

# UNITED STATES SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

## FORM 10-Q

Quarterly Report pursuant to section 13 or 15(d)  
of the Securities Exchange Act of 1934

**FOR THE QUARTERLY PERIOD ENDED MARCH 31, 1994**

OR

Transition Report pursuant to section 13 or 15(d)  
of the Securities Exchange Act of 1934

For the transition period from . . . . to . . . .

*Commission file number 1-7627*

## WAINOCO OIL CORPORATION

(Exact name of registrant as specified in its charter)

Wyoming  
(State or other jurisdiction of  
incorporation or organization)  
No.)

74-1895085  
(I.R.S. Employer  
Identification

1200 Smith Street, Suite 2100  
Houston, Texas  
(Address of principal executive offices)

77002-4367  
(Zip Code)

Registrant's telephone number, including area code: (713) 658-9900

Not Applicable

Former name, former address and former fiscal year, if  
changed since last report.

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No . . .

Registrant's number of common shares outstanding as of April 28, 1994:  
27,237,452

**WAINOCO OIL CORPORATION  
QUARTERLY REPORT ON FORM 10-Q  
FOR THE QUARTER ENDED MARCH 31, 1994**

INDEX

Page

----

Part I - Financial Information

Item 1. Financial Statements  
1

Item 2. Management's Discussion and Analysis of  
Financial Condition and Results of Operations  
6

Part II - Other Information  
11

**PART I - FINANCIAL INFORMATION**

**ITEM 1. FINANCIAL STATEMENTS**

WAINOCO OIL CORPORATION AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF OPERATIONS  
(Unaudited, in thousands except per share)

For the three months ended March 31,	1994	1993
-----	-----	-----
Revenues:		
Refined products	\$ 62,298	\$ 72,390
Oil and gas sales	9,398	9,892
Other	510	1,353
	-----	-----
	72,206	83,635
	-----	-----
Costs and Expenses:		
Refining operating costs	53,664	70,568
Oil and gas operating costs	3,233	3,067
Selling and general expenses	2,987	2,884
Depreciation, depletion and amortization	5,958	5,866
	-----	-----
	65,842	82,385
	-----	-----
Operating Income	6,364	1,250
Interest Expense, Net	5,061	5,217
	-----	-----
Income (Loss) Before Income Taxes	1,303	(3,967)
Provision (Benefit) for Income Taxes	(172)	(72)
	-----	-----
Net Income (Loss)	\$ 1,475	\$ (3,895)
	=====	=====
Income (Loss) Per Share	\$ .05	\$ (.18)
	=====	=====

The accompanying notes are an integral part of these financial statements.

WAINOCO OIL CORPORATION AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEETS  
(Unaudited, in thousands except shares)

March 31, 1994 and December 31, 1993	1994	1993
-----	-----	-----
<b>ASSETS</b>		
Current Assets:		
Cash, including cash equivalents of \$1,901 in 1994 and \$2,078 in 1993	\$ 2,034	\$ 3,770
Trade receivables	15,602	16,281
Joint operators and other receivables	2,767	2,790
Inventory of crude oil, products and other	24,432	21,086
Other current assets	1,710	2,331
	-----	-----
Total current assets	46,545	46,258
	-----	-----
Property and Equipment, at cost:		
Oil and gas properties, on a full-cost basis	444,401	448,649
Refinery and pipeline	127,921	124,705
Furniture, fixtures and other equipment	5,839	5,820
	-----	-----
	578,161	579,174
Less - Accumulated depreciation, depletion and amortization	337,134	334,905
	-----	-----
	241,027	244,269
	-----	-----
Other Assets	5,976	6,284
	-----	-----
	\$293,548	\$296,811
	=====	=====
<b>LIABILITIES AND SHAREHOLDERS' EQUITY</b>		
Current Liabilities:		
Accounts payable	\$ 27,593	\$ 30,514
Oil and gas proceeds payable	3,894	4,095
Accrued interest	3,239	5,681
Current maturities of long-term debt	1,000	0
Accrued turnaround cost	3,478	3,741
Accrued liabilities and other	3,564	4,132
	-----	-----
Total current liabilities	42,768	48,163
	-----	-----
Long-Term Debt, net of current maturities:		
Revolving credit facilities	23,000	18,700
12% Senior Notes	100,000	100,000
7 3/4% Convertible Subordinated Debentures	46,000	46,000
10 3/4% Subordinated Debentures	12,221	12,200
	-----	-----
	181,221	176,900
	-----	-----
Deferred Revenue and Other	2,787	3,410
Deferred Income Taxes	2,328	2,298
Commitments and Contingencies		
Shareholders' Equity:		
Preferred stock, \$100 par value, 500,000 shares authorized, no shares issued	0	0
Common stock, no par, 50,000,000 shares authorized, 27,297,452 shares and 27,122,177 shares issued in 1994 and 1993	57,171	57,153
Paid-in capital	81,714	80,855
Retained earnings (deficit)	(64,822)	(66,297)
Commitments to issue common stock, 175,275 shares	0	883
Cumulative translation adjustment	(9,322)	(6,233)

