

Macris, Michael

From: Gilman, Charles A.
Sent: Wednesday, December 13, 2000 1:31 PM
To: 'rick_terrill@REDACTED'
Cc: Friedman, Bart; Macris, Michael; Mark, Jonathan I.; Wolf, Gary W.
Subject: CIC chronology

Rick

The following is a more detailed chronology prepared from the materials that you provided. Am I missing anything? Is this OK to send out? I leave it to you to check with David, Doug and Carl. Please call

Charlie

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WESTERN RESOURCES

<u>DATE</u>	<u>EVENT</u>
1994-1995:	Change in Control ("CIC") agreements approved by Board for officers.
1/26/00:	<p>Presentation to Human Resources ("HR") Committee by Resources Connection (Brent Longnecker) discussing triggers and payout formula and recommending revisions in old CIC agreements to make them more up-to-date and competitive and providing benefits to non-Executive Council ("EC") employees.</p> <p>Resources Connection reported that the Company's CIC benefits are "not consistent" throughout its compensation and benefit programs and that "in light of the current circumstances" of the Company "it is important to assess protections in place for key employees." Resources Connection reported that "definitions are not consistent, payouts are not clearly defined, and several provisions are not competitive in today's marketplace." Resources Connection concluded: "For these reasons, Resources Connection believes it is important for the Board to consider revisiting the plans to ensure that the Company has the ability to retain key employees in the Company's uncertain future."</p> <p>The Resources Connection presentation focused on broadening CIC protection below the level of executive officer, modifying and standardizing CIC payout triggers, updating of payout formulas, and tax gross ups.</p> <p>No action was taken by the HR Committee on January 26.</p>
5/11/00	WR proxy statement mailed to shareholders (describing then existing compensation and retirement plans and CIC and employment agreements).
5/17/00:	<p>Presentation to HR Committee by Resources Connection (Brent Longnecker) proposing new employment agreements for EC employees, CIC agreements for other officers, employee retention program for other employees. Presentation focuses on "Company's vulnerability to a potential transaction" and recommendation that Company "assess its employee protection and retention programs at this time." Resources Connection stated:</p> <p>"As has been discussed with the HR Committee over the past several years, Resources believes providing executives change-in-control protection is competitive. Additionally, it is not uncommon to provide a general severance plan under which employees at all levels are protected against termination without</p>

	<p>cause in relation to a change-in-control (tin parachute). As the Company enter the upcoming period of uncertainty, Resources believes that it is highly important that this issue be addressed at this point in time."</p> <p>The Resources Connection presentation focused on term of agreements by organizational level, triggers of payouts by organizational level, payout multiples by organizational level, immediate vesting of long term incentives, benefits and tax gross ups.</p> <p>HR Committee unanimously approves the recommendations in the Resources Connection presentation subject to final review of details and determination of potential financial impact.</p> <p>HR Committee recommends approval by Board.</p>
5/17/00:	<p>HR Committee presents its recommendation to the full Board of Directors for approval authorizing CIC and employment agreements and employee retention programs.</p> <p>The HR Committee handout to the Board went through the differences between the proposed EC and non-EC forms of agreement, including the payout formulas, gross up for excise tax, and single or double triggers. Conforming CIC definitions for benefit plans was also proposed.</p> <p>With all Directors present, Board of Directors unanimously approves resolution authorizing officers of Company to enter into new CIC and employment agreements and employee retention programs as presented to the Board (including triggers and payout formulas), subject to final agreements being approved by HR Committee.</p> <p>"RESOLVED, that subject to final plans being approved by the Committee the officers of the Company be, and hereby are, authorized to enter into and implement the change of control and employment agreements and employee retention programs as presented to the meeting; and further</p> <p>"RESOLVED, that the officers of the Company be, and hereby are, authorized to take such actions as they may deem necessary or appropriate to carry out the foregoing resolution."</p>
7/11/00	<p>HR Committee receives and considers report from Resources Connection (Brent Longnecker) concerning "potential cost of the recommended arrangements" including "an overview of the costing calculations and Resources as-</p>

