONEY DUE ARCO UNDER A JUDGMENT THAT MAY BE ISSUED AGAINST THE STATE AND IN FAVOR OF ARCO IN THE EVENT OF A REVERSAL ON APPEAL OF THE JUDGMENT IN ATLANTIC RICHFIELD COMPANY, ET AL v. STATE LANDS COMMISSION, ET AL, LOS ANGELES COUNTY SUPERIOR COURT, NO. C663010.
4. DETERMINE THAT, BY GIVING ITS CONSENT TO THIS ASSIGNMENT, THE COMMISSION DOES NOT APPROVE ANY OF THE TERMS AND CONDITIONS OF THE CONTRACTS BETWEEN ATLANTIC RICHFIELD AND MOBIL OIL CORPORATION, OR ANY OTHER AGREEMENT INVOLVING MOBIL OIL CORPORATION, ATLANTIC RICHFIELD, OR ARCO LONG BEACH, EFFECTING OR IMPLEMENTING THE ASSIGNMENT.

EXHIBIT "A"

The Assignment Consent Agreement to be entered into among the City of Long Beach (City), Mobil Oil Corporation (Mobil), Atlantic Richfield Company (ARCO) and ARCO Long Beach, Inc. and approved by the State Lands Commission shall include the following terms:

1. After execution of the Assignment Consent Agreement and the closing of the Exchange Agreement (the "Closing Date"), Mobil no longer shall be a party to the Contractors' Agreement and no longer shall be subject to the Contractors' Agreement with respect to activities or obligations under such agreement arising or occurring after the Closing Date. However, Mobil shall not be relieved from any liabilities to the City or the State relating to Long Beach Unit operations arising from or attributable to the activities of Mobil acting separately or as a part of the Field Contractor on or before the Closing Date. Mobil shall remain jointly and severally liable for any and all matters arising or affecting the performance of the Field Contractor's duties under the Contractors' Agreement on or before the Closing Date.

2. After the Closing Date, the only obligations Mobil shall have to the City or to the State with respect to taking and accounting for crude oil allocated to the Field Contractor's interest after the Closing Date shall be as follows:

(a) Mobil's obligations shall run from the day after the Closing Date to the earliest of (i) the completion of Mobil's obligations under 2(e) below, (ii) midnight March 31, 2000, or midnight the day the Contractors' Agreement is sooner terminated, (iii) midnight the day the Contractors' Agreement is amended in any manner affecting the Field Contractor's obligations to take the oil allocated to its interest or (iv) midnight the day the Field Contractor's interest or any portion of it is assigned or otherwise transferred to anyone other than ARCO or any subsidiary of ARCO.

(b) Upon the occurrence of a Total Default, as defined in 2(c) below, the City shall have the right to notify Mobil that it is exercising its right to compel Mobil to purchase from the City, on a one time basis, a specified amount of crude oil allocated to the Field Contractor's interest in Tract 1 that by reason of a Total Default has not been purchased by ARCO or any subsidiary of ARCO or by Exxon Corporation (Exxon) or any subsidiary of Exxon, if the Exxon interest in the Field Contractor has not been assigned or otherwise transferred to ARCO or any subsidiary of ARCO. That specified amount of crude oil shall not exceed the lesser of (i) 10,000 barrels per day of crude oil allocated to the Field Contractor's interest in Tract 1 or (ii) 32% of the average daily production of crude oil allocated to Tract 1 during the twelve months prior to the City's exercise of its rights (the "Purchase Amount").

(c) The City shall have the right to compel Mobil to purchase under 2(b) above only if (i) ARCO and Exxon, if Exxon

still holds an interest in the Field Contractor, voluntarily or involuntarily become the subjects of federal bankruptcy proceedings and (ii) the Contractors' Agreement is rejected in its entirety in the proceedings in accordance with federal bankruptcy law ("Total Default").

(d) After the City has exercised its right to compel Mobil to purchase under 2(b) above, the City may elect to discontinue Mobil's purchase obligations by providing Mobil with at least one month's advance written notice.

(e) After the City has exercised its right to compel Mobil to purchase under 2(b) above, Mobil shall begin to purchase the Purchase Amount at the beginning of the first month after the month in which Mobil receives notice of the City's election and Mobil shall continue to purchase the Purchase Amount until the earliest of (i) the last day in the eleventh consecutive month after the first month in which Mobil makes a purchase under this 2(e), (ii) the last day in the month in which ARCO or any subsidiary of ARCO or Exxon or any subsidiary of Exxon, if Exxon still holds an interest in the Field Contractor, starts to purchase any amount of crude oil allocated to the Field Contractor's interest in Tract 1, (iii) the last day of the month after the month in which Mobil receives the City's notice under 2(d) above to discontinue Mobil's purchase of crude oil or (iv) expiration of Mobil's purchase obligations in 2(a) above.

(f) The City may exercise its election in 2(b) above only once.

(g) No rights of the City or the State or obligations of Mobil regarding the purchase of oil by Mobil shall arise because of the Total Default by ARCO Long Beach Company or any other subsidiary or affiliate of ARCO or any subsidiary or affiliate of Exxon.

(h) Mobil shall pay the City for the City's crude oil it purchases the price calculated pursuant to Article 9(b)(1) of the Contractors' Agreement. Mobil shall pay the City for all oil purchased by the end of the first month after the month in which Mobil takes delivery of such oil.