

1144
ASSIGNMENT OF LEASEHOLD ESTATE

THIS AGREEMENT made this 10th day of August, 1972, among UNION OIL COMPANY OF CALIFORNIA, a California corporation 200 East Golf Road, Palatine, Illinois 60067, hereinafter called "Assignor" and JOHN CUNNINGHAM, Main and Vine Streets Montevallo, Alabama, hereinafter called "Assignee".

WHEREAS, W. J. Kennerly and wife, Mary Ford Kennerly, as Lessors, leased property by Lease Agreement dated May 26, 1965 to Assignor's predecessor, The Pure Oil Company, which Lease Agreement is recorded in Book 236, Page 99, in the Office of the Recorder or Registrar's Office of Shelby County, Alabama, reference to which and record thereof is hereby made for all purposes; and

WHEREAS, the property covered in said Lease Agreement is described as follows:

Beginning at the Southeast corner of said Lot No. 25, run Northwesterly along the Southerly margin line of Vine Street 100 feet to an iron pipe; thence run Southwesterly and at right angle to said Vine Street 75 feet to an iron pipe which is the Northwest corner of the Lot herein described; thence run Southeasterly on and along the Northerly line of "Kroell Lot" and parallel with Vine Street 100 feet to the Western margin line of Broad Street; thence run Northeasterly on and along said Western margin line of Broad Street 75 feet to the point of beginning. Lying and situated in the east 100 feet of Lot No. 25 in the SW-1/4 of SW-1/4, Sec. 21, Township 22, Range 3 West in the Town of Montevallo, Shelby County, Alabama, according to the original Map of Montevallo as recorded in the Office of the Judge of Probate, Shelby County, Alabama.

together with the buildings, fixtures, equipment, tools and appliances located thereon, including among others the following:

Three Tokheim Computer Pumps, Serial #21124, 70213 and 70214. Rotay Auto Lift, Serial #14687. One Bennett Kerosene Tank, Serial #13786. Two 2,000 Gallon Capacity U. G. Tanks. One Ingersol Rand Air Compressor, Serial #30T113891. One 1,000 Gallon capacity U. G. Tank. Two 550 Gallon capacity U. G. Tanks. One 23 P Pure Seal. One 8' T Island Light.

NOW, THEREFORE, in consideration of the premises and One Dollar (\$1.00) paid by each party to the other, receipt and sufficiency of which each hereby acknowledges, Assignor, subject to the conditions and reservations contained below, hereby sells and assigns unto Assignee all its right, title and interest in and to said Lease Agreement, to have and to hold the same unto Assignee from September 1st, 1972 for and during the remainder of the term mentioned in said Lease Agreement subject to the covenants and conditions therein mentioned; and said assignment shall be effective so long as Assignee fulfills the following conditions:



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Shelby Cnty Judge of Probate, AL
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BOOK 275 PAGE 874



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1. Assignee hereby agrees to assume the Lease Agreement for the balance of the term thereof and to pay the rent and to faithfully perform all of the covenants, stipulations and agreements contained therein.
2. Assignee hereby covenants and agrees that he will pay all charges connected with the operation of said premises, including all license, permit and inspection fees, occupation and license taxes, and all water, gas, telephone, electric light and power charges assessed or charged on or against said premises, or Assignee's use or occupancy thereof, or the business conducted thereon, and will have all meters and accounts for water, gas, telephone, electric light, power and other utilities transferred to Assignee's name.
3. Assignor shall have the right to enter the premises at any time, with such employees and equipment as it may deem necessary, for the purpose of examining and inspecting same, and may without any obligation, make such repairs, replacements, additions and/or alterations as it may deem desirable, provided that such right shall not be exercised in such manner as to interfere unreasonably with any business of Assignee conducted thereon.
4. Assignee hereby covenants and agrees that he will use the premises only as a service station for the sale of petroleum products and other merchandise customarily handled by automobile service stations; that he will not commit or suffer a nuisance or waste on the premises; that he will keep said premises, buildings, fixtures, equipment, tools and appliances, together with adjoining sidewalks, areas, alleys and entrance driveways in good order and repair and in a clean, safe and healthful condition; that he will comply with all Federal, State and Local laws, rules, regulations and ordinances with regard to the use and condition of the premises; that he will make no permanent alterations in or additions to the buildings, structures or equipment upon the premises without the written consent of Assignor, except such alterations or changes in or to any equipment included in this assignment as may be necessary for the purpose of identifying the products sold through such equipment; that upon termination of this assignment in any manner, he will surrender the premises, buildings, fixtures, equipment, tools and appliances to Assignor in the same condition, order and repair as when received, ordinary wear and tear and damage by fire or the elements alone excepted.
5. Assignee hereby covenants and agrees that he will not assign, mortgage or encumber the leasehold estate in any way, or sublet the said premises, buildings, fixtures, equipment, tools and appliances, or any part

