

MINUTE ITEM

4. (AMENDMENT TO TITLE 2, CALIFORNIA ADMINISTRATIVE CODE - W. O. 1855.)

After presentation of Calendar Item 26 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE ACTING EXECUTIVE OFFICER TO INITIATE PROCEDURES UNDER THE PROVISIONS OF SECTIONS 11420-11427 OF THE GOVERNMENT CODE FOR CONSIDERATION OF AMENDMENT OF SECTION 2100(b) OF THE RULES AND REGULATIONS OF THE STATE LANDS COMMISSION, TO CONFORM TO THE PROVISIONS OF SECTION 6286, PUBLIC RESOURCES CODE, AS AMENDED BY CHAPTER 1087 OF THE STATUTES OF 1957, AND FOR CONSIDERATION OF THE ADDITION OF SECTIONS 1913 AND 1914 TO THE RULES AND REGULATIONS OF THE STATE LANDS COMMISSION.

THE COMMISSION APPROVES AN INITIAL REVIEW OF THE SUGGESTED RULE CHANGES BY ALL INTERESTED PARTIES, TO BE PRESENTED IN WRITING ONLY, WITH ALL PRESENTATIONS TO BE CONSIDERED BY THE COMMISSION AT A FUTURE MEETING WHERE OPPORTUNITY WILL BE GIVEN FOR PRESENTATION OF FURTHER STATEMENTS, ARGUMENTS OR CONTENTIONS OF INTERESTED PERSONS ORALLY, AS SPECIFIED BY THE APPROPRIATE SECTIONS OF THE GOVERNMENT CODE.

Attachment

Calendar Item 26 (5 pages)

CALENDAR ITEM

MISCELLANEOUS

26.

(AMENDMENT TO TITLE 2, CALIFORNIA ADMINISTRATIVE CODE - W. O. 1855.)

On August 16, 1955 (Item 28, minute pages 2435-2443), the Commission authorized the adoption of, among others, revised Rule and Regulation 2100, reading in part as follows:

"(b) The taking of cores and other samples may be freely conducted on and under tide and submerged lands of the State; provided however, that a core-drilling permit issued by the commission must be obtained for any operations conducted for the purpose of obtaining geological samples by core-drilling methods from depths of 500 feet or more below the surface of the ocean floor of tide or submerged lands."

This regulation was adopted pursuant to full public hearing as to the authority contained in Section 6826, Public Resources Code, reading as follows:

"The commission, however, may permit geological or geophysical surveys on state lands and may grant permits therefor upon such terms and conditions as the commission may specify by regulation, but any such permit shall not give the permittee any preferential right to an oil or gas lease. The taking of cores and other samples may be freely (underscoring added) conducted on and under tide or submerged lands of the State; provided, that the commission may require that a permit first be obtained covering such types of drilling operations for the purpose of obtaining geological samples as the commission may determine by regulation, such permit to be issued upon such terms and conditions as the commission may specify by regulation, but any such permit shall not give the permittee any preferential right to an oil and gas lease."

In consideration of this statutory authority, the Commission determined that the requirement in the regulation for the issuance of permits for core-drilling exploration from depths of 500 feet or more below the surface of the ocean floor of tide and submerged lands conformed to the statutory specification that "the taking of cores and other samples may be freely conducted ..." (underscoring added).

Assembly Bill 80 was approved as Chapter 1087 of the Statutes of 1957 as an urgency measure, effective July 2, 1957. This statute strikes from Section 6826, Public Resources Code, the word "freely" hereinbefore underscored, and substitutes the words "make available" for the former requirement "to furnish" relative to delivery of any factual or physical exploration results, logs, or records required by the permittee as a result of exploration under a permit issued by the Commission. Also, there is added a penalty by a definition that unauthorized disclosure by the Commission or its employees of data made available by a permittee is a misdemeanor.

MISCELLANEOUS 26. (CONTD.)

The basis for eliminating the word "freely" from Section 6826, Public Resources Code, reported by the authors of the legislation to the respective legislative committees and to the Legislature, was to accomplish the elimination of the taking of any cores and other samples from tide and submerged lands of the State except pursuant to a permit issued by the State Lands Commission regardless of the proposed depth of the operation. Therefore, it is suggested that the Commission initiate consideration of the modification of Section 2100 of the Rules and Regulations to eliminate the zone to a depth of 500 feet below the surface of the ocean floor of tide or submerged lands, as a zone for which exploration permits will not be required by the Commission, in the form stated in Exhibit "A" attached hereto.

