

MINUTE ITEM

17. ADOPTION OF EMERGENCY REGULATION AMENDING SECTION 2100 OF TITLE 2 OF THE CALIFORNIA ADMINISTRATIVE CODE, PERTAINING TO GEOPHYSICAL AND GEOLOGICAL SURVEY PERMITS - W.O. 3949. GEN. DATA.

Following presentation of Calendar Item 16 attached, and in response to a question by Commissioner Anderson as to whether the Rules and Regulations recommended for adoption were in accord with procedure followed previously, the Executive Officer reported that, with the exception of one addition, the only modifications were those necessary to adopt prior policy and permit language to the form of the rules and regulations. The one addition provides specifically that "Nothing herein contained shall preclude the State Lands Commission itself, in its discretion and upon application duly made, from authorizing drilling operations subject to the same terms and conditions as those which applied to a prior permittee at the same location. This provision does not authorize any member, officer, or employee of the Commission, nor any person performing any function or work assigned to him by the Commission to disclose any information made confidential by law."

Mr. Clark Heggeness of Ball, Hunt and Hart of Long Beach, representing the Richfield Oil Corporation, and Mr. Paul Home of Standard Oil Company of California, Western Operations, Inc., suggested changes to be made in the proposed amendment to the regulations. However, the Chairman asked that any proposed changes be submitted in writing, for consideration before the amendments become permanent, saying that it would be difficult and could be dangerous to attempt changes without time for full consideration.

Assemblyman Bruce L. Allen, Chairman of the Assembly Committee on Manufacturing, Oil and Mining Industry, when asked for his reaction on the problems raised, stated that he had come to address the Commission on another matter, but did say that he had read the proposed rule, and believed it to be a good rule and in the public interest and had no objection to it, and urged that it be adopted.

UPON MOTION MADE BY COMMISSIONER CARR, SECONDED BY COMMISSIONER ANDERSON, AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

1. THAT THE HEREIN PROPOSED AMENDMENT TO SECTION 2100 OF TITLE 2 OF THE CALIFORNIA ADMINISTRATIVE CODE IS HEREBY ADOPTED AS AN EMERGENCY REGULATION;
2. THAT THE FINDING OF EMERGENCY CONTAINED THEREIN IS MADE BY THE COMMISSION;
3. THAT THE COMMISSION AUTHORIZES ITS EXECUTIVE OFFICER TO FILE THIS EMERGENCY AMENDMENT WITH THE SECRETARY OF STATE AND THE RULES COMMITTEE OF EACH HOUSE OF THE LEGISLATURE;
4. THAT THE EXECUTIVE OFFICER ALSO IS AUTHORIZED TO INSTITUTE AND MAINTAIN SUCH PROCEEDINGS AS WILL ENABLE THE COMMISSION TO FILE THE CERTIFICATE OF COMPLIANCE REQUIRED BY GOVERNMENT CODE SECTION 11422.1 IN CONNECTION WITH THE ADOPTION OF THIS REGULATION;

5. THAT NOTICE BE PUBLISHED IN THE MANNER PRESCRIBED BY LAW AFFORDING INTERESTED PARTIES AN OPPORTUNITY TO PRESENT STATEMENTS OR ARGUMENTS, IN WRITING, RELATIVE TO SECTION 2100 OF TITLE 2 OF THE CALIFORNIA ADMINISTRATIVE CODE, IN ITS AMENDED FORM.

UPON MOTION MADE BY COMMISSIONER CARR, SECONDED BY COMMISSIONER ANDERSON, AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

IT IS HEREBY RESOLVED THAT IMMEDIATELY UPON THE EFFECTIVE DATE OF THE FOREGOING EMERGENCY AMENDMENT TO SECTION 2100 OF TITLE 2 OF THE CALIFORNIA ADMINISTRATIVE CODE, OR AS SOON THEREAFTER AS IS PRACTICABLE, ALL EXISTENT OR OUTSTANDING GEOPHYSICAL OR GEOLOGICAL SURVEY PERMITS BE AMENDED, OR REISSUED, IN SUCH FORM AS WILL COMPLY WITH THE PROVISIONS OF SAID SECTION 2100, AS AMENDED. THE EXECUTIVE OFFICER IS AUTHORIZED TO TAKE ALL STEPS NECESSARY TO EFFECTUATE THIS OBJECTIVE.

Attachment
Calendar Item 16 (8 pages)

SUPPLEMENTAL CALENDAR ITEM

16.