BOOK 275 PAGE 875

thereof, without first securing Assignor's written consent; that he will not suffer any lien or encumbrance to be placed upon the leasehold, or any part thereof; and that he will not remove or permit to be removed from the premises, any of the buildings, fixtures, equipment, tools and appliances listed in the above inventory.

Assignee hereby covenants and agrees that should he die or be adjudicated insane or should he fail to pay any installment of rent when due, or should he make any default in performance of any of the covenants, conditions, stipulations and agreements herein contained, or should he be adjudicated a bankrupt or make an assignment for the benefit of creditors, or should he take advantage of any insolvency law, or should his interest under this assignment be levied upon or sold under execution or become vested in any other person, firm or corporation by operation of law, or should a receiver be appointed for him or for his interest under this assignment, or should the premises or any part thereof or any interest therein be taken in appropriation proceedings or by right of eminent domain, or should Assignor sell or agree to sell the premises, or any part thereof, to the Federal, State or any Local government, or any political subdivision thereof, or any department, agency, division or instrumentality thereof, for highway or other public purposes, or should Assignor make a bona fide sale of the premises or any part thereof, then and in any such event, Assignor at any time thereafter, shall have the right, without notice to forthwith cancel and terminate this assignment and thereupon to enter upon the premises and take possession of the same together with all improvements, buildings, fixtures, equipment, tools and appliances situated thereon, but such cancellation, termination and reentry shall be without prejudice to any right of action or remedy of Assignor against Assignee with respect to any breach of the provisions of this assignment or said Lease Agreement by Assignee. Assignee does hereby waive any and all exemption, stay and redemption laws, including all statutory provisions as to notice to quit, now and hereafter enacted, and does hereby agree that Assignor may pursue any remedy or remedies for violation of this assignment or said Lease Agreement or any of its covenants that may be available to Assignor, and the pursuit of one remedy shall not bar the pursuit of any other or additional remedies whether or not herein enumerated.

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in law or equity, judgments and costs, which shall arise from or grow out of any injury to or death of persons and for damage to property accruing while such persons or property are on, approaching or leaving the premises, or caused or occasioned by, arising from or in any manner connected with the use, maintenance, operation and/or condition of the said premises, buildings, equipment, tools and appliances, or the exercise of any right herein granted, whether sustained by Assignee, or Assignor, or their respective agents or employees, or any other person or persons, firm or corporation, which may seek to hold Assignor liable, excepting nothing herein shall require Assignee to be responsible for any damage or injury caused by Assignor's negligence while on or about said premises.

It is mutually covenanted and agreed that none of the provisions of this assignment shall be construed as reserving to Assignor any right to exercise any control over the business or operations of the Assignee conducted upon the premises, or to direct in any respects the manner in which any such business and operation shall be conducted, it being understood and agreed that the entire control and direction of such activities shall be and remain with Assignee. It is further understood and agreed that Assignee shall have no authority to employ any persons as employees or agents for or on behalf of Assignor for any purpose and that neither Assignee nor any other persons performing any duties or engaging in any work at the request of Assignee upon the premises shall be deemed to be employees or agents of Assignor. Assignee will not erect, maintain, nor permit any sign, insignia, or other advertising device upon or near the premises herein assigned which would, in any way, indicate that Assignor is the owner or operator of the business conducted upon said premises.

