3. (1957 SESSION LEGISLATION - W. O. 2115.8.)

After the attached Calendar Item No. 17 was presented to the Commission by the staff, Mr. Kirkwood asked whether, if the proposed amendments were presently law, the staff's recommendations on the 54,000 acres of tide and submerged lands recently considered for oil and gas leases would have been different, and the staff indicated that it did not think so, although the Executive Officer thought perhaps a sliding scale royalty starting at 12½ percent and going up to 50 percent might have been recommended. It was pointed out that the proposed amendments are designed to give the State extra income, within reason, in the event particularly good wells are discovered in wildcat areas.

Mr. Kirkwood wanted to know if "confidential information" on exploration work that is being done would still be available to the Commission if the amendments recommended were to become law, whereupon Mr. Hortig, the Mineral Resources Engineer, explained that new conditions would have to be specified in any permits issued for this type of work, to cover this point.

Appearances were made by the following, who presented arguments against the proposed amendments:

Mr. Harry Morrison, representing the Western Oil and Gas Association, who stated that his Public Lands Committee had studied Calendar Item No. 17 at great length and recommended opposition thereto.

Mr. Robert Patton, Chairman of the Public Lands Committee of the Western Oil and Gas Association. (See Exhibit "A" attached.)

Mr. Paul A. Lower, of The Superior Oil Company. (See Exhibit "B" attached.)

Following the formal presentations, there was general discussion of the issues involved, during which Mr. Watson, the Assistant Executive Officer, explained that the purpose of the proposed amendment to Section 6873.2 was to clear up the ambiguity therein as to the determination to lease State lands. At present the time limit in Section 6873.2 is too short for the Commission to give adequate time to the determination to lease.

Deputy Attorney General Jay Shavelson stated that it was difficult to determine the legislative intent at the time the section was adopted, but indicated that it appeared that any city or county which entered a protest should know what disposition was being made of its contentions within a specified time, which point was not covered by the proposed revision. He thought that although it might be better to have a longer time limit, this should be done rather than not having any time limit at all.

The Executive Officer pointed out that once a hearing is held, suggestions are received from the county or counties involved, after which the matter is referred to the Commission's planning consultants, all of which takes considerable time, and thereafter it is necessary for the staff to prepare its recommendations to the Commission, where again a timing problem was involved, but stated that he would not object to a 60-day time limit.

Mr. Kirkwood pointed out that having no time limit at all would "leave the door wide open".

Mr. Shavelson suggested that perhaps, instead of determining whether or not to lease within the 30-day period, the determination should relate only to the effect the lease would have on shoreline development or to any possible adverse effects on the State's interests.

Mr. Patton stated that he felt that Section 6873.2 had a serious purpose as it stands, and he did not believe the Commission should be allowed to have latitude in saying whether or not it would issue a lease once a hearing had been held, unless of course the Commission should find that there would be an impairment of the State's interests.

Mr. Kirkwood stated that he understood the Commission had been operating on the basis that leasing was permissive at any stage, and asked Mr. Patton if, under the thinking he had just expressed, he felt that the Commission would be compelled to put out for lease the alternate or checkerboard areas on which leasing was held up at recent meetings. Mr. Patton pointed out that the Commission always has the right to reject bids under Section 6836 of the Public Resources Code. Mr. Watson stated that Mr. Patton's position did not tie in with what the staff or the Attorney General had determined to be the intent of the act, and indicated that the staff in presenting the proposed legislation was merely trying to get some help on the time problem, not to interfere with the interests of the oil and gas operators, and that suggestions from these interests would be welcomed.

Mr. Patton informed the Commission that time had not permitted him to consult with the members of his committee before making his remarks at this meeting, whereupon Mr. Watson mentioned that perhaps any arguments advanced at this time were not particularly apropos, the proper place to present them being to the pertinent legislative committee after a bill had been written up and was being heard by the committee.

