

AMENDMENT TO  
OIL AND GAS LEASE  
(Kern County)

THIS AMENDMENT TO OIL AND GAS LEASE (this "Amendment") dated for reference purposes only as of MAY 24, 1994, is between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation ("Lessor"), and SHELL WESTERN E&P INC., a corporation ("Lessee"), and is made with reference to the following facts and circumstances:

A. This Amendment amends that certain Oil and Gas Lease dated March 5, 1963 (the "Lease"), executed by City, as Lessor, and Shell Oil Company, a Delaware corporation, Lessee's predecessor-in-interest, as Lessee, under which Lessor leased to Lessee certain premises containing approximately 800 acres in Kern County, California, more particularly described in the Lease (the "Premises").

B. Lessee holds all right, title and interest of Lessee under the Lease.

C. The parties desire to extend the term of the Lease and to make other amendments to the Lease as set forth below.

ACCORDINGLY, in consideration of the mutual benefit to the parties and payment of valuable consideration to Lessor, the receipt and sufficiency of which are hereby acknowledged, Lessor the parties hereto mutually agree as follows:

1 Term. The expiration date of the Lease is hereby extended from March 31, 1998, to March 31, 2020.

2 Royalties. As of the first day of the first month preceding the Effective Date of this Amendment, the oil royalty specified in paragraph 1 of the Lease, the gas royalty specified in paragraph 2 of the Lease, and the casinghead gasoline royalty specified in paragraph 3 of the Lease shall each be increased from twelve and one-half percent (12.5%) to fifteen and one-half percent (15.5%); provided, however, that, in the event Lessee in any of its oil and gas extraction operations on the Premises uses a fuel other than oil or gas extracted from the Premises for steam generation, Lessee shall be entitled to deduct from the royalties payable to Lessor an amount equal to fifteen and one-half percent (15.5%) of the fair market value of the fuel from the Premises that Lessee chose not to use for steam generation; and provided further that in no event shall Lessee's total monthly deduction for the cost of substituted fuel as described in the preceding clause exceed the aggregate amount of royalties payable from Lessee to Lessor for such month under the Lease.

3 Lease Extension Payments. As payment of additional rent under the Lease, and as further consideration for the extension of the term of the Lease as described in Section 1 above, Lessee shall make two payments to Lessor, each in the amount of One Hundred Twenty Thousand Dollars (\$120,000), the first within ten (10) days of the Effective Date of this Amendment (as defined below), and the second within ten (10) days of the first anniversary of the Effective Date.

4 Hazardous Materials.

4.1 Definitions. As used herein, the following terms shall have the meanings set forth below:

(a) "Environmental Laws" shall mean any present or future federal, state, local or administrative law, rule, regulation, order or requirement relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage), or to health and safety, industrial hygiene or the environment, including, without limitation, soil, air and groundwater conditions.

(b) "Hazardous Material" shall mean any material that, because of its quantity, concentration or physical or chemical characteristics, is at any time now or hereafter deemed by any Federal or State of California governmental authority to pose a present or potential hazard to human health, welfare or safety or to the environment, including, without limitation, any hazardous material, hazardous waste, hazardous or toxic substance, regulated substance, or related material, including without limitation, any such waste, material or substance designated or regulated pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. §9601, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. §1801, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §9601, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. §2601, et seq.), the Solid Waste Disposal Act, as amended (42 U.S.C.A. §6901, et seq.), the California Hazardous Waste Control Law (Health & Safety Code §25000, et seq.), the Mulford-Carrell Air Resources Act (Health & Safety Code §39000, et seq.), and in the regulations adopted and publications promulgated pursuant thereto, as such laws or regulations now exist or may exist in the future.

(c) "Investigate and Remediate" shall mean the undertaking of any activities to determine the nature and extent of Hazardous Material that may be located in, on, under or about the Property or that has been, are being or threaten to be released into the environment, and to clean up, remove, contain,

treat, stabilize, monitor or otherwise control such Hazardous Material.

4.2 Compliance With Laws. Lessee covenants and agrees that during the term of the Lease Lessee shall at all times comply with all Environmental Laws respecting the Premises and Lessee's operations thereon.

4.3 Indemnity. If Lessee breaches its obligations contained in Section 4.2 above, then, without limiting Lessee's indemnity contained in paragraph 12 of the Lease, Lessee shall, on behalf of itself and its successors and assigns, indemnify, defend and hold harmless City, its employees, officers and agents and their respective heirs, legal representatives, successors and assigns, and each of them, from and against any and all liabilities, losses, costs, claims, judgments, settlements, damages, liens, fines, penalties and expenses, including, without limitation, direct and vicarious liability of every kind (including without limitation attorneys' fees, consultants' fees and experts' fees and costs) arising during or after the term of the Lease and relating to Lessee's failure to comply with Section 4.2 above. The foregoing indemnity includes, without limitation, costs incurred in connection with activities undertaken to Investigate and Remediate Hazardous Material, fines and penalties imposed by regulatory agencies. Lessee shall afford City a full opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, or other compromise or proceeding involving Hazardous Material.

5 Authority. Lessee has full power and authority (corporate or otherwise) to enter into this Amendment and to consummate the transactions contemplated by it, this Amendment has been duly authorized by all necessary action on the part of Lessee, and no other corporate or other action on the part of Lessee is necessary to authorize the execution and delivery of this Amendment.