ADOPTION OF EMERGENCY REGULATION AMENDING SECTION 2100, OF TITLE 2, OF THE CALIFORNIA ADMINISTRATIVE CODE PERTAINING TO GEOPHYSICAL AND GEOLOGICAL SURVEY PERMITS - W.O. 3949.

The State Lands Commission will consider the adoption as an emergency regulation of an amendment to Section 2100 of Title 2 of the California Administrative Code dealing with the subject of geophysical and geological survey permits. The proposed amended regulation, in the form prescribed for its adoption on an emergency basis, is attached hereto verbatim.

The Commission has endeavored to conform to its existing practice and procedure regarding these permits, and the existent regulations have been included in full, together with the new material.

The emergency regulation, if adopted, will remain in effect for not to exceed 120 days unless proper steps required by Government Code Section 11422.1 are taken to make such regulation permanent.

If adopted as an emergency measure, pursuant to notice to be duly published, an opportunity will be afforded interested parties to present statements or arguments in writing relevant thereto. Material submitted will be considered by the Commission before it decides whether or not to make such regulation permanent.

A finding of emergency is included in the proposed amended regulation.

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION RESOLVE AS FOLLOWS:

1. THAT THE HEREIN PROPOSED AMENDMENT TO SECTION 2100, OF TITLE 2, OF THE CALIFORNIA ADMINISTRATIVE CODE IS HEREBY ADOPTED AS AN EMERGENCY REGULATION;
2. THAT THE FINDING OF EMERGENCY CONTAINED THEREIN IS MADE BY THE COMMISSION;
3. THAT THE COMMISSION AUTHORIZES ITS EXECUTIVE OFFICER TO FILE THIS EMERGENCY AMENDMENT WITH THE SECRETARY OF STATE AND THE RULES COMMITTEE OF EACH HOUSE OF THE LEGISLATURE;
4. THAT THE EXECUTIVE OFFICER ALSO IS AUTHORIZED TO INSTITUTE AND MAINTAIN SUCH PROCEEDINGS AS WILL ENABLE THE COMMISSION TO FILE THE CERTIFICATE OF COMPLIANCE REQUIRED BY GOVERNMENT CODE SECTION 11422.1 IN CONNECTION WITH THE ADOPTION OF THIS REGULATION;
5. THAT NOTICE BE PUBLISHED IN THE MANNER PRESCRIBED BY LAW AFFORDING INTERESTED PARTIES AN OPPORTUNITY TO PRESENT STATEMENTS OR ARGUMENTS, IN WRITING, RELATIVE TO SECTION 2100, OF TITLE 2, OF THE CALIFORNIA ADMINISTRATIVE CODE, IN ITS AMENDED FORM.

SUPPLEMENTAL CALENDAR ITEM 16. (CONTD.)

IT IS ALSO RECOMMENDED THAT THE COMMISSION ADOPT A SEPARATE RESOLUTION AS FOLLOWS:

IT IS HEREBY RESOLVED THAT IMMEDIATELY UPON THE EFFECTIVE DATE OF THE FOREGOING EMERGENCY AMENDMENT TO SECTION 2100, OF TITLE 2, OF THE CALIFORNIA ADMINISTRATIVE CODE, OR AS SOON THEREAFTER AS IS PRACTICABLE, ALL EXISTENT OR OUTSTANDING GEOPHYSICAL OR GEOLOGICAL SURVEY PERMITS BE AMENDED, OR REISSUED, IN SUCH FORM AS WILL COMPLY WITH THE PROVISIONS OF SAID SECTION 2100, AS AMENDED. THE EXECUTIVE OFFICER IS AUTHORIZED TO TAKE ALL STEPS NECESSARY TO EFFECTUATE THIS OBJECTIVE.

NOTICE OF ADOPTION OF EMERGENCY
REGULATIONS BY THE STATE LANDS COMMISSION

Notice is hereby given that the State Lands Commission, pursuant to the authority vested by Section 6108 of the Public Resources Code, and to implement, interpret, or make specific Section 6826 of the Public Resources Code, at a meeting held at Sacramento, California, May 4, 1961, adopted an emergency regulation in Title 2 of the California Administrative Code, duly amending Section 2100 thereof, to read in its amended form as follows:

2100. ISSUANCE OF PERMITS AND LEASES.

(a) No prospecting permit shall be issued for oil, gas or other hydrocarbons. However, geophysical or geological survey permits, including core-drilling permits, may be issued. Leases for oil, gas, other hydrocarbons, and nonpreferential leases for other minerals are issued only pursuant to published notice of intention to receive bids, subject to qualification as to citizenship under the provisions of Section 1902(d). (See Section 1908.)

