

**FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579**

IN THE MATTER OF THE CLAIM OF

**WHITE EAGLE INTERNATIONAL
OIL COMPANY**

**Under the International Claims Settlement
Act of 1949, as amended**

Claim No. CU-1373

Decision No. CU 4916

PROPOSED DECISION

This claim against the Government of Cuba under Title V of the International Claims Settlement Act of 1949, as amended, was presented by WHITE EAGLE INTERNATIONAL OIL COMPANY in the amount of \$450,773.00 based upon the asserted ownership and loss of oil concessions and cash advanced in development of such concessions in Cuba.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated,

intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 502(1)(B) of the Act defines the term "national of the United States" as a corporation or other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or the Commonwealth of Puerto Rico, if natural persons who are citizens of the United States own, directly or indirectly, 50 per centum or more of the outstanding capital stock or other beneficial interest of such corporation or entity.

The claimant herein, WHITE EAGLE INTERNATIONAL OIL COMPANY, was organized under the laws of Delaware. An officer of the claimant corporation has certified that at all times pertinent to this claim 4,854 stockholders, holding 699,295 shares of the 700,000 shares of the outstanding stock of claimant had registered addresses within the United States; and that 10 stockholders, holding a total of 705 shares, resided outside of the United States. The Commission holds that claimant qualifies as a national of the United States within the meaning of Section 502(1)(B) of the Act.

Claim has been asserted for loss of certain concession rights in properties located in Oriente Province and other areas of Cuba; and for cash advances in exploitation of such concessions. The claimant has submitted copies of its annual reports from 1956 through 1960 and copies of material submitted to the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, for the period from February 7, 1956, the date of incorporation, through December 31, 1960. Additionally, claimant has submitted other financial data, correspondence, affidavits. A related State Department file is also of record in this matter.

The evidence establishes that on February 17, 1956, the claimant acquired the outstanding capital stock of six Cuban corporations, each with 100,000 shares of stock, or a total of 600,000 shares. The Cuban subsidiaries were acquired by the issuance of 2,750,000 shares of claimant's \$0.10 par value capital stock in exchange for the Cuban shares; and the stocks so

acquired were recorded at the par value of claimant's shares issued in exchange, equivalent to \$275,000.00. A seventh Cuban subsidiary was acquired for \$1,000.00, the subscription payable on December 31, 1956, the capital stock being \$1,000.00 at \$1.00 par value.

The subsidiaries all incorporated in Cuba are the following:

Petrolera Perla Negra de Cuba, S.A.
Petrolera Los Cayos, S.A.
Petrolera Margarita Antillana, S.A.
Petrolera Calcuba, S.A.
Petrolera Primavera de Cuba, S.A.
Petrolera San Lazaro, S.A.
Compania Petrolera Aquila Blanca Internacional, S.A.

The capital stock of the six Cuban subsidiaries first acquired was originally issued in consideration for (a) cash and legal services totalling \$15,000.00; (b) concession rights, \$435,000.00; and (c) cancellation of a concession rental agreement of \$150,000.00, these amounts equalling the par value of the shares of the Cuban subsidiaries, as follows:

	<u>No. of Shares</u>	<u>Total Par Value</u>
Cash	12,000	\$ 12,000.00
Services (legal expenses)	3,000	3,000.00
Concession rights	435,000	435,000.00
Cancellation concession	<u>150,000</u>	<u>150,000.00</u>
	600,000	\$600,000.00

The par value of the shares of the seven Cuban companies acquired by claimant was \$601,000.00, said to be \$326,000.00 in excess of \$275,000.00, the par value of the claimant company's stock issued therefor.

The evidence establishes that approximately 1,000,000 acres located in Oriente Province were covered by a "farmout" agreement reached in 1956 with Cuban Stanolind Oil Company, a subsidiary of Standard Oil Company of Indiana, whereby Stanolind would perform seismic investigations and drill certain wells to gain an interest in the acreage surrounding the drill sites. Stanolind completed drilling #1 Lavanderas off the west coast of Oriente Province and #1 Baguanos in northeastern Oriente, both without shows. In December of 1958 Stanolind elected to drop its options and withdrew from Cuba.