Mr. Kirkwood then suggested a 90-day limit, instead of 30 days, and asked that the Attorney General's office prepare, in clear language, an opinion on the way the Commission should operate.

At this point it was made clear by the staff that it was only the intent to obtain authorization to present proposed legislation, and that a Commission endorsement was not being requested.

Mr. Kirkwood advanced the thought that the Commission should find means by which wildcat lands under its jurisdiction can be put out for oil and gas lease without forever foregoing the possibility of receiving more than a 12½ percent royalty, so that in the event of a major find it would be possible to realize a higher royalty. He said that he recognized that there would be hazards in working on such a basis, but that he did not believe these would be restrictive on the oil industry; that he would like to see the staff of the Commission sit down with the people in the oil industry and "spell out" something along these lines that would give greater flexibility to the oil royalty rate.

Assemblyman Allen Miller, Chairman of the Subcommittee of the Assembly Committee on Conservation, Planning and Public Works, reported that the members of his committee have reached a common viewpoint as to what should be done in connection with the Cunningham-Shell Tidelands Act, and would like to work with the staff of the Commission on the problems that exist. He did not think they were in complete accord, item by item, at the present time, but thought there was a lot of community of thinking on the problems.

The Chairman brought up the question of whether the staff was asking to be authorized to have a bill or bills introduced without the express language to be used in them being indicated, and Mr. Powers indicated that he did not think the procedure being followed was correct or satisfactory. It was explained by the staff that it was merely asking to be authorized to have a bill or bills introduced that would amend the sections of the Public Resources Code indicated, looking towards accomplishment of the objectives as reported to the Commission.

Mr. Kirkwood again commented on the 12½ percent royalty in wildcat areas, saying that if it should develop that four million barrels were found in the tidelands, as has been predicted, the members of the State Lands Commission would be subject to criticism for not having obtained a higher royalty for the State.

Mr. Patton stated that the incentive principle is involved, questioned the estimate of four million barrels, and emphasized that an incentive in the form of the lower royalty of 12½ percent is necessary to encourage operators to take the gamble on wildcat lands.

Mr. Kirkwood pointed out that the State is at a disadvantage because it cannot negotiate leases.

Mr. Watson suggested that the oil industry should look at the sections involving minerals other than oil and gas (Sec. 6890 et seq., P.R.C.), which provide that prospectors can have any amount of an area to prospect on they want, but that if a discovery of minerals other than oil or gas is made, the prospector is entitled to a preferential lease on only 160 acres, as the balance of the area has to go to public bid.

The Executive Officer recommended that the Commission authorize the staff, on its behalf, to consult with the Legislature concerning the amendment of Sections 6827, 6834 and 6873.2 of the Public Resources Code.

Assemblyman Miller pointed out that after introduction of the proposed bills, they would be referred to his Committee, and everyone who was interested would have an opportunity to present his viewpoints before the Committee.

The Chairman reviewed the legislative procedure briefly, stating that the month of January is the period for introducing bills, and that normally no action is taken during that time. The Legislature then recesses for 30 days, after which it reconvenes in March and is normally in session for a period of three months, during which period there are many opportunities for presenting arguments for or against the bills being considered.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION AUTHORIZED THE STAFF, ON ITS BEHALF, TO CONSULT WITH THE LEGISLATURE CONCERNING THE AMENDMENT OF SECTIONS 6827, 6834 AND 6873.2 OF THE PUBLIC RESOURCES CODE.

Attachments
  Exhibit "A" (10 pages)
  Exhibit "B" ([illegible] pages)
  Calendar Item 17 (3 pages)

2146 "A"

STATEMENT OF ROBERT T. PATTON, CHAIRMAN, PUBLIC LANDS COMMITTEE, WESTERN OIL AND GAS ASSOCIATION, BEFORE THE CALIFORNIA STATE LANDS COMMISSION, SACRAMENTO, CALIFORNIA, DECEMBER 5, 1956.

