



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the
Board of Harbor Commissioners

DATE: FEBRUARY 24, 2011

FROM: REAL ESTATE DIVISION

**SUBJECT: ORDER NOS. _____ - PROPOSED RESETTING OF
COMPENSATION UNDER PERMIT NO. 704 WITH EXXONMOBIL OIL
CORPORATION AND PERMIT 741 WITH MOBIL PACIFIC PIPELINE
COMPANY**

SUMMARY:

Permit No. 704 grants ExxonMobil Oil Corporation (EMOC) the right to use City of Los Angeles Harbor Department (Harbor Department) land, subsurface, and water areas at Berths 237-240C, and adjacent to Pilchard Street and Ferry Streets on Terminal Island, for the construction, operation, and maintenance of a marine oil terminal. Permit No. 704 has a 25-year term, expiring December 31, 2015, with compensation to be reset every five years. Compensation is proposed to be reset for the five-year periods of 2006 to 2010 and 2011 to 2015 at \$75,312 per quarter based on a \$22 per square foot land value, 10 percent rate of return, and 75 percent discount for subsurface use.

Permit No. 741 grants Mobil Pacific Pipeline Company (MPPC) use of approximately 4,273 square feet of Harbor Department backland in various locations in Wilmington for the construction, maintenance, and operation of subsurface pipelines for delivery of crude oil to and from various off shore oil recovery sites south of Long Beach. Permit 741 has a 20-year term, expiring January 10, 2013, with compensation to be reset every five years. Compensation is proposed to be reset for the final five-year period of 2008 to 2013 based on a \$22 per square foot land value, 10 percent rate of return, and 50 percent discount for subsurface use.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Adopt and approve the Order resetting compensation under Permit No. 704 with ExxonMobil Oil Corporation for the five-year period of January 1, 2006 through December 31, 2010, and the five-year period of January 1, 2011 through December 31, 2015;
2. Adopt and approve the Order resetting compensation under Permit No. 741 with Mobil Pacific Pipeline Company for the five-year period of January 11, 2008 through January 10, 2013;
3. Authorize the Board Secretary to attest to the Order resetting compensation pursuant to Permit Nos. 704 and 741; and
4. Adopt Order Nos. _____.

SUBJECT: ORDERS RESETTING COMPENSATION UNDER PERMIT NO. 704 WITH EXXONMOBIL OIL CORPORATION AND PERMIT 741 WITH MOBIL PACIFIC PIPELINE COMPANY

DISCUSSION:

Background – Permit No. 704 has a 25-year term, extending from January 1, 1991 to December 31, 2015. The premises is improved, with a wharf structure owned by the Harbor Department and buildings, tanks, and pipelines owned by EMOC. Compensation under Permit No. 704 is made up of two components: 1) all applicable charges pursuant to Tariff No. 4 (Tariff), and 2) Land Rent. Only Land Rent is subject to compensation reset every five years.

Permit 741 has a 20-year term, extending from January 11, 1993 to January 10, 2013. The premises include subsurface land with underground pipelines owned by MPPC. Compensation under Permit 741 is comprised solely of Land Rent, which is subject to reset every five years.

In September 2007, the Harbor Department engaged EMOC in negotiations under Permit 704 for the 2001 to 2005 and 2006 to 2010 compensation periods. Negotiations for both periods had been delayed due to a lawsuit over a relocated pipeline that was settled in 2007. Staff and EMOC quickly came to an agreement on the 2001-2005 compensation period and brought that to the Board for approval in March 2008.

Between 2001 and 2005, rapid appreciation in real estate values occurred, which were well documented by a port-wide benchmark appraisal prepared for the Harbor Department in 2006. Based on the appraisal, the Harbor Department established new standard values for waterfront land which resulted in a rent proposal to EMOC with a significant increase over the past compensation period. The proposed increase in land rent resulted in a prolonged negotiation process that lasted from 2008 to 2010, with both parties performing site specific appraisals, as well as third party reviews of each appraisal, which concluded in July 2010. Despite the effort put forth to arrive at a negotiated agreement based on appraised values, a large gap remained between the opinions of land rent value, with the Harbor Department's appraisal supporting a 42 percent increase equating to a \$24.60 land value with a 10 percent rate of return for all parcels and EMOC's appraisal supporting a 16 percent decrease based on land values of \$16.25 (waterfront parcels) and \$13 (backland parcel) with a 10 percent rate of return.