The accompanying notes are an integral part of these financial statements.

WAINOCO OIL CORPORATION AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
(Unaudited, in thousands)

For the three months ended March 31, -----	1994	1993
-----	-----	-----
OPERATING ACTIVITIES		
Net income (loss)	\$ 1,475	\$ (3,895)
Depreciation, depletion and amortization	5,958	5,866
Deferred revenue and other	(281)	357
	-----	-----
	7,152	2,328
Change in working capital from operations	(6,317)	546
	-----	-----
Net cash provided by operating activities	835	2,874
INVESTING ACTIVITIES		
Additions to property and equipment	(7,910)	(10,371)
Sales of oil and gas properties	803	801
Net cash distributed as operator of properties	(1,049)	(473)
	-----	-----
Net cash used in investing activities	(8,156)	(10,043)
FINANCING ACTIVITIES		
Long-term bank borrowings	8,300	8,400
Payments of long-term bank debt	(3,000)	(700)
Other	268	1
	-----	-----
Net cash provided by financing activities	5,568	7,701
Effect of exchange rate changes on cash	17	67
	-----	-----
Increase (decrease) in Cash and Cash Equivalents	(1,736)	599
Cash and Cash Equivalents, beginning of period	3,770	3,710
	-----	-----
Cash and Cash Equivalents, end of period	\$ 2,034	\$ 4,309
	=====	=====

The accompanying notes are an integral part of these financial statements.

**WAINOCO OIL CORPORATION AND SUBSIDIARIES**  
**NOTES TO INTERIM FINANCIAL STATEMENTS**

March 31, 1994  
(Unaudited)

1. Financial statement presentation and earnings per share

Financial statement presentation

The condensed consolidated financial statements include the accounts of Wainoco Oil Corporation, a Wyoming Corporation, and its wholly owned subsidiaries, including Wainoco Oil & Gas Company and Frontier Holdings Inc. ("Frontier" or the "Refinery"), collectively referred to as Wainoco or the Company. These financial statements have been prepared by the registrant without audit, pursuant to the rules and regulations of the Securities and Exchange Commission (SEC) and include all adjustments (comprised of only normal recurring adjustments)

which are, in the opinion of management, necessary for a fair presentation. Certain information and footnote disclosures normally included in financial statements prepared in accordance with generally accepted accounting principles have been condensed or omitted pursuant to such rules and regulations, although Wainoco believes that the disclosures are adequate to make the information presented not misleading. It is suggested that the financial statements included herein be read in conjunction with the financial statements and the notes thereto included in Wainoco's annual report on Form 10-K for the year ended December 31, 1993.

#### Nonrecurring transactions

During the first quarter of 1993, the Company received payments of insurance proceeds, as reimbursement for losses incurred, resulting in nonrecurring income of \$1.0 million, which has been classified as other income in the consolidated statement of operations.

#### Earnings per share

Primary and fully diluted earnings per share have been computed on the weighted average number of common shares outstanding and assume the exercise of stock option shares for the three months ended March 31, 1994. The effect of dilution for the fully diluted computation was immaterial. No effect was given for the addition of dilutive stock options for the three months ended March 31, 1993 as a loss was incurred. The primary and fully diluted average shares outstanding for the three months ended March 31, 1994 and 1993 were 27,330,353 and 22,062,177, respectively.

