

STANDING COMMITTEE REPORT NO. 15-18

RE: C.R. NO 15-23/FUEL FACILITIES FROM MOBILE OIL
MICRONESIA AND A NEW NATION WIDE FUEL
SUPPLY AGREEMENT.

JULY 19, 2007

The Honorable Isaac V. Figir
Speaker, Fifteenth Congress
Federated States of Micronesia
First Special Session, 2007

Dear Mr. Speaker:

Your committee on Resources and Development, to which was referred Presidential Communication No. 15-35 and Congressional Resolution No. 15-23, entitled:

"A RESOLUTION TO APPROVE THE IN-PRINCIPLE TERMS OF THE ACQUISITION OF CERTAIN FUEL FACILITIES FROM MOBILE OIL MICRONESIA, INC. (MOMI) AND OF A NEW NATION-WIDE FUEL SUPPLY AGREEMENT",

begs leave to report as follows:

The intent and purpose of the resolution are expressed in its title. Presidential Communication No. 15-35 explains further that the proposed resolution is intended to provide a clear message to both MOMI and potential lenders that negotiations of the FSM Fuel Task Force for the acquisition of fuel terminals in Yap, Chuuk and Pohnpei and a new five year fuel supply agreement "enjoy broad support."

Your Committee held a public hearing at 8:30 a.m. on July 18, 2007 to hear a report on the progress of negotiation and to receive comments on the proposed resolution. Senator Dion G. Neth, Chairman of the Standing Committee on Resources and Development of the Fifteenth Congress chaired the meeting. Other Committee members present were Senators Peter Sitan, Joseph J. Uresmal and Joe N. Suka. Present by invitation were Peter Christian, Chairman of the FSM Fuel Task Force (FTF) and FTF members Maderson Ramon and Fabian Nimea. Also attending was Hubert Yamada representing the Pohnpei State Governor's Office and the FTF advisor on environmental issues, Myles Wilkinson.

BACKGROUND:

In the mid-1990's the Economic Policy Implementation Council (EPIC) charged the Fuel Task Force (FTF) with coordinating the negotiation of national fuel supply agreements. Beginning in 2005 following EPIC Resolution 2005-1-01 the FTF was also directed to explore the possibility of acquiring ownership of fuel terminals and distribution

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facilities in Yap, Chuuk and Pohnpei. Kosrae opted out of the common contracting arrangement in 1995.

The Micronesia Fuel Task Force began acquisition discussions with MOMI in 2005. In mid-2006 an "in principle" agreement with MOMI was reached which facilitated the beginning of more detailed negotiations. An initial offer was received from MOMI in March, 2007 at which time a petroleum industry consultant was identified and retained by the FTF for assistance in the valuation of the assets and the offer.

Further negotiations resulted in a firm agreement as to the purchase price of the assets and the duration of a new fuel supply agreement in March, 2007. By that time, an extension of the old arrangement which had originally expired on June 30, 2007 was agreed giving the FSM until September 30, 2007 complete the transaction for the assets and implement the new 5 year fuel supply agreement.

The key economic terms of the arrangements have been recommended by the petroleum industry advisor previously engaged by the FTF.

DISCUSSION:

Peter Christian, Chairman of the FSM Fuel Task Force was invited to comment on the proposed Resolution C.R. No. 15-23. He emphasized the importance that Congress act on the Resolution during the remaining days of the Special Session. September 30 has been established as the date by which the transactions for the acquisition of the MOMI are to be completed. In order for the FTF initiative to progress, it is necessary that a legal entity be created to acquire the facilities and serve as a vehicle through which necessary financing can be obtained.

On June 25, 2007 the President forwarded to Congress under cover of Presidential Communication No. 15-28, a proposed bill that would create a "shared entity" to be known as the "Federated States of Micronesia Petroleum Corporation." Since action on that Bill will not occur until the Second Regular Session in September, 2007, Resolution 15-23 is intended to demonstrate that actions of the FTF enjoy wide support.

Mr. Christian stated that MOMI is asking for some assurance that the national government is in support of the principal objectives of the Fuel Task Force. He noted that the Task Force, itself, is a creation of the EPIC Committee and not Congress, which raises issues with MOMI and potential lenders about the legal standing of the Task Force.

