

A special meeting of the State Lands Commission was held in Room 115 State Building, Los Angeles 12, California, on Friday, January 8, 1954, at 10 a.m., Chairman Robert C. Kirkwood presiding.

Present: Robert C. Kirkwood, Chairman
Harold J. Powers, Member
John M. Peirce, Member

Staff Members in Attendance:

Rufus W. Putnam, Executive Officer
J. Stuart Watson, Assistant Executive Officer
F. J. Hortig, Mineral Resources Engineer
Julia T. Stahl, Secretary

Others in Attendance and Making Appearances:

Everett W. Mattoon, Assistant Attorney General
A. C. Mattei, Chairman, Public Lands Committee,
Western Oil and Gas Association
T. Moroney, Secretary, Public Lands Committee,
Western Oil and Gas Association
Vern B. Thomas, District Attorney, Santa Barbara County
W. D. McKay, representing commercial and industrial interests
in connection with natural gas and electric matters.
C. A. Bauer, City Attorney, City of Huntington Beach
A. H. Walker, Coordinator, Senate Interim Committee on Oil
and Gas Development on State Lands

Notices of this public meeting had been sent to all interested parties, a large number of whom attended the meeting, but who did not make statements.

Mr. Kirkwood explained that the meeting was called pursuant to a request of the Senate Interim Committee on Oil and Gas Development on State Lands for consideration of a statement by the Commission as to what its position would be with reference to proposed legislation on oil leases on State lands, and as to changes in policy concerning those leases.

In order to make the history on this a matter of record, Mr. Kirkwood went on to explain that sometime back, after a hearing at which Mr. Mattoon and representatives of the Western Oil and Gas Association appeared, a request was made that interested parties present to the State Lands Commission, in concrete form, their suggestions as to new policies on oil leases on State lands. In response to this request, material was presented to the Commission on October 27, 1953, by the Western Oil and Gas Association, which material had been under advisement since that time. The current meeting was being held to hear arguments and suggestions, and to see what recommendations the Commission should make to the Legislature through the Senate Interim Committee. It was felt that those on the Commission had some responsibility as far as making recommendations to the Legislature is concerned, but it was also recognized that many of the points suggested are matters purely for legislative determination; however, if the Commission is to deal as a Commission on issuing oil leases on State lands, then certain discretion should be left with it.

Colonel Putnam reported that a personal letter had been received from Senator Cunningham, in which he submitted his personal ideas as to the type of legislation he felt would be appropriate for consideration at a Budget Session. Colonel Putnam also submitted a letter which Senator Cunningham had received from the Legislative Counsel on the question of whether or not legislation on oil leasing matters would be appropriate to be considered at the Budget Session.

Mr. W. D. McKay, representing a group of commercial and industrial interests in connection with natural gas and electric matters, after asking some questions relating to the availability to his group of documents in this case, indicated that he did not wish to make a formal presentation.

At the request of Mr. Kirkwood, Colonel Putnam then read the following report and recommendation made by the Staff to the State Lands Commission:

"(S.R. 109, SENATE INTERIM COMMITTEE ON OIL AND GAS DEVELOPMENT ON STATE LANDS - W.O. 1473.) From time to time the matter of legislation to change the law with respect to issuance of oil and gas leases on State lands has been discussed with the Commission. (See minutes of meeting of July 2, 1953, Page 1839; of meeting of October 27, 1953, Pages 1919 to 1921; and of meeting of December 17, 1953, Pages 1926 and 1927.)

"The first policy matter that the Commission might wish to determine is whether it should make any recommendation to the Senate Interim Committee on Oil and Gas Development on State Lands, and to the Legislature, with respect to possible changes in the provisions for leasing State oil and gas lands.

"If the determination is in the affirmative to the first question, the question then arises: Should the present law, which prohibits the issuance of oil and gas leases except where there is drainage or a threat of drainage, be amended to permit issuance of so-called wildcat leases? This question could be answered in several ways, among which are:

- (1) A minimum amount of legislation to change Section 6872 of the Public Resources Code by striking the clause "and may be or are being drained by means of wells on adjacent land", thus making it possible for the State Lands Commission to issue leases at its discretion without the drainage requirement. This minimum change in the statutes would require the repeal of Section 6873(a) in order that the lease form would be consistent with the changes in Section 6872. (See Exhibit "A" which follows.)
- (2) Amend drastically the Public Resources Code, as has been suggested by the Western Oil and Gas Association, whereby practically all provisions of the procedure and lease forms would become statutory, with no discretion in the Commission to determine (a) which areas shall be leased, (b) what the qualifications of the successful bidder shall be, or (c) the royalty rate.