Chairman Peirce and Members of the State Lands Commission:

I am appearing on behalf of the Western Oil and Gas Association as Chairman of its Public Lands Committee, to express the Association's objections to the amendments proposed by the staff of the State Lands Commission to Sections 6827, 6834 and 6873.2 of the California Public Resources Code. These sections constitute a part of the so-called Cunningham-Shell Tidelands Act of 1955, adopted to promote the development of California's offshore oil resources.

The proposed amendments of Sections 6827 and 6834 would provide for increasing the present royalty rates for leases on "wildcat" lands--lands not within a structure already known to be productive--and the proposed amendment of Section 6873.2 would remove any duty on the part of the Commission to put submerged lands up for lease even though, after hearing, the Commission finds that issuance of the lease would result in no impairment of or interference with adjacent developed shoreline recreational or residential areas.

Sections 6827 and 6834

The proposed amendment of Section 6834 may be disposed of by stating that it would merely delete certain language from this section in order to implement the proposed increase in wildcat lease royalty rates. We feel that Section 6834 should remain unchanged for the reasons which will be discussed in connection with Section 6827.

This section of the Public Resources Code prescribes the royalty rates at which the State's tide and submerged lands (and certain uplands) are to be leased. The royalty rates depend upon whether or not the lands are within the known geologic structure of a producing oil or gas field at the date of the issuance of the invitation for bids, as determined by the Commission. If the lands are not within such a known structure, the royalty rate is to be a flat 12-1/2%. If they are within such a known structure, the Commission may either fix a flat royalty rate of not less than 16-2/3% or may prescribe a sliding scale royalty based upon the average daily production of oil per well, commencing at not less than 16-2/3% and going up to whatever maximum royalty rate the Commission chooses to fix, there being no maximum rate specified in the statute.

In addition to lease royalties, leases are put up for competitive bidding on the basis of a cash bonus, the lease, if awarded, being awarded to the operator bidding the highest cash bonus.

The amendments proposed by the Commission's staff would eliminate the 12-1/2% royalty rate now provided for in the statute as to lands which are not within a known structure, and would place all lands, regardless of their structural location with reference to a producing field, on the same royalty basis, i.e., either a flat royalty fixed by the Commission at not less than 12-1/2% or a sliding scale royalty commencing at not less than 12-1/2%, and going up to whatever maximum royalty rate the Commission chooses to fix, with no maximum rate specified.

The elimination of the flat 12-1/2% royalty on lands not within the known geologic structure of a producing field, i.e., "wildcat" lands, would strike down the very incentive which the California legislature wisely put into the Act in order to encourage operators to venture their capital in exploratory drilling on unevaluated lands in the effort to find oil where it has not yet been found or reasonably presumed to exist. This is the objective of all exploratory or "wildcat" drilling. It is pure "risk" drilling, with the operator, as usual, not only assuming all the costs, but in addition, venturing his money on the outright gamble of discovering oil. Where the lands are already within the known geologic structure of a producing field, the operator's chances of find oil are theoretically better and the drilling expense he can expect to be put to before finding it is theoretically lessened, on the presumption that he is drilling on a structure some other part or parts of which have already been demonstrated to be productive. All too frequently the actual results of drilling do not bear out the theory, but the present statute applies the higher royalty rate because of the presumptively lessened risk and expense of finding the oil. By precisely the same token, the statute applies the lower flat royalty rate where the operator is drilling on unevaluated or "wildcat" lands which are not within a known productive structure, in recognition of the increased risk and expense in finding a new oil-bearing structure and as an incentive to him to assume the added risk and expense.