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The Resolution would facilitate continued progress toward financing and the closing on the asset acquisition during the period before the actual FSM Petroleum Corporation comes into existence. Mr. Christian directed attention to the first "Resolved" clause of the Resolution specifically authorizing the President to finalize negotiations with financial institutions for acquisition financing and operating capital for the new corporation, subject to approval of Congress for any loans obligating funds of the FSM.

Mr. Christian described preliminary discussions with local banks and the considerations with regard to possible future refinancing of all or a portion of the loans through a China Concessional Loan. He stated that current negotiations are for long term financing with the local banks and that there are no current plans for refinancing in the future. He stated the amount of financing being negotiated is \$9.5 million which is for both acquisition and operating capital.

Senator Sitan questioned whether an analysis of the financial projections has been performed to determine whether the Corporation will be capable of servicing the debt. Mr. Fabian Nimea responded that he had done various analysis and that the Corporation would be able to service the loan on a long term basis.

Chairman Neth raised the issue of environmental risk which will shift to the FSM upon acquisition of the fuel sites and asked about what assessments have been done. At this point, the environmental assessments have not been completed but Mr. Christian stated that it is the intention of the Task Force that the facilities will be purchased regardless of existing environmental contamination. He stated that the only purpose of the environmental assessments is to let the FSM and the Fuel Task Force know what they are getting into but will not cause a withdrawal from the process. He argued that the establishment of new tank farms and distribution facilities at different locations would merely create new sites which would become contaminated by spills and leaks.

Senator Urusemal observed that the "Resolving clause" of the Resolution referred only to future approvals by Congress and did not mention the States. Mr. Christian responded that similar resolutions may be circulated to the states but for purposes of the immediate need of the Fuel Task Force between now and September 30, it is the Resolution of Approval of the national government that is important to satisfy MOMI and potential lenders that progress is occurring.

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Chairman Neth asked for comments from those present whether the proposed FSM Petroleum Corporation Bill should be taken to each of the states for public hearings. Mr. Christian stated that each of the states had already been given opportunities to make comments. He observed that the State of Yap, through its Attorney General, had already submitted comments and that a similar response was expected soon from the State of Pohnpei soon. He deferred to Hubert Yamada who attended the hearing as a representative of the State Government of Pohnpei.

Mr. Yamada agreed that the states have all been represented on the Fuel Task Force as well as EPIC and that each states' interest has been presented in those forums. However, he felt that it is important that all of the states be in full support of the process and that public hearings would contribute to the understanding of the citizens of the states.

In response to a question from Senator Uresemal concerning why the proposed fuel supply agreement is for a 5 year period rather than 2 or 3, Mr. Christian gave a brief background on the course of negotiations for both the acquisition of assets and the fuel supply agreement. He stated that most of the terms, including price for the assets and the duration of the new fuel supply agreement were the result of compromises made by both sides. He stated his belief the terms are favorable considering the need for immediate action and continuity of fuel supply.

CONCLUSION:

Resolution No. CR 15-28 seeks Congressional "approval in principle" of the Memorandum of Understanding between MOMI and the FTF dated June 28, 2007 and of the formation of a public corporation authorized to take ownership of the assets of MOMI. It further seeks assurance that after the corporation is formed "the FSM shall be authorized to guarantee the performance of the Corporation" with reference to the proposed 5 year fuel supply agreement. Finally, the President of the FSM would be authorized under the Resolution "to finalize negotiations with financial institutions for the provision of acquisition financing * * *, subject in all cases to final approval by Congress of the terms of any loan that would obligate funds of the FSM".

RECOMMENDATION:

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Your Committee on Resources and Development supports the concept of the establishment of a public corporation to acquire the assets of Mobile Oil of Micronesia and to enter into five year fuel supply agreement. While mindful of the fact that much work remains to be done to fully implement that concept, this Committee recommends adoption of Resolution C.R. No. 15-23.

Respectfully submitted,

/s/ Dion G. Neth
Dion G. Neth, chairman

/s/ Setiro Paul
Setiro Paul, vice chairman

Resio S. Moses, member

Joe N. Suka, member

Peter Sitan, member

/s/ Joseph J. Urusemal
Joseph J. Urusemal, member

/s/ Paliknoa K. Welly
Paliknoa K. Welly, member