"It is understood that Senator Cunningham has received an opinion from the Legislative Counsel that an amendment to the Public Resources Code with respect to the issuance of oil and gas leases on State Lands comes within the purview of the Budget Session of the Legislature.

"While the Staff is in favor of recommending alternative (1) above at the appropriate time, the status of litigation attacking the constitutionality of Public Law 31, 2d Session, 65th Congress, by the states of Arkansas, Alabama, and Rhode Island, has complicated the tidelands leasing program, at least from the point of view of the State of California. This condition makes it inadvisable to recommend legislative changes at this time.

"It is therefore the conclusion of the Commission's Staff that the State Lands Commission should proceed with caution in recommending changes in the law for issuance of State oil and gas leases. In this way the Commission would be in a much better position to determine, before the 1955 regular session, whether to recommend that the Public Resources Code should or should not be drastically amended.

"IT IS THEREFORE RECOMMENDED THAT THE COMMISSION AUTHORIZE THE PRESENTATION TO THE SENATE INTERIM COMMITTEE ON OIL AND GAS DEVELOPMENT ON STATE LANDS, AND TO THE LEGISLATURE AT THE BUDGET SESSION, THE RECOMMENDATION THAT NO CHANGES BE MADE IN THE STATUTES (PUBLIC RESOURCES CODE) WITH RESPECT TO THE STATE OIL AND GAS LEASING POLICY."

EXHIBIT "A"

"§ 6872. Circumstances authorizing leases. Whenever it appears to the commission that oil or gas deposits are known or believed to be contained in any such lands and may be or are being drained by means of wells upon adjacent lands, the commission shall thereupon be authorized and empowered to lease any such lands, either as a tract or in parcels of such size and shape as the commission shall determine, for the production of oil and gas therefrom.

"§ 6873. Form of lease: Preparation: Contents. The commission shall prepare a form of lease which shall contain, in addition to other provisions deemed desirable and necessary by the commission, appropriate provisions contained in this chapter and the following:

"(a) Each well drilled pursuant to the terms of the lease shall be drilled only upon filled lands or shall be slant drilled from an upland or littoral drill site to and into the subsurface of the tide or submerged lands covered by the lease, or shall be drilled or slant drilled to and into the subsurface of tide or submerged lands covered by the lease from a drill site located upon any pier heretofore constructed for drilling purposes and available for such drilling upon any tide or submerged lands described in any valid existing lease heretofore issued pursuant to the provisions of Chapter 303, Statutes of 1933, as amended if in the judgment of the commission such drilling will be in the public interest. The derricks, machinery, and any and all other surface structures, equipment, and appliances shall be located only upon filled lands or upon the littoral

lands or uplands, or upon any pier heretofore constructed and available for such drilling upon any tide or submerged lands described in any valid existing lease heretofore issued pursuant to the provisions of Chapter 303, Statutes of 1921, as amended, and all surface operations shall be conducted therefrom.

"(b) (a) Pollution and contamination of the ocean and tidelands and all impairment of and interference with bathing, fishing or navigation in the waters of the ocean or any bay or inlet thereof is prohibited, and no oil, tar, residuary product of oil or any refuse of any kind from any well or works shall be permitted to be deposited on or pass into the waters of the ocean or any bay or inlet thereof.

"(c) (b) Impairment of or interference with developed shore line recreational areas or residential areas is prohibited."

Mr. Kirkwood then asked if anyone wished to question Colonel Putnam, but there were no inquiries.

Upon a question by Mr. Kirkwood as to whether the situation should be allowed to remain in status quo as far as legislative action is concerned, Colonel Putnam indicated that until the picture on litigation (referring to the suits by Arkansas, Alabama, and Rhode Island, as well as those by applicants for Federal leases) is more clear, status quo should be maintained as to the Commission's own operations and as to its legislative powers.

Colonel Putnam reported that the Staff of the Commission had done its best to build up good reasons why there should be special legislation at the Budget Session, but could not do so; therefore, not being able to defend a request for legislation at this particular session, he could not recommend any.

Mr. Mattai took a contrary view with respect to the State's position in the national picture and in the defense of its tidelands against attack by other States or the Federal Government, and thought California should change the law so that there can be active participation in the development of the tidelands by the State.

To a question by Mr. Kirkwood as to whether there had been complete lack of issuance of new leases, Mr. Mattai replied that they can only be issued in California where there is drainage, and that development taking place in Louisiana, Texas, and elsewhere is outstripping anything in California. He thinks California is lacking. It was pointed out by Colonel Putnam that the Commission has issued new leases in the past few years, and that four or five new wells are coming in monthly, so that operations in California are not at a standstill.