#### 2. Schedule of major components of inventory

31,	March 31,	December
	----- 1994 -----	----- 1993 -----
Crude oil	\$ 3,951	\$ 2,803
Unfinished products	5,533	4,487
Finished products	8,779	7,435
Chemicals and in-transit inventory	1,439	1,589
Repairs and maintenance supplies and other	4,730	4,772
	----- \$ 24,432 =====	----- \$ 21,086 =====

#### 3. Accounting policy for oil and gas properties

Wainoco follows the accounting policy (commonly referred to as "full- cost" accounting) of capitalizing costs incurred in the acquisition, exploration and development of oil and gas reserves. No gains or losses are recognized upon the sale or disposition of oil and gas properties, except for significant transactions.

Wainoco computes the provision for depreciation, depletion and amortization of oil and gas properties, by country, on a quarterly basis using the composite unit-of-production method based on future gross revenue attributable to proved reserves.

#### 4. Securities offering

In July, 1993, the Company sold five million shares of common stock through a public offering. The net proceeds of \$20.8 million were used to pay down borrowings under its revolving credit facilities and to retire \$5 million principal amount of its 10 3/4% Subordinated Debentures which were applied to its 1993 and 1994 sinking fund requirements.

#### 5. Canadian drilling program

In July 1993, the Company's Canadian oil and gas division entered into a drilling program with a third party and received \$883,000 in exchange for a commitment to issue 175,275 shares of its common stock and distribute Canadian tax deductions attributable to certain of the Company's exploration and development activities in Canada. The shares were issued March 8, 1994.

## ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

### RESULTS OF OPERATIONS

Three months ended March 31, 1994 compared with the same period in 1993

The Company had net income for the three months ended March 31, 1994 of \$1,475,000, or \$.05 per share, compared to a net loss of \$3,895,000, or \$.18 per share, for the same period in 1993.

Revenues decreased 14% as compared to the same period in 1993, primarily the result of refined products revenues decreasing 14%. The decrease in refined product revenues results from the 13% decrease in average product sales prices, primarily reflecting a decrease in the price of crude oil.

Oil and gas revenues decreased 5% as a result of decreased oil prices in the United States and decreased natural gas production in the United States and Canada. Natural gas production declined 13% and oil production decreased a modest 3% in 1994 in part as a result of compressor repairs at two large fields in Canada and reduced drilling in 1992 and 1993 due to the large capital requirements of the refinery. The price of oil was \$5.03/bbl, or 30%, lower in the 1994 three-month period as compared to the same period in 1993. However, these decreases were offset by increases in the average price for natural gas in Canada of 33% and in the United States of 11%. The average price for natural gas in Canada in Canadian dollars actually rose 42%, to C\$1.93/mcf from C\$1.36/mcf, but the Canadian/United States dollar exchange rate fell from last year's first quarter average of .7934 to .7455, resulting in the smaller 33% price increase in United States dollars.

Refining operating costs decreased 24% in 1994 due to declines in crude oil prices (material costs) as operating expenses excluding depreciation were higher primarily the result of a 4% increase in product yields and costs related to increased asphalt sales.

Oil and gas operating costs increased 5% in 1994 primarily as a result of higher workover costs, pipeline repairs and facility overhaul costs. The Refinery had good operations on a comparative basis as yields increased 4% and operating margins increased \$1.97/bbl in the quarter ended March 31, 1994 as compared to the same period in 1993. Crack spreads for unleaded gasoline and diesel were significantly wider than in the 1994 period.

Depreciation, depletion and amortization increased 2% in the 1994 three-month period as compared to the same period in 1993. Refining DD&A increased 32% in the three-month period ended March 31, 1994 as a result of the Refinery capital plant improvement program completed in late 1993. Oil and gas operations DD&A decreased 5% primarily the result of lower oil and gas sales. As a percentage of oil and gas sales, the DD&A rate remained at 44% in the 1994 three-month period.

### **OPERATING EARNINGS BY SEGMENT**

The following (in thousands) presents the operating income (loss) by operating segment, by country for the three months ended March 31, 1994 and 1993. Operating income (loss) is income (loss) before net interest expense and provision for income taxes and does not include unallocated net corporate expense of \$661,000 and \$704,000 in the three months ended March 31, 1994 and 1993, respectively.