6 Board of Supervisors' Approval. Notwithstanding anything to the contrary contained in this Amendment, Lessee acknowledges and agrees that no officer or employee of City has authority to commit City hereto unless and until a resolution of City's Board of Supervisors shall have been duly enacted approving this Amendment and authorizing the transactions contemplated hereby. Therefore, any obligations or liabilities of City hereunder are contingent upon enactment of such a resolution, and this Amendment shall be null and void if City's Mayor and Board of Supervisors, in their respective sole discretion, do not approve this Amendment, within sixty (60) days of the date of execution of this Amendment by both parties. Approval of this Amendment by any department, commission or agency of City shall not be

deemed to imply that such resolution will be enacted nor will any such approval create any binding obligations on City.

7 Effective Date. This Amendment shall become effective on the date upon which (i) City's Board of Supervisors and the Mayor enact a resolution approving this Amendment in accordance with all applicable laws and (ii) this Amendment is duly executed by the parties hereto.

8 Effect on Lease. Lessor and Lessee agree that the Lease, as amended hereby, is a valid and subsisting oil and gas lease and that the Lease is in full force and effect and shall remain in effect for so long as oil or gas is produced from the lands covered thereby in accordance with the terms of the Lease, as amended hereby.

9 Brokers. Neither party has had any contact or dealings regarding the subject matter hereof or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the lease contemplated herein. In the event that any other broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes his claim shall be responsible for such commission or fee and shall indemnify and hold harmless the other party from all claims, costs, and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Amendment.

10 Taxes, Assessments, Licenses, Permit Fees and Liens.

(a) Lessee recognizes and understands that the Lease may create a possessory interest subject to property taxation and that Lessee may be subject to the payment of property taxes levied on such interest. (b) Lessee agrees to pay taxes of any kind, including possessory interest taxes, that may be lawfully assessed on the leasehold interest hereby created and to pay all other taxes, excises, licenses, permit charges and assessments based on Lessee's usage of the Premises that may be imposed upon Lessee by law, all of which shall be paid when the same become due and payable and before delinquency. (c) Lessee agrees not to allow or suffer a lien for any such taxes to be imposed upon the Premises or upon any equipment or property located thereon without promptly discharging the same, provided that Lessee, if so desiring, may have reasonable opportunity to contest the validity of the same.

11 Non-Liability of City Officials, Employees and Agents.

No elective or appointive board, commission, member, officer, employee or other Agent of City shall be personally liable to Lessee, its successors and assigns, in the event of any default

or breach by Lessor or for any amount which may become due to Lessee, its successors and assigns, or for any obligation of City under this Amendment.

12 Non-Discrimination. Lessee shall not, in the operation and use of the Premises, discriminate against any person or group of persons solely because of race, color, creed, national origin, ancestry, age, sex, sexual orientation, disability or acquired immune deficiency syndrome (AIDS) or AIDS related condition (ARC). The provisions of Chapters 12B and 12C of the San Francisco Administrative Code, relating to nondiscrimination by parties contracting with the City and County of San Francisco, are incorporated herein by reference and made a part hereof as though fully set forth herein. Lessee agrees to comply with all of the provisions of such Chapters 12B and 12C that apply to tenants of the City and County of San Francisco.

13 MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Lessee acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

14 Tropical Hardwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood product.

15 General Provisions. (a) The section and other headings of this Amendment are for convenience of reference only and shall not affect the meaning or interpretation of any provision contained herein. (b) This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. (c) This Amendment and the Lease contain the entire agreement between the parties and all prior written or oral negotiations, discussions, understandings and agreements are merged herein. (d) This Amendment shall be governed by California law and City's Charter. (e) If either party commences an action against the other or a dispute arises under this Amendment the prevailing party shall be entitled to recover from the other reasonable attorneys' fees and costs. For purposes hereof, reasonable attorneys' fees of City shall be based on the fees regularly charged by private attorneys in San Francisco with comparable experience. (f) Subject to the prohibition against assignments or other transfers by Lessee under the Lease, this Amendment shall be binding upon and inure to the benefit of the

parties and their respective heirs, representatives, successors and assigns.

Lessor and Lessee have executed and delivered this Amendment as of the date first written above.

LESSEE:

SHELL WESTERN E&P INC.,  
a DELAWARE corporation

By: J.C. Boyd  
J.C. Boyd  
Attorney-in-Fact

LESSOR:

CITY AND COUNTY OF SAN FRANCISCO,  
a municipal corporation

Frank H. Jordan  
FRANK JORDAN  
Mayor

John L. Taylor  
JOHN L. TAYLOR  
for Clerk of the Board of Supervisors

RECOMMENDED:

Anthony J. Delucchi  
ANTHONY J. DELUCCHI  
Director of Property

Kerith E. Dore  
City Librarian  
Pursuant to Library Commission Resolution No. 1660

Phil W. ...  
General Manager  
Recreation and Park Department  
Pursuant to Recreation and Park Resolution No. 16762

APPROVED AS TO FORM:  
LOUISE H. RENNE, City Attorney

By *Sam Wayne*  
Deputy City Attorney