Mr. Mattai stated that the recommendations made to the Senate Interim Committee were such as could be supported by the entire industry, in so far as they were able to determine. He thought the proposals being made by the Commission's Staff at this meeting would not be acceptable to the entire industry, and therefore would end in there being no legislation enacted at the Budget Session.

On Point (2) of the Staff's proposals to the Commission, Mr. Mattei thought that the provisions in the lease forms should be statutory, as there are very important factors involved where the Legislature should determine the policy. He did not think the Commission should have the right to fix the royalty rate; that it should be fixed by law; also qualifications of bidders should not be determined by the Commission. There should be a definite limit as to the amount of acreage that should be put in any one lease, a fairly large block as a maximum, with a certain minimum, depending upon conditions.

Mr. Kirkwood indicated that the Commission wanted to hear the objections of the Staff in more detail before taking definite action.

Colonel Putnam brought out that if the Commission's hands would be so tied by legislation that it would lose all discretion, all items would have to be rejected, and recommended against taking up policy questions at the Budget Session, as they probably would not come within the Legislative Counsel's opinion as being suitable for consideration at the Budget Session.

Mr. Horig of the Staff of the State Lands Commission then reviewed the comments of the Western Oil and Gas Association on Sections 6804, 6805, 6827 (two parts), and 6873(a) of the Public Resources Code, as outlined in the Association's report of October 27, 1953, and these were discussed in detail.

Section 6804: Mr. Mattei indicated that discretion should not be in the Commission on assignment of leases, feeling that it would be protected by its right to recourse to the courts.

Section 6805: The changes to this section, as proposed by the Western Oil and Gas Association, would place further restrictions on the Commission's discretion in effecting notices of intention to cancel a lease. Colonel Putnam indicated that he could not see where these changes would add any revenue to the State, and therefore probably should not be considered at the Budget Session of the Legislature.

Section 6827: There was a general discussion about the State's ability to cancel leases where performance was not being carried out, it being brought out that under the changes proposed the only recourse would be to the courts. There was a discussion about the lessees "diligently pursuing" the terms of the lease.

The royalty rates and cash bonus bidding were then discussed. The Staff of the Commission believes it should be up to the Commission to determine the basis for royalties. The Western Oil and Gas Association submitted that the royalty rate on unproved lands should be reduced to 12½%, with the lease to be awarded to the bidder offering the highest cash bonus.

Section 6873(a): The Staff's objection to the proposed changes is that the Commission is not given discretion as to approval or disapproval of the location of structures. The question came up as to whether the Commission would be required to sit as a zoning commission, with Mr. Mattei indicating that that approach should be considered. He then asked for permission to work with the Staff on this.

Mr. Mattoon reported that the attitude taken by the United States at the time the Arkansas State case was filed appeared to indicate a desire to preserve the status quo, and that the United States did not have objections to the leasing policies of the State. There was general discussion of Public Law 212.

Mr. Vern Thomas, District Attorney for Santa Barbara County, appeared and asked that the local communities concerned be given an opportunity to advise of their desires and wishes on oil leasing problems and policies. He indicated that although the Commission, under existing law, clearly has exclusive jurisdiction over tidelands, there should be some planning at State level to protect the interests of the local communities, especially in those certain sectors which have placed their stake in values other than industrialization of coastal waters.

Mr. C. A. Bauer, City Attorney of the City of Huntington Beach, appeared and requested that the interests of that community be protected, stating that he felt the local people should have some voice to make their wishes known, and should be kept in mind relative to changes or legislation affecting tidelands. He suggested that before leasing was advertised or bids opened, a hearing be held and local interests given an opportunity to be heard.

Mr. A. H. Walker, Coordinator for the Senate Interim Committee, indicated that that Committee will be interested in any determination made by the Commission. It is his thought that the entire problem should be evaluated carefully, and a thorough job done, before the matter is presented to the Legislature. He also referred to the possibility of eliminating eyesores, resulting from drilling operations, by the use of landscaping, so that while the local communities' interests would be protected the State could benefit from revenue.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE QUESTION OF A STATEMENT AS TO THE POSITION OF THE COMMISSION WITH REFERENCE TO PROPOSED LEGISLATION ON OIL LEASES ON STATE LANDS, AND AS TO CHANGES IN POLICY CONCERNING THOSE LEASES, WAS TAKEN UNDER SUBMISSION.

The meeting was adjourned at 11.55 a.m.

Rufus W. Putnam

RUFUS W. PUTNAM
Executive Officer