

MINUTE ITEM

11/29/73  
CVB

27. EIGHTH MODIFICATION OF THE 1973-1974 PLAN OF DEVELOPMENT AND OPERATIONS AND BUDGET, LONG BEACH UNIT, AND SETTLEMENT OF SUIT, PETRECAL VS. THE CITY OF LONG BEACH AND THUMS LONG BEACH COMPANY, LONG BEACH UNIT, WILMINGTON OIL FIELD, LOS ANGELES COUNTY.

After consideration of Supplemental Calendar Item 25 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION, PURSUANT TO SECTION 7.13 OF THE UNIT OPERATING AGREEMENT, AND PART IV.G.c. OF THE 1973-1974 PLAN OF DEVELOPMENT AND OPERATIONS AND BUDGET, LONG BEACH UNIT, APPROVES THE COMPLETE SETTLEMENT OF THE PATENT INFRINGEMENT SUIT, PETRECAL VS. THE CITY OF LONG BEACH AND THUMS LONG BEACH COMPANY, AND THE EIGHTH MODIFICATION OF THE 1973-1974 PLAN OF DEVELOPMENT AND OPERATIONS AND BUDGET, LONG BEACH UNIT, AS SUBMITTED BY THE CITY OF LONG BEACH AND HEREINABOVE SET FORTH.

Attachment:

Supplemental Calendar Item 25 (2 pages)

EIGHTH MODIFICATION OF THE 1973-1974  
PLAN OF DEVELOPMENT AND OPERATIONS AND BUDGET,  
LONG BEACH UNIT, AND SETTLEMENT OF SUIT,  
PETRECAL VS. THE CITY OF LONG BEACH AND THUMS LONG BEACH COMPANY,  
LONG BEACH UNIT, WILMINGTON OIL FIELD, LOS ANGELES COUNTY

Suit was filed in the United States District Court, Central District of California, on December 1, 1972, by Petrecal against the City of Long Beach and THUMS Long Beach Company. This suit charged that the water flooding methods used by the defendants infringed upon a patent issued to Mr. W. A. Colburn, which patent was later assigned to Petrecal. The plaintiff requested unspecified damages.

Meetings and discussions have been held between the legal advisers, and depositions have been taken from numerous potential witnesses. The pre-trial hearing and trial dates were set for the last week in November, 1973.

By letter dated November 19, 1973, the plaintiff agreed to accept \$100,000 for a confession of judgment that certain claims are invalid and that the patent will not be asserted against any individual, firm or corporation that is a Participant in the Long Beach Unit and/or the State of California, City of Long Beach, THUMS Long Beach Company or any of 18 other parties listed in the settlement, including the other tideland oil contractors for the City of Long Beach. Under these terms the suit will be dismissed with prejudice, each party bearing its own costs.

Article 7.13 of the Unit Operating Agreement for the Long Beach Unit states that the "Unit Operator, with the approval of the State and Approval after Submission to the Participants, may settle any single damage claim by any Person other than a Voting Party or other Participant arising from Unit Operations and not involving an expenditure in excess of two hundred fifty thousand dollars (\$250,000.00), provided that such payment is in complete settlement of such claim."

PART IV.G.c. of the 1973-1974 Plan of Development and Operations and Budget, Long Beach Unit, provides that the settlement of any claim or suit in excess of \$20,000 shall require the approval of the State Lands Commission.

Accordingly, the City of Long Beach, as Unit Operator has requested Commission approval to settle the subject suit. Under the terms of the proposed \$100,000 settlement agreement the Long Beach Unit will pay \$50,000. The five oil companies comprising the Field Contractor for the Long Beach Unit (i.e. Texaco Inc., Exxon Company, Union Oil Company, Mobil Oil Corporation and Shell Oil Company) will pay the remaining \$50,000 no part of which will be charged to the net profits account.

SUPPLEMENTAL CALENDAR ITEM NO. 25. (CONTD)

The Office of the Attorney General has reviewed this proposed settlement and recommends that the Commission approve the proposed payment as complete settlement for the subject claim.

In order to provide necessary funding, the City has requested Commission approval of the Eighth Modification of the 1973-1974 Plan of Development and Operations and Budget for the Long Beach Unit, to augment Budget Item III.B.4.b. Extraordinary Losses and Claims in the amount of \$105,000. This includes \$50,000 as the Long Beach Unit share of the settlement, and \$55,000 as a budget provision for the estimated balance of legal fees and expenses.

The Division has reviewed this proposed settlement and finds it desirable in view of the high rate of expenditure in preparation for the defense (nearly \$300,000, during the past year) and the enormous potential loss to the Long Beach Unit and the State which could result from an adverse court judgment even though counsel advises that the Long Beach Unit has a strong defensive case.

IT IS RECOMMENDED THAT THE COMMISSION, PURSUANT TO SECTION 7.13 OF THE UNIT OPERATING AGREEMENT, AND PART IV.G.c. OF THE 1973-1974 PLAN OF DEVELOPMENT AND OPERATIONS AND BUDGET, LONG BEACH UNIT, APPROVE THE COMPLETE SETTLEMENT OF THE PATENT INFRINGEMENT SUIT, PETRECAL VS. THE CITY OF LONG BEACH AND THUMS LONG BEACH COMPANY, AND THE EIGHTH MODIFICATION OF THE 1973-1974 PLAN OF DEVELOPMENT AND OPERATIONS AND BUDGET, LONG BEACH UNIT, AS SUBMITTED BY THE CITY OF LONG BEACH AND HEREINABOVE SET FORTH.