This incentive of a lower royalty rate to encourage exploratory or wildcat drilling was no novelty when it was adopted by the California legislature in 1955. It was not an untried experiment. The Congress of the United States adopted this incentive principle in the Federal Leasing Act, which became law in 1920, and it has proved a real and substantial factor in promoting the oil and gas development of Federal public lands. The California legislature adopted the same incentive principle in the Cunningham-Shell Tidelands Act of 1955 to permit and encourage exploratory drilling on the State's tide and submerged lands after the six-year fight that had been waged to restore these lands to the State. To now remove this incentive would strike at the very purpose of the Act and can only operate to retard exploratory drilling on California's tide and submerged lands. Moreover, this is proposed to be done even before the incentive principle has been tried out and adequate experience gained as to how it will operate, either with regard to stimulating offshore drilling activity or with regard to its effect upon the State's revenue from offshore operations.

The only reason offered for now removing this incentive to exploratory offshore drilling is that the Commission has had "difficulties. . .with regard to the classification of lands as being within a known geologic structure of a producing oil or gas field vs. being in wildcat areas." This position disregards two obvious considerations:

First, no reason appears and none has been given as to why and how the encountering of difficulties in the structural classification of the lands for royalty fixing purposes makes it necessary or desirable to provide for fixing higher royalty rates on wildcat lands and thereby remove the present incentive to exploratory or wildcat drilling.

Second, that the structural classification of the unleased lands and the determination of known productive structures will be best accelerated and accomplished with the information obtained from the drilling of exploratory wells. It cannot be accomplished in a vacuum.

Just a few minutes ago in this hearing, in response to a question directed to the Staff by one of the Commissioners, asking how the Staff would apply the proposed minimum fixed or sliding scale royalty in the case of wildcat lands, it was brought out that this would depend upon the Staff's own appraisal of the prospect, and in the case of what might look like a really "hot" play a sliding scale royalty with steeply mounting rates would be used. This clearly demonstrates that there would still have to be an evaluation or classification of wildcat prospects for the purpose of determining what royalty to apply to them and that the proposed amendment would merely remove the safeguard of the established yardstick now provided in the law and leave the matter to the Staff's opinion, however conscientiously arrived at. Furthermore, the optimistic application of a high royalty, and particularly a steep sliding scale royalty, to a purely wildcat prospect in advance of any demonstrated productivity completely ignores the amount of high cost exploratory drilling which the operator may have to carry on before he reaches, if ever, the rich production which high royalty, and again particularly a steep sliding scale royalty, necessarily contemplates.

The actual productivity or non-productivity of a geologic structure can still be determined only by the drilling of exploratory wells to get the answer. We respectfully submit that the State Lands Commission and the Staff should give full weight to this fact in administering the law and considering the proposed royalty amendments. It will be remembered that it was for the very purpose of opening our tide and submerged lands to exploratory drilling, in addition to enlarging the possibilities of offshore drilling generally, that the Cunningham-Shell Tidelands Act expressly removed from the law the former restriction against exploratory drilling, i.e., the provision that offshore leases could only be issued where the lands were being drained or might be drained by wells on adjoining lands. To cover purely exploratory drilling, the legislature adopted the classification "lands not within the known geologic structure. . .of a producing oil or gas field." Then, in order to encourage exploratory drilling and the discovery of new oil-bearing offshore structures, the legislature provided the incentive of a flat 12-1/2% royalty rate on these lands in recognition of the additional risk and the expense involved.

It is difficult to believe that after doing all this to permit and encourage the exploration of the State's tide and submerged lands which are not determined to be within the known geologic structure of a producing oil or gas field, the legislature intended this classification of offshore lands to be construed so as to tie the Commission's hands and retard offshore exploration. The only purpose of the 12-1/2% flat royalty rate for leases on lands not within the known geologic structure of a producing field was to encourage exploratory drilling and find new oil. We see no justification and none has been offered for removing this incentive. On the contrary, we consider it essential to retain it in the interest of going forward with the exploration of our tide and submerged lands. Only as this progresses will new productive structures be discovered and developed to add to the State's offshore oil resources. Moreover, the State's revenue interests are fully safeguarded by the present royalty provisions of the law, under which the higher royalties can be applied to the unleased lands which exploratory drilling demonstrates to be within the productive structure.