Assignee hereby covenants and agrees that upon the termination of this assignment in any manner whatsoever, he will forthwith remove from the premises any equipment, tools, fixtures, containers, machinery, merchandise and personal property of any description belonging to him, and should he fail so to do, he shall be considered to have abandoned same, and Assignor may retain same without accounting to Assignee therefor in any manner.

The waiver of any breach of any covenant, condition or stipulation contained herein shall not be taken to be a waiver of any subsequent breach of the same or any other covenant, condition or stipulation, nor shall any failure of Assignor to enforce rights or seek remedies upon any default of Assignee with respect to the obligations of Assignee hereunder, or any of them, prejudice or affect the right or remedies of Assignor in the event of any subsequent default of Assignee.

Assignor is hereby granted a lien upon all merchandise and other property of Assignee now or hereafter located on the premises, to secure the payment of rent and the full performance of all obligations assumed by Assignee under this assignment. Upon default, Assignor may, without court action, take possession of all such property and may sell same at public or private sale conducted after notice by publication in one issue of a newspaper circulated in the county in which the demised premises are located, such notice to state the time and place of said sale; provided, Assignor may sell or purchase any and all of the merchandise at Assignor's then current dealers' prices without holding a sale as aforesaid and without notice to Assignee.

It is mutually understood and agreed that there are no understandings or agreements, written or oral, expressed or implied, between the parties hereto, regarding the subject matter of this agreement except as herein set forth; and no alterations or additions to this agreement shall be binding upon Assignor unless in writing and signed by a Manager of Assignor.

Any notices under this assignment shall be delivered to Assignee at the premises and to Assignor at its Office shown below. Notice may be given by registered mail or certified mail, and in such event the date of service shall be the date on which the notice is deposited in a United States Post Office properly stamped and addressed.

The Service Station Lease dated June 14, 1965, between the Assignor's predecessor, The Pure Oil Company, as Lessor and Assignee, as Lessee, is hereby cancelled as of the day on which this assignment becomes effective.

This agreement shall not become effective or be binding on Assignor unless and until signed by its Manager, and beginning of performance hereunder shall not be a waiver of this provision.

IN WITNESS WHEREOF, the parties have caused the due execution of this assignment the date first above written.

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Shelby Cnty Judge of Probate, AL
08/25/1972 12:00:00 AM FILED/CERT

WITNESSES:

C. M. Gilbert

UNION OIL COMPANY OF
CALIFORNIA Assignor

By F. L. Stanley
F. L. Stanley, Division Sales Manager
P. O. Box 156, Birmingham, Alabama 35201
Office Address

FORM
APPROVED
1972

C. M. Gilbert

Assignee John Cunningham (SEAL)
John Cunningham

ACKNOWLEDGMENTS

STATE OF ALABAMA
COUNTY OF JEFFERSON

I, the undersigned, a Notary Public in and for said county, do hereby certify that F. L. Stanley personally known to me to be Division Sales Manager, UNION OIL COMPANY OF CALIFORNIA, a California corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such Division Sales Manager he signed and delivered the said instrument as his free and voluntary act and the free and voluntary act of said UNION OIL COMPANY OF CALIFORNIA for the uses and purposes therein set forth, and that he was duly authorized to execute and deliver the same as aforesaid.

Given under my hand and official seal, this 11 day of August, 1972.

SEAL

Jane Helm
Notary Public

My commission expires: Notary Public, Jefferson County, Ala.
My commission expires Feb. 26, 1976
Bonded by Home Indemnity Co. of N. Y.

STATE OF ALABAMA
COUNTY OF SHELBY



19720825000042510 6/6 \$.00
Shelby Cnty Judge of Probate, AL
08/25/1972 12:00:00 AM FILED/CERT

I, the undersigned authority, in and for said county, in said state, hereby certify that John Cunningham, whose name is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he executed the same voluntarily.

Given under my hand and official seal, this 10th day of August, 1972.

Betty A. Crawford
Notary Public in and for Shelby
County, Alabama

SEAL

My commission expires:
My Commission Expires July 27, 1974

STATE OF ALABAMA, SHELBY CO.
NOTARY PUBLIC
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