Oil and Gas  
Exploration and Production

	Refining	United States	Canada	Total
Three Months Ended March 31, 1994 - Operating margin	\$ 8,779	\$ 1,633	\$ 4,897	\$
6,530				
Selling and general expenses	1,128	593	605	
1,198				
Depreciation, depletion and amortization	1,835	1,653	2,470	
4,123				
Operating income (loss)	\$ 5,816	\$ (613)	\$ 1,822	\$
1,209				
=====	=====	=====	=====	
1993 - Operating margin	\$ 3,083	\$ 2,577	\$ 4,356	\$
6,933				
Selling and general expenses	1,213	528	592	
1,120				
Depreciation, depletion and amortization	1,388	1,946	2,395	
4,341				
Operating income	\$ 482	\$ 103	\$ 1,369	\$
1,472				
=====	=====	=====	=====	

## REFINING OPERATING STATISTICAL INFORMATION

	Three Months Ended March 31,	
	1994	1993
Raw material input (bpd)		
Sweet crude	6,885	7,131
Sour crude	24,904	24,967
Other feed and blend stocks	4,653	3,103
Total	36,442	35,201
Manufactured product yields (bpd)		
Gasoline	16,029	14,458
Distillates	12,860	12,268
Asphalt and other	6,210	7,116
Total	35,099	33,842
Total product sales (bpd)		
Gasoline	18,573	18,256
Distillates	12,258	12,159
Asphalt and other	4,954	5,739
Total	35,785	36,154
Operating margin information (per sales bbl)		
Average sales price	\$ 19.34	\$ 22.25
Material costs (under FIFO inventory accounting)	12.80	17.82
Product spread	6.54	4.43
Operating expenses excluding depreciation	3.87	3.87
Depreciation	.55	.41
Operating margin	\$ 2.12	\$ .15
Manufactured product margin before depreciation (per bbl)	\$ 2.68	\$ .59
Purchase product margin (per purchased product bbl) (.77)	\$ 0	\$
Sweet/sour spread (per bbl)	\$ 3.99	\$ 4.76
Average sales price (per sales bbl)		
Gasoline	\$ 21.72	\$ 25.24
Distillates	20.90	24.03
Asphalts and other	6.56	8.98

OIL AND GAS EXPLORATION AND PRODUCTION STATISTICAL INFORMATION

Ended	Three Months	
	March 31,	
-----	1994	1993
-----	-----	-----
Revenue (in thousands)		
Net oil and condensate sales		
Canada	\$ 624	\$
816		
United States	2,151	
3,214		
-----	-----	
	2,775	
4,030		
-----	-----	
Net gas sales		
Canada	5,301	
4,591		
United States	1,322	
1,271		
-----	-----	
	6,623	
5,862		
-----	-----	
	\$ 9,398	\$
9,892		
=====	=====	
Production		
Net oil and condensate (bbls)		
Canada	60,000	
58,000		
United States	172,000	
180,000		
-----	-----	
	232,000	
238,000		
-----	-----	
Net gas (mmcf)		
Canada	3,677	
4,269		
United States	607	
650		
-----	-----	
	4,284	
4,919		
=====	=====	
Price		
Average oil and condensate sales (per bbl)		
before deduction for production taxes		
Canada	\$ 10.36	\$
14.14		
United States	12.52	
17.90		
Weighted average	11.96	
16.00		

## **LIQUIDITY AND CAPITAL RESOURCES**

Net cash provided by operating activities was \$835,000 and \$2,874,000 for the three months ended March 31, 1994 and 1993, respectively. Cash from financing activities in the three months ended March 31, 1994 and 1993 was provided primarily by the Company's bank lines of credit of \$5,300,000 and \$7,700,000 net of repayments of bank debt and production loans of \$3,000,000 and \$700,000, respectively. In July 1993, the Company raised \$21,346,000, before offering expenses of approximately \$500,000, from a 5,000,000 share equity offering which was used to make long-term debt repayments against its bank lines of credit. Subsequently, the Company reborrowed \$5,000,000 to retire an equal principal amount of its 10 3/4% Subordinated Debentures.

At March 31, 1994, the Company had \$25,206,000 available under its oil and gas lines of credit and \$15,000,000 under the Frontier line of credit. The estimated five-year maturities of long-term debt are \$2,500,000 in 1995, 1996 and 1997 and \$5,000,000 in 1998 assuming that the oil and gas reserved-based credit facilities are extended. As of March 31, 1994, there is a \$1,000,000 current maturity on the United States credit facility. However, the Company is finalizing a new United States credit agreement which it anticipates to complete in the second quarter of 1994. The new revolving loan would convert to a five-year term loan in 1995 with payments commencing in December 1996.