We urge that no change be made in Sections 6827 and 6834 of the Public Resources Code. Our position also goes to the other changes which the proposed amendment would make in Section 6827, such as increasing the royalty on gas, gasoline and other products, limiting the royalty free use of injected gas to gas injected into the leased land proper, and limiting the allowance for oil treatment and dehydration to 5¢ per barrel.

There are several other considerations which argue for the retention of the present 12-1/2% flat royalty rate on wildcat lands:

(1) Offshore drilling is much more costly than upland drilling and requires a much greater outlay of risk capital, not only because of the additional problems inherent in drilling into the ocean bed from offshore structures, but by reason of the immense cost of these structures, of moving them into place and of the installations and facilities they require. The average cost of an offshore well is several times the cost of most upland wells. The cost of an initial well drilled from an offshore structure frequently exceeds $1,000,000. The operator, however, gets no greater return from the oil, or the gasoline and other products refined from it. To date, the outlay by operators who have drilled under State and Federal Government leases off the Gulf Coast far exceeds the value of the oil they have recovered. They are still "in the red". It does not seem likely that California operators can expect to fare better in the corresponding stages of offshore operations here.

(2) Offshore drilling in California can be expected to be even

more costly than in the Gulf Coast, since drilling structures and installations must be designed for deeper and frequently more turbulent waters.

(3) The amount the operator is willing to bid as a cash bonus for an offshore lease is directly and inevitably affected by the royalty he must pay on production under the lease. The higher the royalty burden, the lower the cash bonus bid. Royalty is prospective only, and dependent upon actual discovery and production. A high royalty rate can deprive the State of additional cash bonus revenue in hand, while giving it no certainty of actually obtaining the royalty specified.

(4) A sliding scale royalty is an even greater deterrent to high bonus bidding, particularly on "wildcat" lands, since the royalty costs of the lease as against the operator's outlay cannot be determined until the lease has been substantially drilled up. The operator has to be able to estimate what his royalty costs out of production are going to be in order to determine with any degree of safety the maximum cash bonus he can afford to bid. Where this determination cannot be made in advance because the royalty rate will vary with the rate of future production in each well, the operator is bound to "hedge" on his cash bonus bid to protect himself against the uncertain royalty costs of the lease. These deterrents are present in any sliding scale royalty. In addition, if the royalty is steeply graduated, the operator must also face the fact that it can result in preventing pay out on the property if he incurs high and prolonged prediscovery drilling costs.

The Gulf Coast states and the Federal Government have avoided these deterrents to substantial bonus bidding by using a realistic flat royalty rate throughout in offshore leases.

We cannot urge too strongly against the fallacy of extending the sliding scale royalty rate to leases on California's offshore "wildcat" lands. It is our view that the State would obtain greater bonus revenue, and in the long run, as unleased lands are evaluated from information gained by exploratory drilling, no less royalty revenue, by retaining the present flat royalty rate under these leases.

The view has been expressed that if an operator should have the good fortune to make a very valuable discovery under a wildcat lease, the State should for that reason get more than the present 12-1/2% flat royalty. Wildcat lease reoyalties cannot be realistically evaluated from the viewpoint of hindsight over something that might happen but very rarely does. Wildcat leases are not issued or taken, and substantial bonuses paid for them, in the hope that the operator will not find new and valuable production, but in the very hope that he will. There is always the rare chance, and the incentive, that the operator may be rewarded for his gamble by discovering valuable production. Let us, indeed, hope so. Nothing could furnish greater impetus to California's offshore drilling and development, and the immediate and cumulative revenue rewards to the State would not be slow in materializing. On the other hand, offshore wildcat drilling can easily be priced right out of its already high drilling cost market by loading it with high royalty rates and correspondingly diminished rewards.

<u>Section 6873.2</u>

As stated above, the proposed amendment to this section would remove any duty on the part of the Commission to put tide and submerged lands up for lease even though, after hearing, the Commission finds that issuance of the lease would not impair or interfere with adjacent developed shoreline recreational or residential areas.