Although significant distance remained between both parties' position and progress in bridging the gap had been minimal over a long period of time, both sides agreed not to move forward into the arbitration process, but instead to meet every two weeks beginning in August 2010 in an effort to come to an agreement no later than the end of 2010. In addition to settling the past due compensation reset, it was agreed that the negotiated rate would also apply to the 2011-2015 compensation period, as well as the 2008 to 2012 compensation period under Permit 741. In December 2010, the parties agreed to reset compensation for both permits using a \$22 per square foot land value and a 10 percent rate of return for all parcels, which equates to a 27 percent increase in total annual compensation to the Harbor Department. The agreed upon land value is

SUBJECT: ORDERS RESETTING COMPENSATION UNDER PERMIT NO. 704 WITH EXXONMOBIL OIL CORPORATION AND PERMIT 741 WITH MOBIL PACIFIC PIPELINE COMPANY

consistent with the current Board policy of receiving a 10 percent rate of return on the current benchmark land value of \$22.

Current Compensation – Compensation for Land Rent under Permit No. 704 is currently set at \$2,375,248 per year, paid on a quarterly basis at a rate of \$593,812. Current land rent set for the 2001 to 2005 period is based on a waterfront and backland land value of \$15 and \$14, respectively, with the Harbor Department's former policy of a 12 percent annual rate of return on land, including a 75 percent discount for subsurface use. Individual parcels and associated compensation are depicted on the attached compensation summary. Land Rent is not collected on Parcel No. 2 (water) in lieu of Tariff charges collected for use of the wharf structure which occupies this parcel. Parcel No. 3, utilized for fire lane access, is also provided at no charge, as stipulated in Permit No. 704.

Compensation under Permit No. 741 is currently set at \$2,972 per year, paid annually. Current land rent is based on land values of \$12.92 and \$11.00, based on the value of industrial land in Wilmington adjacent to specific parcels and the Harbor Department's former policy of obtaining a 12 percent annual rate of return on land. Rent was discounted by 50 percent for subsurface use.

The difference in discount for subsurface land between Permit No. 704 (75 percent) and Permit No. 741 (50 percent) is based on a past Harbor Department policy of providing a larger discount for subsurface land utilized to support Harbor Department marine oil terminals. The 75 percent discount is not supported by current market data, which generally supports a 50 percent discount for subsurface uses. Future permits will base the subsurface discount on prevailing market conditions. However, as this was a consideration that was provided under Permit No. 704, it is proposed that the 75 percent discount based on past policy will continue to be provided until the expiration of Permit No. 704.

Proposed Compensation – Annual land rent under Permit No. 704 is proposed to be set at \$3,009,248 for both the 2006 to 2010 and the 2011 to 2015 compensation periods, based on a land value of \$22 per square foot and a 10 percent rate of return, with a 75 percent discount for subsurface use.

Annual land rent under Permit No. 741 is proposed to be set at \$4,700 for the 2008 to 2013 compensation period, based on a land value of \$22 per square foot and a 10 percent rate of return, with a 50 percent discount for subsurface use.

The proposed land rent for both Permit Nos. 704 and 741 is based on the Board's policy rate of return on land and the current benchmark land value utilized for resetting of compensation for industrial property throughout the Port of Los Angeles. The concluded negotiated settlement is compliant with current Board policy and consistent with the current market.

DATE: MARCH 3, 2011

PAGE 4 OF 4

SUBJECT: ORDERS RESETTING COMPENSATION UNDER PERMIT NO. 704
WITH EXXONMOBIL OIL CORPORATION AND PERMIT 741 WITH
MOBIL PACIFIC PIPELINE COMPANY

ENVIRONMENTAL ASSESSMENT:

The proposed action is an Order to reset the compensation under Permit Nos. 704 and 741. As an administrative action, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(f) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no direct employment effect in our five-county region.

FINANCIAL IMPACT:

Approval of the Orders to reset compensation under Permit No. 704 and Permit 741 will increase the annual rent to the Port by \$635,728. Additionally the retroactive compensation resets will result in a one-time payment to the Harbor Department of \$3,328,498 for Permit No. 704 and \$6,913 for Permit No. 741.

CITY ATTORNEY:


The proposed Order has been approved as to form and legality by the Office of the City Attorney.

TRANSMITTALS:

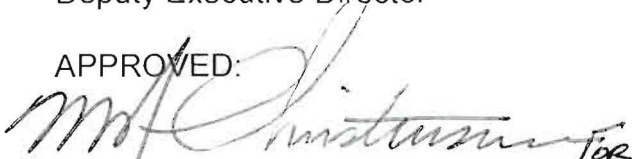
1. Board Orders
2. Rental Calculation Sheet
3. Aerial Site Map



KATHRYN McDERMOTT
Deputy Executive Director

FIS Approval:  (initials)

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director