	<p>essment of the competitiveness of the plan." Charts depicting "current" and "recommended" payout formulas for EC and Non-EC employees, and "utilizing the current enterprise value of the Company, the cost of modifying the existing CIC arrangements was calculated." A table setting forth the cost of recommended modifications was presented both in dollars and as a percentage of total enterprise value. Resources Connection concluded:</p> <p>"Based on competitive data, Resources believes that the proposed CIC arrangements for WR are both reasonable and competitive."</p>
7/19/00:	<p>Resources Connection (Brent Longnecker) makes presentation to HR Committee detailing potential costs of employment agreements, CIC agreements and employee retention program, discussing "reasonableness" of total CIC costs.</p> <p>HR Committee reviewed with Resources Connection the payout formulas and implication of grossing-up of the excise tax for EC employees. The potential cost of all of the proposals were summarized by Resources Connection for the HR Committee.</p> <p>HR Committee unanimously approves final form of agreements as "fair to the employees and the shareholders."</p>
8/2/00:	<p>Based on further input from Resources Connection, HR Committee unanimously agrees to certain changes in form of non-EC CIC Agreements (relating to a specific "cap" on non-EC agreements).</p>
9/15/00:	<p>HR Committee unanimously approves change in form of EC employment agreements (eliminating delay in certain payments for employees going to Westar).</p> <p>"NOW THEREFORE, be it resolved that the officers of the Company be, and hereby are, authorized and directed to enter into Employment and Change of Control Agreements with the officers and certain employees of the Company as modified to conform to the above recommendation of the Chairman; and further</p> <p>"RESOLVED, that the officers of the Company be, and hereby are, authorized to take such actions and do such things as they may deem necessary or appropriate to carry out the foregoing resolutions."</p>

	<p>As modified, officers authorized to execute said agreements.</p> <p>Agreements executed.</p> <p>The EC employee agreements have a single trigger not keyed to a CIC. The EC employee agreements are triggered by diminution of position and responsibilities.</p> <p>The non-EC employee agreements have a double trigger that requires a CIC.</p>
10/3/00	<p>HR Committee reviewed amendments to conform the definition of change-in-control in the Company's Executive Salary Continuation Plan and the Long-Term Incentive and Share Award Plan to be the same as the definition of change-in-control in the agreements which the Committee and the Board approved earlier in the year.</p>
11/8/00:	<p>Presentation to HR Committee by Resources Connection (Brent Longnecker) updating CIC cost calculations in light of PNM transaction. The report covers, on an executive-by-executive basis, cash payments, long term incentives, benefits, excise tax gross ups, caps and Westar indemnity issues. Resources Connection concluded:</p> <p>"Based on competitive data, Resources believes that the CIC arrangements for WR for the senior executives are both reasonable and competitive."</p>
11/8/00:	<p>All of the Resources Connection materials provided to the HR Committee on 11/8/00 are presented to the full Board.</p> <p>Board of Directors authorizes PNM Merger Agreement.</p> <p>Merger Agreement signed.</p> <p>Merger Agreement schedules the schedules the EC and non-EC CIC agreements (p. 21), and PNM expressly acknowledges that the PNM transaction constitutes a CIC transaction within the meaning of those agreements (p. 52).</p>
12/6/00:	<p>Informational presentation to Board on compensation/benefits history, outlining benefits payable and the 2000 revisions to CIC Agreements. Company's compensation philosophy "continues to emphasize shareholder value creation through a pay-for-performance compensation program." Presentation outlines: short term incentive plan, long term incentive plan, executive salary continuation plan, deferred compensation plan, CIC agreements, and other benefits.</p>

	<p>The history of the Company's compensation and benefits plans from first implementation in 1981, through modification in 1995 "following an executive compensation study," through 1996 amendments to add CIC benefits, through 1999 amendments to include stock compensation. The history of the CIC agreements (first approved in 1994) was discussed, including triggers and benefits payable. The May 2000 revisions to CIC agreements were described for both EC and non-EC employees, as were the Company's other compensation and benefit plans.</p>
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