In our opinion, this amendment would be wholly inconsistent with the purpose and the procedure pattern set up in the Act, i.e., that when the hearing provided for in this section develops no reason against the issuance of the lease, the Commission should then proceed with the publication of its notice and invitation for bids, as provided in Section 6834. The hearing provided for in Section 6873.2 would be to no purpose and a waste of the time and money of all parties involved, including the State, if, even though the results of the hearing meet all the requirements of this section, the Commission can still withhold the lands from leasing for reasons wholly unconnected with the purpose of the hearing, or otherwise provided for in the law.

It is our view that Section 6873.2 should not be changed. In fairness, we feel that any interests of the State which might be adverse to putting the lands up for lease should, so far as possible, be considered and determined at the outset before holding the hearing provided for in Section 6873.2. Then, should it subsequently develop that the interests of the State so require, the Commission always has the power to reject all bids under the provisions of Section 6836.

Respectfully submitted,

Robert T. Patton, Chairman
Public Lands Committee
Western Oil and Gas Association

EXHIBIT "B"

My name is Paul A. Lower, of The Superior Oil Company. My remarks will be directed to wildcat development of California offshore lands.

I would like to point up the fact that in reality a 12½% royalty is not at all unrealistic as to unproven territory underlying the depths of water we have to contend with offshore from California. The original purpose of having a fixed royalty in the Cunningham-Shell Act, for wildcat territory, was to insure the prompt and adequate development of California's tide and submerged lands, and to avoid the uncontrolled imposition of higher royalty rates which would discourage wildcat development.

The initial investment in platforms, boats and marine equipment is tremendous in comparison with the cost involved in attempting to locate a producing structure on dry land. In addition, the cost of operation and maintenance of offshore platforms, pipelines, boats and marine equipment constitute a very substantial increase in the cost of producing a structure once it may be found. This all adds to the cost of producing a barrel of oil from the tidelands.

To be sure you can increase the royalties, but when such increase is added as a further and additional burden to locating an oil field and producing the same, the cost of producing a barrel of oil can be so prohibitive as to preclude anyone from spending the money required in the first place in order to find new production. It can also operate as a deterent in holding down the rate of production to minimum levels. I say this especially in view of the competition of foreign or Middle East crude oil with such domestic oil as may be produced from the California submerged lands. Foreign or Middle East crude oil can be laid down on the California coast right now on a competitive basis with onshore oil. Some of these tankers have a capacity of 603,000 barrels. Everyone agrees that the cost of finding offshore oil is several times that of developing onshore oil. Therefore, it seems quite clear gentlemen that if there are going to be further road blocks thrown across the path of the oil companies in searching out and producing offshore oil in California, then Middle East crude oil will inevitably out-compete California's offshore production. If the State of California is going to make it unattractive for the oil companies to search for and produce oil from the submerged lands, or make it difficult or impossible to realize a profit from such operations, then the offshore reserves will go undeveloped and be unavailable at the time of emergencies, thereby jeopardizing the security of the United States.

There could quite possibly be the four billion barrels of oil which some have estimated will be found in the California submerged lands, then again there may be nowhere near such reserves. But if the cost of finding and producing this oil is increased by an advance in royalty rates, the major portion of California offshore reserves will remain underground, undiscovered and unproduced, resulting in the loss of income to the state, a loss to the economy, welfare and industries of the people of the State of California, and result in a detriment to the national security. So long as this situation would exist, foreign oil will take the place of domestic oil in the economy of the state. The arithmetic is quite simple. Assuming a barrel of foreign crude oil would cost the California refiner substantially less than a barrel of domestic oil, it is easy to determine out of which barrel of oil the refiner will make the most money on his refined products and on a gallon of gasoline sold to the public.

I suggest, therefore, that a word of caution is in order lest one become so engrossed in reaching for higher royalties as to lose sight of the forest because of the trees.

<u>LEGISLATION</u>

17.