Net cash used in investing activities was \$8,156,000 and \$10,043,000 for the three months ended March 31, 1994 and 1993, respectively. Capital expenditures of approximately \$23,200,000 are currently budgeted for 1994, of which \$6,540,000 had been accrued as of March 31, 1994. The Company has been engaged in a capital improvement program for the Refinery which commenced in 1992 and was completed in September 1993. This program, among other things, enables the Company to produce new products required under the Clean Air Act Amendments of 1990, increases the amount of sour crude processed, increases the amount of low sulfur diesel produced and improves operating reliability.

## **PART II - OTHER INFORMATION**

### **ITEM 1. Legal Proceedings -**

None, which in the opinion of management, would have a material impact on the registrant.

### **ITEM 2. Changes in Securities -**

There have been no changes in the constituent instruments defining the rights of the holders of any class of registered securities during the current quarter.

### **ITEM 3. Defaults Upon Senior Securities -**

None.

### **ITEM 4. Submission of Matters to a Vote of Security Holders -**

None.

### **ITEM 5. Other Information -**

None.

### **ITEM 6. Exhibits and Reports on Form 8-K -**

10.1 Engagement Contract between the Company and John B. Ashmun.

## **SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**WAINOCO OIL CORPORATION**

By: /s/ George E. Aldrich

-----  
George E. Aldrich  
Vice President -  
Controller

Date: April 28, 1994

## AGREEMENT

THIS AGREEMENT dated effective as of the 1 st day of April, 1992, by and between Wainoco Oil Corporation, a Wyoming corporation (the "Company"), and John B. Ashmun ("Ashmun");

### RECITALS:

Ashmun has served as Chairman of the Board and Chief Executive Officer of the Company for many years and will cease to be Chief Executive Officer of the Company as of April 1, 1992.

The Company desires to retain the services of Ashmun for five years following the date hereof to have access to his knowledge of the Company's business and to permit the orderly transition of management. Ashmun is willing to be engaged by the Company pursuant to the terms of this Agreement set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, Ashmun and the Company agree as follows:

#### 1. Engagement

The Company hereby engages Ashmun to serve the Company as described in Section 3 hereof for the compensation and on the terms hereinafter expressed, and Ashmun hereby agrees faithfully and diligently to render said services and generally conduct himself in a manner consistent with the interests of the Company, all upon the terms and for the consideration hereinafter provided. Ashmun shall not be an employee or officer of the Company, however, it is intended that Ashmun will serve as the Chairman of the Board of Directors at the will of the Company's Board of Directors, so long as Ashmun is a duly elected director of the Company during the Engagement Period (as defined in Section 2 hereof).

#### 2. Term

The term of Ashmun's engagement under this Agreement shall be for the period beginning April 1, 1992 through and including March 31, 1997 unless sooner terminated as herein provided (the "Engagement Period").

#### 3. Duties

During the Engagement Period, Ashmun agrees to render to the Company such services of an advisory or consultative nature as the Board of Directors may reasonably request so that the Company may have the benefit of his experience and knowledge of the affairs of, and his support for, the Company, and of his reputation and contacts in the oil and gas industry. Relative to his activities on the Company's behalf, Ashmun shall report to the Chief Executive Officer. Any duties assigned to Ashmun shall be duties appropriate to Ashmun's previous position with the Company and to the position of the Chairman of the Board of Directors. The Company agrees that Ashmun shall not be required to relocate his residence from Houston, Texas, in connection with the performance of his duties hereunder, provided that the foregoing shall not prevent Ashmun from relocating his residence at his own initiative. The Company agrees that, so long as this Agreement is in effect, it will undertake to nominate Ashmun to the Board of Directors and, if Ashmun is elected, to recommend to the Board of Directors that said Board elect Ashmun to be Chairman of the Board and to have the duties specified in Section 3.14 of the Company's Bylaws.

#### 4. Compensation

The Company shall pay to Ashmun during the Engagement Period annual compensation of \$250,000, payable monthly on the first day of each month, subject to any withholding or deductions required under any change in law after the date hereof. During the Engagement Period so long as Ashmun is a director of the Company, Ashmun shall be paid all fees and other benefits made available to non-employee directors of the Company.