In addition, the current Rules and Regulations leave areas of uncertainty as to procedures which might be adopted at the option of a bidder in a joint bid, or at the option of the Commission in connection with a forfeiture. Therefore, it is suggested that the Commission initiate consideration of the adoption of Sections 1913 and 1914 of the Rules and Regulations as stated in Exhibits "B" and "C" respectively, attached hereto.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ACTING EXECUTIVE OFFICER TO INITIATE PROCEDURES UNDER THE PROVISIONS OF SECTIONS 11420-11427 OF THE GOVERNMENT CODE FOR CONSIDERATION OF AMENDMENT OF SECTION 2100(b) OF THE RULES AND REGULATIONS OF THE STATE LANDS COMMISSION, TO CONFORM TO THE PROVISIONS OF SECTION 6286, PUBLIC RESOURCES CODE, AS AMENDED BY CHAPTER 1087 OF THE STATUTES OF 1957, AND THE ADDITION OF SECTION 1913 AND SECTION 1914 TO THE RULES AND REGULATIONS.

Under Section 11425 of the Government Code, a State agency shall afford any interested person or his duly authorized representative, or both, the opportunity to present statements, arguments or contentions in writing, with or without opportunity to present the same orally.

PURSUANT TO THIS AUTHORITY, IT IS ALSO RECOMMENDED THAT APPROVAL BE GIVEN FOR AN INITIAL REVIEW OF THE SUGGESTED RULE CHANGES BY ALL INTERESTED PARTIES, TO BE PRESENTED IN WRITING ONLY, WITH ALL PRESENTATIONS TO BE CONSIDERED BY THE COMMISSION AT A FUTURE MEETING WHERE OPPORTUNITY WILL BE GIVEN FOR PRESENTATION OF FURTHER STATEMENTS, ARGUMENTS OR CONTENTIONS OF INTERESTED PERSONS ORALLY, AS SPECIFIED BY THE APPROPRIATE SECTIONS OF THE GOVERNMENT CODE.

Attachments: Exhibits "A", "B", and "C"

EXHIBIT "A"

SUGGESTED AMENDMENT TO SECTION 2100(b) ADMINISTRATIVE CODE, TITLE 2

(b) The taking of cores and other samples may be conducted on and under tide and submerged lands of the State only if a permit therefor is first obtained from the State Lands Commission.

EXHIBIT "B"

PROPOSED NEW SECTION TO ADMINISTRATIVE CODE, TITLE 2

1913 - Joint Bidding

In every case of joint bidding, the names of all persons, firms or corporations interested in a particular bid shall be specified.

If a general or limited partnership shall join in the making of a joint bid, in addition to the specification of the name of such partnership, the names and addresses of the general partners to be responsible for the performance of the terms of the lease shall accompany the bid.

In the case of a corporation joining in a bid, the names of the president, secretary or other officer authorized to enter into contracts for the corporation, the location of the corporation's principal office and the state of incorporation of the corporation shall accompany the bid.

All persons, firms or corporations who are to assume a contractual relationship with the State by virtue of a particular bid shall be specified in the bid. Others need not be so specified, irrespective of investments or contractual relationship with persons other than the State.

Nothing herein contained shall be construed to permit a prospecting permit or lease, or any interest therein, to be held by any person not qualified under Public Resources Code Section 6801 (a), (b) and (c).

EXHIBIT "C"

PROPOSED NEW SECTION TO ADMINISTRATIVE CODE, TITLE 2

1914 - Forfeiture

For the purposes of Public Resources Code Section 6802, an interest held in violation of Chapter 3, Part 2, Division 6 of the Public Resources Code, is any interest held by any one or more persons, associations of persons, or corporations other than:

(a) Persons or associations of persons who are citizens of the United States or who have declared their intention of becoming such, or who are citizens of any country, dependency, colony, or province, the laws, customs, and regulations of which permit the grant of similar or like privileges to citizens of the United States.

(b) Any corporation or corporations organized and existing under and by virtue of the laws of the United States or of any state or territory thereof; or any corporation or corporations 90 percent or more of the shares of which are owned by persons eligible to hold a lease or permit under subdivision (a) or (c) of this section; or any corporation or corporations 90 percent or more of the shares of which are owned either by a corporation eligible to hold a lease or permit hereunder, or by any combination of such eligible persons or corporations, or both.

(c) Any alien person entitled thereto by virtue of any treaty between the United States and the nation or country of which the alien person is a citizen or subject.