(1957 SESSION LEGISLATION - W. O. 2115.8.)

The Commission has had difficulties in processing leases under the Cunningham-Shell Tidelands Act of 1955, particularly with regard to the classification of lands as being within a known geologic structure of a producing oil or gas field vs. being in wildcat areas. It is suggested that at the next regular session of the Legislature the provisions of the Cunningham-Shell Act be amended so as to make it clear in the statute that the royalty determination is to be made by the Commission, at the time of advertising for bids, irrespective of whether the lands to be leased are or are not within a known geologic structure of a producing oil or gas field. With this in mind, it is suggested that the Commission authorize the staff, on its behalf, to have legislation introduced to amend the following sections of the Public Resources Code as indicated:

Section 6827. Award to highest bidder: Term: Royalties.

(Award to highest bidder: Term: Extension.) Leases for the extraction and removal of oil and gas deposits may be made by the commission to the highest qualified bidder, or joint bidders, as provided in this chapter. Such a lease shall include all oil and gas deposits in the leased land and be for a term of 20 years and for so long thereafter as gas or oil is produced in paying quantities from the leased land, or lessee shall be diligently conducting producing, drilling, deepening, repairing, redrilling or other necessary lease or well maintenance operations on the leased land. Any lease heretofore issued under this chapter for a term of 20 years, or any renewal or extension thereof, may at any time or times prior to its expiration be extended upon such terms and conditions and for such period of time as the commission deems for the best interests of the State or as the Legislature may provide; provided further, that upon the lessee's timely application therefor the commission may issue a new lease in exchange for any lease issued for a term of 20 years, or any renewal or extension thereof; such new lease shall be issued at the same royalty and upon the same terms and conditions as the lease for which it is exchanged, unless the commission and the lessee shall otherwise agree, except that the term of such exchange lease shall be for a term of five years and for so long thereafter as oil or gas is produced in paying quantities, or lessee shall be conducting producing, drilling, deepening, repairing, redrilling or other necessary lease or well maintenance operations on the leased land.

~~(Royalties: Lands not in known geologic structure of a producing field.) When state tide and submerged lands offered for lease by the commission are lands not within the known geologic structure, as determined by the commission, of a producing oil or gas field at the date of issuance by the commission of an invitation to bid for an oil or gas lease thereon, the commission shall specify a flat-rate royalty to be paid under such lease of 12½ percent in kind, or of 12½ percent of the current market price or the price received for the production removed or sold from the leased land, subject to an allowance for oil treatment and dehydration of not to exceed five cents ($0.05) per net~~

~~barrel for the royalty oil and shall specify a flat royalty of 10 percent of the current gross market value or price received for all dry gas, natural gasoline, and other products extracted and saved from the gas produced from the leased land, except gas used for lease use or reinjection in state lands, and an annual rental payment in advance of not to exceed one dollar ($1) for each acre of the land subject to the lease at the rental date. Unless the commission decides to reject all bids pursuant to Section 6836, the lease of the parcel or tract which is the subject of the bid shall be awarded to the qualified bidder who undertakes to pay the highest cash bonus in addition to satisfying the royalty and rental requirements and all other provisions of the lease.~~

~~(Same: Lands in known geologic structure of a producing field.)~~ When state lands, including tide and submerged lands, are offered for lease by the commission ~~are lands within the known geologic structure, as determined by the commission, of a producing oil or gas field at the date of issuance by the commission of an invitation to bid for an oil and gas lease thereon~~, the commission shall specify a ~~fixed~~ royalty on oil of not less than ~~16-2/3~~ 12½ percent or a sliding scale royalty commencing at not less than ~~16-2/3~~ 12½ percent up to a maximum percentage specified in the invitation to bid to be paid on the average production of oil per well per day under such lease, and a royalty of ~~15~~ 12½ percent as specified in the invitation to bid on dry gas, natural gasoline, and other products extracted and saved from the gas produced under such lease, except gas used for lease use or reinjection into the leased state lands. Such royalties shall be paid in kind or as a percentage of the current market price at the well of, and of any premium or bonus paid on, the production removed or sold from the leased land, subject to a ~~reasonable~~ an allowance for oil treatment and dehydration of not to exceed five cents ($0.05) per barrel for royalty oil, and an annual rental payable in advance of not to exceed one dollar ($1) for each acre of the land subject to the lease at the rental date. Unless the commission decides to reject all bids pursuant to Section 6836, the lease of the parcel or tract which is the subject of the bid shall be awarded to the qualified bidder who undertakes to pay the highest cash bonus in addition to satisfying the royalty and rental requirements and all other provisions of the lease.

