

MINUTE ITEM

41

W 17095

Al Willard

APPROVE ASSIGNMENT OF THE TEN PERCENT (10%)
NON-OPERATING CONTRACTOR'S INTEREST
IN THE CONTRACTORS' AGREEMENT,
TRACT 1, LONG BEACH UNIT,
WILMINGTON OIL FIELD,
LOS ANGELES COUNTY

Calendar Item C41, attached, was pulled from the agenda prior to the meeting.

Attachment: Calendar Item C41

A 57, 58

S 29

CALENDAR PAGE _____
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CALENDAR ITEM

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07/19/93

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IN THE CONTRACTORS' AGREEMENT,
TRACT 1, LONG BEACH UNIT,
WILMINGTON OIL FIELD,
LOS ANGELES COUNTY

ASSIGNOR:

Hondo Oil and Gas Company
Attn: Chuck McDaniel
P. O. Box 2208
Roswell, MN 88202-2208

ASSIGNEE:

FOC, Inc.
Attn: Neil H. Miller
8182 Maryland Avenue
St. Louis, Missouri 63105-3721

BACKGROUND:

Hondo Oil and Gas Company (Hondo) holds a ten percent (10%) nonoperating contractor's interest in the Contractors' Agreement, Tract 1 of the Long Beach Unit in the Long Beach tidelands. Hondo is proposing to assign this interest to FOC, Inc. (FOC) and must receive the consent of the City Manager of Long Beach acting with the approval of the Commission for the assignment to be effective.

Hondo's nonoperating interest is one of four nonoperating interests in Tract 1. The operating interest, known as the Field Contractor's interest, is held by the ARCO Long Beach, Inc. All interests are net profits interests. The obligations of a holder of a nonoperating interest include paying its share of Unit Expense, taking its share of unit oil, and paying net profits to the City of Long Beach (City). The holder of this ten percent (10%) nonoperating contractor's interest would be responsible for paying ten percent (10%) of Tract 1's 86 percent (86%) share of Unit Expense and taking ten percent (10%) of Tract's 86 percent

(86%) share of unit oil. Because the original bid for this interest was 98.277 percent (98.277%) of net profits payable to the City, the interest holder must pay 98.277 percent (98.277%) of the net profits to the City. Nonetheless, the holder of this interest possesses a valuable asset, a dependable supply of crude oil at an advantageous location in the Los Angeles Basin.

FOC, a wholly owned subsidiary of Apex Oil Company, Inc., (Apex) appears to be able to meet the two important requirements for holding a nonoperating contractor's interest, an ability to take and dispose of the oil and an ability to meet the financial obligations. Apex recently purchased Edgington Oil Company (Edgington). Edgington, which has a refinery in Long Beach, has been a long-time purchaser of oil in the Long Beach area. The City and the State have had numerous satisfactory crude sales transactions with Edgington. It would appear that the oil from this Tract 1 interest would be refined by Apex in its Long Beach refinery (Edgington) for use in the manufacture of asphalt. Thus, FOC would appear to have a continuing ability to take and dispose of the oil.

In order to assure that FOC would have the ability to meet its financial responsibilities as the holder of this nonoperating interest, the City's Department of Oil Properties (DOP) and the Commission staff requested that Apex, FOC's parent, provide an unconditional guarantee of FOC's performance under the Contractors' Agreement. Apex has agreed. Therefore, the City may look to both FOC and Apex for performance. As an additional protection against loss in the event of a default, the DOP and the Commission staff have requested FOC to agree to a change in Article 30 of the Contractors' Agreement, reducing from twenty days to ten days the period following notice of default after which the City may terminate FOC's rights under the contract. FOC has agreed to this change.

Under the terms of the assignment from Hondo to FOC, Hondo will be responsible for all adjustments for additional oil value under Article 9(e) of the Contractors' Agreement for oil allocated to this nonoperating interest through June 30, 1993, FOC will be responsible for all Article 9(e) adjustments for additional oil value for oil allocated after June 30, 1993. Hondo has agreed to terms for payment of its obligations for the adjustments for additional oil value for

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1990, 1991, 1992 and January through June 1993. Upon approval of the assignment, Hondo will provide for payment of \$1,315,700 (\$565,700 upon approval and \$750,000 escrowed for estimated obligations for 1992 and January through June 1993). The balance of \$400,000 will be paid in fifteen equal monthly installments. Hondo will pay any additional amounts for 1992 and January through June 1993 if the \$750,000 estimate is insufficient to cover the actual obligations.

Based on a review of FOC's and Apex's financial records and FOC's and Apex's agreement to the request for a guarantee by Apex and a change in the default provision, the DOP and Commission staff believe that FOC will be able to meet the financial responsibilities of the holder of this nonoperating contractor's interest. The DOP and the Commission staff are also satisfied with FOC's ability to take and dispose of the oil. Therefore, the DOP and the Commission staff have concluded that FOC has the ability to fulfill its responsibilities under the Contractors' Agreement if the assignment is approved.

The DOP and the Commission staff are recommending that FOC initially be required to provide the performance bond required by Article 32 of the Contractors' Agreement or security in the form of a letter of credit. Under Article 32, the actual cost of the bond, up to one percent (1%) per year of the principal amount, may be charged to net profits. Therefore, any costs associated with the procurement of the bond or letter of credit, up to one percent (1%) of the principal amount, will be primarily borne by the City and the State since the City's net profits share is 98.277 percent (98.277%). The Commission may wish to request the City to waive the security requirement, which the City may do with the approval of the State, if FOC establishes a record of satisfactory performance.

Under Article 25 of the Contractors' Agreement, an assignment of an interest, in order to be effective, must receive the consent of the City Manager acting with the approval of the State. Since the City's consent must be with the Commission's approval, the Commission must take the initial action. However, the DOP has recommended that the City Manager consent to the assignment on the conditions outlined above.

STATUTORY AND OTHER REFERENCES:

- A. Article 25, Contractors' Agreement

AB 884:

11/10/93.

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.
2. APPROVE THE CONSENT TO BE GIVEN BY THE LONG BEACH CITY MANAGER TO THE ASSIGNMENT BY HONDO OIL AND GAS COMPANY TO FOC, INC., OF HONDO'S TEN PERCENT (10%) NONOPERATING CONTRACTOR'S INTEREST IN THE CONTRACTORS' AGREEMENT FOR TRACT 1 OF THE LONG BEACH UNIT. THE CONSENT IS TO BE CONDITIONED ON: (1) APEX OIL COMPANY PROVIDING AN UNCONDITIONAL GUARANTEE OF FOC'S PERFORMANCE; (2) FOC, INC. AGREEING TO A REDUCTION IN THE NOTICE OF DEFAULT PERIOD FROM TWENTY TO TEN DAYS AND, (3) HONDO OIL AND GAS COMPANY EXECUTING AN AGREEMENT AS OUTLINED ABOVE, PROVIDING FOR FULFILLMENT OF ITS OBLIGATIONS UNDER ARTICLE 9(e) OF THE CONTRACTORS' AGREEMENT FOR ADDITIONAL OIL VALUE THROUGH JUNE 30, 1993.
3. AUTHORIZE THE EXECUTION OF ANY DOCUMENT NECESSARY TO EFFECT THE COMMISSION'S ACTION.