#### 5. Club and Organization Dues. Expenses

During the Engagement Period, the Company shall pay dues for Ashmun's memberships in the Calgary Golf & Country Club, the Bayou Club, The Brook, the Maidstone Club, Houston Country Club, the Tejas Club and the Calgary Petroleum Club. During the Engagement Period, the Company shall pay Ashmun's dues in the All-American Wildcatters, the Texas Mid-Continent Oil & Gas Association and the National Petroleum Council. The Company shall pay all expenses incurred by Ashmun during the Engagement Period in furtherance of the business of the Company, including travel and business entertainment expenses, consistent with the Company's policies as of the date hereof

#### 6. Office

During the Engagement Period, the Company will provide Ashmun with (i) office facilities commensurate with his duties and position and (ii)

such secretarial assistance as is necessary in the performance of his duties under Section 3 hereof. The Company agrees that all office furnishings currently in Ashmun's office shall be and remain the property of Ashmun.

## 7. Stock Options

Ashmun shall remain eligible to participate in the Company's stock option plans (the "Plans") on the same basis as if he remained an employee of the Company during the Engagement Period with the title of Chairman of the Board and the annual compensation set forth in Section 4. All of the existing options and restricted stock awards held by Ashmun will be amended to provide that the arrangements under this Agreement do not constitute the retirement of Ashmun for purposes of such options and awards. If participants in the Plans are offered the opportunity to amend their existing options in any way and if officers of the Company would be eligible to amend their existing options, Ashmun shall be offered the same opportunity. The foregoing shall not limit Ashmun's right to receive any stock options or stock awards that are made to directors of the Company who are not employees of the Company.

## 8. Medical Plan, Pension

It is understood that Ashmun will apply for Medicare coverage to be effective as soon as possible after April 1, 1992. The Company will continue Ashmun's medical coverage under the current plan until Medicare coverage is in place. After such time the Company will reimburse Ashmun the cost of a Medicare supplement plan as well as a Medicare Part B plan for him and his wife. The Company will pay for any increased costs of the above coverage during the Engagement Period.

Commencing April 1, 1992, Ashmun shall be eligible for and shall receive annual benefits of \$23,852 in accordance with the Company's Retirement Benefit Restoration Plan.

## 9. Termination of Agreement

This Agreement shall terminate the first to occur of

(a) March 31, 1997 or (b) the death of Ashmun.

## 10. Conflicting Interests

(a) It is understood and acknowledged that Ashmun may engage from time to time in the oil and gas exploration, development and production business, including the acquisition, operation and management of oil and gas properties. Notwithstanding the foregoing, Ashmun agrees that, during the term of this Agreement, prior to engaging in any such activities he will first offer ("Offer") in writing each opportunity that he has to acquire or participate in the ownership, operation or management of any oil and gas properties or otherwise engage in oil and gas activities to the Company on the same terms that such opportunities are available to Ashmun. Any such Offer provided by Ashmun to the Company shall set forth, as may be applicable in the circumstances, the price or other consideration for the transaction, the identity of the other party to the transaction, the closing date for the transaction and such other information respecting the transaction which Ashmun reasonably believes would be material to the exercise of the Company's rights hereunder. For greater certainty, Ashmun shall be under no obligation to present opportunities to the Company in which Ashmun does not intend to participate as an investor. Ashmun makes no representation or warranty that the other parties to the transaction will permit the Company to participate in the transaction, whether on the same terms as Ashmun or otherwise.

(b) If, after receipt of an Offer:

(i) the Company elects to not accept such opportunity for its corporate account in full or in part, then Ashmun shall thereafter be free to acquire and exploit such opportunity to its full extent, including any and all activities that may thereafter arise that directly relate to the opportunity all activities that may thereafter arise that directly relate to the opportunity offered to and rejected by the Company, provided that the acquisition of such opportunity by Ashmun is completed within 120 days of receipt of the Offer by the Company and is not on terms that are more favorable to Ashmun than those offered to the Company. If Ashmun shall not acquire such opportunity within 120 days of receipt of the offer by the Company then the provisions of this section shall again apply to the acquisition of or participation in such opportunity by Ashmun;