(Continuation of lease upon cessation of production.) If, at any time or from time to time, before or after the expiration of the primary term of such lease, the leased lands cease to produce oil or gas, the lease shall, nevertheless, continue in full force and effect if within six months after the cessation of production, or such longer period of time as the commission may authorize, lessee shall commence and thereafter prosecute with reasonable diligence drilling, deepening, repairing, redrilling or other operations which shall result in the restoration of production of oil or gas from the leased lands.

Section 6834. Notice of intention to lease lands: Publication and contents.

(Commission to give notice of intention: Publication: Contents.) Whenever the commission determines that lands shall be leased for oil and gas as provided in this chapter and when the form of lease therefor has been prepared by the commission, the commission shall give notice of intention to lease such lands. The notice shall be published in a newspaper of general circulation in the county in which the lands or the greater portion thereof are situated and shall state the time (which shall not be less than 14 days after the last date of publication of the notice) and place for receiving and opening bids, a description of the lands, either as a tract or by parcels, ~~whether the lands offered for lease are within or are not within the known geologic structure of a producing oil or gas field,~~ and that the form of lease for the purpose of bidding may be procured at the designated office of the commission.

(Days of publication and interval.) If the notice is published in a weekly newspaper, it must appear therein on at least two different days of publication and if in a newspaper published oftener, there must be at least five days from the first to the last day of publication, both days included.

Section 6873.2. Notice: Hearing: Determination: Evidence. Before offering any tide or submerged land area for an oil and gas lease, the commission shall publish notice thereof, and any affected city or county may, within thirty (30) days after the publication of such notice, request in writing to the commission that a hearing be held with respect thereto. Upon receipt of such request, the commission shall hold such a hearing and give not less than ten (10) days written notice thereof to the city or county, or both such city and county, making such request, and to the Department of Natural Resources, and shall publish such notice. The commission in its discretion and irrespective of any such request may hold such hearings as it shall determine. Published notices shall be given in the manner prescribed in Section 6834 of this chapter.

~~Within~~ In not less than thirty (30) days after such hearing the commission shall determine whether or not to offer the land for lease, as provided under Sections 6871.3, 6872 and 6872.1~~,~~. ~~unless~~ In such determination the commission shall ~~determine~~ consider ~~that~~ whether the issuance of a lease as to all or a part of such land would result in an impairment or interference with the developed shore line recreational or residential areas adjacent to the proposed leased acreage, or ~~the commission may determine~~ whether to offer such land for lease as to all or a part thereof and include in the offer for lease such reasonable rules and regulations which, in the opinion of the commission, are necessary for the exploration, development, and operation of said lease in a manner which will not impair or interfere with said developed shore line recreational or residential areas; provided, however, that no tide or submerged lands shall be offered for lease under any conditions, rules, or regulations which will result in a discrimination between bidders as prohibited by Section 6874.

. . .

. . . (Note: Remainder of this section not to be amended.)

THEREFORE, IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE STAFF, ON ITS BEHALF, TO CONSULT WITH THE LEGISLATURE CONCERNING THE AMENDMENT OF SECTIONS 6827, 6834 AND 6873.2 OF THE PUBLIC RESOURCES CODE (PORTIONS OF THE CUNNINGHAM-SHELL ACT).

STANDARD B&P "NOTEAR"