The status of claimant's Cuban concession claims in 1957-1958 is as follows:

	<u>December 31, 1958</u>		<u>December 31, 1957</u>	
	<u>Acres</u>	<u>Percent</u>	<u>Acres</u>	<u>Percent</u>
Awaiting Provisional Acceptance	* 360,860	--	* 381,127	--
Provisionally Accepted	1,850,477	53	2,007,658	52
Definitely Accepted, Awaiting Survey	* 20,262	--	139,364	4
Surveyed, Awaiting Title	1,377,958	39	1,703,932	44
Title Issued	<u>281,394</u>	<u>8</u>	<u>--</u>	<u>--</u>
Total	3,509,829	100	3,850,954	100

* Applications filed primarily to protect the companies' position pending location of boundary lines--not included in the total.

The certified and combined balance sheet of claimant and the wholly-owned Cuban subsidiaries, dated December 31, 1958, indicates certain cash entries for the claimant and the subsidiaries in the total amount of \$1,307,074.00. Claimant's cash included a certificate of deposit in the amount of \$150,000.00 and accrued interest thereon of \$312.00. Cash of the seven Cuban subsidiary companies included an interest bearing time deposit of \$500,000.00, for utilization as needed over a specified period between claimant and the subsidiaries.

Claimant has shown that the Cuban subsidiaries incurred concession expenses for geological and technical services, taxes and deposits or related items. Such expenses totaled \$128,445.00, as of December 31, 1958. The annual report of claimant, ending December 31, 1959, and other evidence of record, indicate that cash advances to the Cuban subsidiaries, with accrued interest, were in the total amount of \$189,324.00 at the time of loss. This sum, with the consideration paid for the concessions, was "written off" by claimant in 1959, with an adjustment, as discussed hereafter.

The rights of claimant in the concessions or property controlled in Cuba were substantially curtailed by the Cuban Government under Law No. 635, of November 23, 1959. This law effectively cancelled all applications for exploration and exploitation of concessions, regardless of the status thereof.

(See Claim of Felix Heyman, Claim No. CU-0412, 1968 FCSC Ann. Rep. 51.)

Thereafter, applications filed by claimant for further drilling operations or other activities were not approved by the Cuban Government. Accordingly, the

Commission finds that the rights of claimant with respect to the property which it controlled were effectively nationalized or otherwise taken by the Government of Cuba on November 23, 1959; and that the interest of claimant herein, as evidenced by the stock held in the Cuban subsidiaries, was taken on that date.

The entire investment of the claimant in concession rights and cash advances for capitalized exploration expenses was written off in 1959. Over one-half of the Cuban concessions were dropped at mid-year due to adverse political events in Cuba, immediately prior to enactment of Law 635 (supra).

The consolidated balance sheet of December 31, 1959, of claimant and Cuban subsidiaries indicates a write-off of the seven Cuban corporations in the amount of \$450,773.00, as follows:

In view of the present uncertain political situation in Cuba, the Board of Directors of the Company has authorized the write-off of the Company's investment in its seven Cuban subsidiaries. The ultimate realization on this investment, if any, is undeterminable. The amount written off, \$450,773, has been treated as a special charge in the statement of earnings and is summarized as follows:

Capital stock:

Six Cuban subsidiaries--carried at par value of 2,750,000 shares of White Eagle's common stock issued in exchange therefor		\$275,000
One Cuban subsidiary--capital stock subscribed	\$1,000	
Less unpaid subscription	<u>1,000</u>	--
Cash advances and accrued interest		<u>189,324</u> 464,324
Less cost of White Eagle International Oil Co.'s common stock held by Cuban subsidiaries and included in treasury stock in the balance sheet		<u>13,551</u>
		<u>\$450,773</u>

Claimant has stated that the Internal Revenue allowed a tax deduction in 1959 to White Eagle International, Inc., for the loss as claimed.

The Commission finds that concessions valued at \$275,000.00 were taken by the Government of Cuba, and that a debt of \$175,773.00 was due the claimant

(see Claim of Kramer, Marx, Greenlee and Backus, Claim No. CU-0105, 25 FCSC Semiann. Rep. 62 [July-Dec. 1966]), and concludes that claimant suffered a loss in the total amount of \$450,773.00, within the meaning of Title V of the Act when the concessions and other property rights were taken by the Government of Cuba on November 23, 1959.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that WHITE EAGLE INTERNATIONAL OIL COMPANY suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Four Hundred Fifty Thousand Seven Hundred Seventy-three Dollars (\$450,773.00) with interest thereon at 6% per annum from November 23, 1959 to the date of settlement.

Dated at Washington, D. C., and entered as the Proposed Decision of the Commission

MAY 27 1970


Lytle S. Carlock, Chairman


Theodore Jaffe, Commissioner


Sidney Friedberg, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)