(ii) the Company elects to participate in full in such opportunity, then Ashmun shall take all reasonable efforts (but Ashmun shall not be required to incur any out-of-pocket expense in doing so) to assist the Company in acquiring or participating in such opportunity and Ashmun shall not otherwise acquire or participate, directly or indirectly, in such opportunity without the prior written consent of the Company which consent shall not be unreasonably withheld; and

(iii) the Company elects to participate in part only in such opportunity, then Ashmun shall take all reasonable efforts (but Ashmun shall not be required to incur any out-of-pocket expense in doing so) to assist the Company in acquiring or participating in such opportunity and Ashmun shall be entitled to acquire or participate in such opportunity to the extent to which the Company does not do so.

(c) The time period in which the Company may accept or reject any Offer shall be not greater than 30 days from receipt of the Offer, but may

be such lesser time period as shall be reasonable under the circumstances related to such opportunity and as is specified in the Offer. Any notice by the Company accepting or rejecting any such opportunity shall be effective if executed on behalf of the Company by the President or any Vice-President.

(d) Ashmun agrees that the rights associated with and benefits of any opportunity acquired by him otherwise than in compliance with the terms hereof shall be held by him in trust for the benefit of the Company subject to the terms of this Agreement and the Company shall have the right to participate in such opportunity in full or in part upon payment to Ashmun of a pro rata share of the consideration and related acquisition costs and/or assumption of the liabilities and obligations directly associated with such opportunity, as may be applicable in the circumstances.

(e) Subject to applicable law, the Company shall not by reason only of the relationship between the Company and Ashmun created by this Agreement prohibit or disqualify Ashmun from participating in the acquisition of any oil and gas properties disposed of by the Company; provided that the Company shall be under no obligation to notify Ashmun of any proposed disposition or to accept any offer from Ashmun.

#### 11. Indemnification

The Company has entered into a separate indemnification agreement dated as of January 1, 1992 with Ashmun and nothing in this Agreement shall affect the terms and provisions of such indemnification agreement.

#### 12. Assignment

This Agreement shall not be assignable by either party without the consent of the other party. Any assignment of this Agreement in violation of this Section 12 shall be null and void.

#### 13. Waiver of Default

Any waiver by either party of a breach of any provision of this Agreement by the other party shall not operate, or be construed, as a waiver of any subsequent breach.

#### 14. Governing Law

This Agreement shall be construed in accordance with the laws of the State of Texas.

#### 15. Jurisdiction

The parties hereto agree that in the event that any legal suits, actions or proceedings arising out of this Agreement are instituted by any party hereto, such suits, actions or proceedings shall be instituted only in the state or federal courts in the County of Harris in the State of Texas. The parties hereto hereby consent to the jurisdiction of such courts and waive any objection which they may now or hereafter have to the venue of any such suits, actions or proceedings; provided, however, that any party hereto shall have the right to institute proceedings in another jurisdiction if the purpose of such proceedings is to enforce or realize upon any final court judgment arising out of this Agreement.

#### 16. Construction of Agreement

The headings in this Agreement are inserted for convenience of reference only and shall not be a part of, or control or affect the meaning of, this Agreement. This Agreement contains the entire agreement of the parties and no party shall be liable or bound except as expressly provided herein. In the event any one or more of the provisions contained in this Agreement shall, for any reason, be judicially declared to be invalid, illegal, unenforceable or void in any respect, such declaration shall not have the effect of invalidating or voiding the remainder of this Agreement, and the parties hereto agree that the part or parts of this Agreement so held to be invalid, illegal, unenforceable or void will be deemed to have been stricken herefrom and the remainder will have the same force and effectiveness as if such part had never been included herein.

#### 17. Notice

All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally or sent by certified mail, return receipt requested, postage prepaid, or by telex or other telegraphic means:

(a) If to the Company as follows:

Wainoco Oil Corporation  
1200 Smith Street, Suite 1500 Houston, Texas 77002  
Attention: James R. Gibbs, Chief Executive Officer

(b) If to Ashmun as follows:

John B. Ashmun  
Wainoco Oil Corporation  
1200 Smith Street, Suite 1500 Houston, Texas 77002

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

**WAINOCO OIL CORPORATION**

*By /s/ J. R. Gibbs*

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*/s/ John B. Ashmun*

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# End of Filing