

MINUTE ITEM

This Calendar Item No. 27
was approved as Minute Item
No. 27 by the State Lands
Commission by a vote of 3
0 at its 10/26/89
meeting.

CALENDAR ITEM

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10/26/89
W 17095
Pace

APPROVAL OF CONSENT BY CITY OF LONG BEACH
TO ASSIGNMENTS TO ARCO LONG BEACH, INC.
OF INTERESTS OF TEXACO, UNOCAL AND SHELL
IN THE FIELD CONTRACTOR'S SHARE IN THE
CONTRACTOR'S AGREEMENT, LONG BEACH UNIT

BACKGROUND:

In 1965, the City of Long Beach (City) and numerous oil companies entered into the Contractor's Agreement for the development and production of oil from the eastern extension of the Long Beach tidelands and uplands parcels unitized with these tidelands, now known as the Long Beach Unit. The Contractor's 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 City's granted tidelands.

The Contractor's Agreement is divided into a Field Contractor's share and several Nonoperating Contractors' shares. The Field Contractor's 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 share is also responsible for taking 80 percent of the oil allocated to Tract 1 and paying 80 percent of the costs attributable to Tract 1.

The high bidder for the 80 percent 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 & Refining Company (now Exxon Corporation), Union Oil Company of

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California, Socony-Mobil Oil Company and Shell Oil Company. They have come to be known by the acronym THUMS. These five companies formed THUMS Long Beach Company, a separate corporation in which each owns twenty percent of the stock, to carry out the functions of the Field Contractor. However, each of the five companies is jointly and severally liable for carrying out the Field Contractor's responsibilities. The five companies, not THUMS Long Beach Company, are the Field Contractor.

Atlantic Richfield Company (ARCO) has recently been pursuing the acquisition of the Field Contractor's interests and has formed a wholly owned subsidiary, ARCO Long Beach, Inc., for the purpose of holding title to and performing the responsibilities burdening whatever interests in the Contractor's Agreement it acquires. ARCO's current interest in the Long Beach Unit oil operations is based on a history of involvement with those oil operations. Its predecessor was the successful bidder with the Standard Oil Company of California for Nonoperating Contractor's shares totaling ten percent of Tract 1. Its predecessor, acting alone, was the successful bidder for the Tract 2 Agreement, the State-owned tidelands interest in the Long Beach Unit. ARCO sold these interests in 1976. In addition, ARCO is the holder of significant interests in the uplands or townlot area of the Long Beach Unit.

ARCO has entered into Purchase and Sale Agreements with Texaco Inc. (Texaco), Shell Western E&P Inc. (Shell) and Union Oil Company of California (Unocal) for the acquisition of their interests in the Field Contractor's share of the Contractor's Agreement. The Texaco agreement was made on June 30, 1989, the Shell on July 6, 1989, and the Unocal on July 31, 1989. ARCO has applied to the City for approval of the assignments of the interests of Texaco, Shell and Unocal. ARCO hopes that it will be able to consummate agreements for the acquisition of other interests in the Contractors' Agreement. However, it requests that the City act at this time on those acquisitions that it has consummated. Under Article 25 of the Contractor's Agreement, the Assignment or other disposition of any interest in the Contractors' Agreement is not valid without the written consent of the City Manager of Long Beach acting with the approval of the State Lands Commission.

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If these acquisitions are approved, ARCO, through its subsidiary ARCO Long Beach, Inc., will have a controlling (three-fifths) interest in the Field Contractor. ARCO has proven expertise in oil production worldwide, it is financially sound and it has a transportation and marketing system that will enable it to dispose of the oil. Therefore, the staff recommends that the Commission give its approval to the City's consent to the assignment to ARCO Long Beach, Inc. of the interests of Texaco, Unocal and Shell, subject to the conditions set forth in the findings.

In giving its consent to these assignments, the Commission makes it clear that the City should not release Texaco, Unocal and Shell from any liabilities arising from or attributable to activities by these companies, their parents and the Field Contractor prior to or after the effective date of the assignments. Therefore, the City's consent to the assignments should state the right of the City and the State to hold Texaco, Unocal, and Shell jointly and severally responsible for any liabilities arising from or attributable to activities of the Field Contractor under the Contractors' Agreement prior to or after the effective date of the assignments, anything in any agreement between ARCO and these companies to the contrary notwithstanding.

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 this 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.

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.

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2. APPROVE THE CONSENT BY THE CITY OF LONG BEACH TO THE ASSIGNMENTS TO ARCO LONG BEACH, INC. OF THE INTERESTS OF TEXACO, UNOCAL AND SHELL IN THE FIELD CONTRACTOR'S SHARE IN THE CONTRACTORS' AGREEMENT, LONG BEACH UNIT. THE CONSENT SHALL STATE THAT TEXACO, UNOCAL AND SHELL SHALL REMAIN JOINTLY AND SEVERALLY LIABLE FOR ANY MATTERS ARISING UNDER OR AFFECTING THE PERFORMANCE OF THE FIELD CONTRACTOR'S DUTIES UNDER THE FIELD CONTRACTOR'S AGREEMENT PRIOR TO OR AFTER THE EFFECTIVE DATE OF THE ASSIGNMENTS, ANYTHING IN ANY AGREEMENT BETWEEN ATLANTIC RICHFIELD COMPANY AND TEXACO, UNOCAL, OR SHELL TO THE CONTRARY NOTWITHSTANDING.
3. FIND THAT THE ASSIGNMENT SHALL NOT BE EFFECTIVE AS TO THE INTEREST OF TEXACO, INC. IN THE FIELD CONTRACTOR'S AGREEMENT UNTIL THE STATE LANDS COMMISSION HAS CERTIFIED IN WRITING TO THE CITY MANAGER OF THE CITY OF LONG BEACH THAT TEXACO, INC. HAS PROVIDED ALL OF THE DOCUMENTS UNDER ARTICLE 9 OF THE CONTRACTOR'S AGREEMENT THAT IT HAS BEEN CALLED UPON TO PROVIDE. SUCH CERTIFICATION MAY BE SIGNED BY THE EXECUTIVE OFFICER OR CHIEF COUNSEL OF THE STATE LANDS COMMISSION.
4. FIND THAT THE ASSIGNMENTS 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 CONTRACTOR'S 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 CASE NO. C 603010, ENTITLED ATLANTIC RICHFIELD COMPANY, ET AL v. STATE LANDS COMMISSION, ET AL, PRESENTLY PENDING IN THE LOS ANGELES COUNTY SUPERIOR COURT. SAID CONSENT TO BE SUBSTANTIALLY IN THE FORM ON FILE WITH THE COMMISSION.
5. THAT BY GIVING ITS CONSENT TO THE ASSIGNMENTS, THE COMMISSION DOES NOT APPROVE ANY OF THE TERMS OR CONDITIONS OF THE CONTRACTS BETWEEN THE ASSIGNORS AND ARCO LONG BEACH AS ASSIGNEE WHICH IMPLEMENT THE ASSIGNMENT.