(b) The taking of core and other samples may be conducted on and under tide and submerged lands of the State, except as follows:

Geophysical survey permits are required for the conduct of geophysical surveys on all state lands by any seismic method employing explosives.

Geological survey permits are required for the conduct of geological surveys on and under tide and submerged lands of this State where geological samples are obtained through any drilling operations. The "dart," "jet," and other similar techniques, shall not be regarded as methods of drilling operations where geological samples are obtained within the meaning of this subsection.

(c) A person who possesses the qualifications required in Section 1902(d) hereof may make application to the commission for a geophysical or geological survey permit, including a core-drilling permit, or a written request under the provisions of Section 6871.3 of the Public Resources Code that lands be offered for bidding for an oil and gas lease. Such written request shall contain the following:

(1) A description of the state lands involved.

(2) Name, address, and status of citizenship of requestor; if requestor is a corporation, the corporate name and name of president, secretary, and officer authorized to execute contracts and leases.

(d) Applications for geophysical or geological survey permits, including core-drilling permits, shall specify the period of time during which it is proposed to conduct the survey.

(e) Each geophysical or geological survey permit, including each core-drilling permit, may contain such additional conditions as the commission shall specify, depending upon the time, place, and type of operation contemplated.

(f) The conduct of geological sampling operations authorized by any permit, including core-drilling, electric logs, side wall sampling, and other operations (excluding geophysical operations), are subject to the following specific conditions:

(1) It hereby is recognized that it is impossible by rule to fix a uniform permissible drilling depth. Holes may be drilled, punched, jetted or otherwise excavated under the permit only to a depth and at a location approved in advance in writing by the State Lands Division. The State Lands Division is authorized to ascertain and fix the depth limitation for each core hole to be drilled, taking into consideration factors of location, knowledge or lack of knowledge of the substrata, and other existent technical data, including information available to the Commission but classified as confidential by Section 6826 of the Public Resources Code or any other statute.

In determining the depth limitation for each core hole, the Division shall not authorize a maximum depth below the figure at which the Division in its best judgment anticipates that either significant shows of oil or gas or a potentially productive oil or gas sand, may be encountered.

Without regard to the maximum depth specified for each core hole, all drilling operations must cease as soon as significant shows of oil or gas are encountered or if a potentially productive oil or gas sand is encountered.

In the event that the maximum depth authorized for any core hole is reached without there having been encountered either: (1) significant shows of oil or gas, or (2) a potentially productive oil or gas sand; then the Division of State Lands may redetermine said maximum permissible depth in the same manner and upon the same conditions initially prescribed herein.

Nothing herein contained shall preclude the State Lands Commission itself, in its discretion and upon application duly made, from authorizing drilling operations subject to the same terms and conditions as those which applied to a prior permittee at the same location. This provision does not authorize any member, officer or employee of the Commission, nor any person performing any function or work assigned to him by the Commission to disclose any information made confidential by law.

(2) For each survey crew in operation, the permittee shall make an advance deposit of \$600 before the commencement of operations under said permit, and \$600 every calendar month thereafter, as a minimum deposit to defray the costs of the State Lands Division that are involved in inspection under the permit. Actual costs to the State Lands Division of such inspection which are in excess of the aforesaid minimum deposit shall be remitted by the permittee upon receipt of a statement of such additional costs.

(3) The permittee agrees to indemnify the State against any and all losses, damages, claims, demands or actions caused by, arising out of, or connected with the operations of the permittee hereunder including but without thereby limiting the generality of the foregoing provisions of this paragraph, any loss, damage, claim, demand, or action caused by, arising out of, or connected with any blowout, fire or explosion resulting from any operations conducted under the permit.

(4) Operations shall be suspended on order of the State Lands Division Inspector whenever and for such time as may be required to establish that the conditions of the permit are being complied with, or upon violation of any of the provisions of the permit. Such violation may result in termination of the permit by order of the Executive Officer, State Lands Commission.

(5) The Commission reserves the right to inspect and, upon demand by the Commission, the permittee shall make available for such inspection, all factual and physical exploration results, logs, and records resulting from the operations under the permit, for the confidential information of the Commission for the sole purpose of its determining whether the areas or any portion thereof embraced within the permit lie within a known geologic structure of a producing oil or gas field.

(6) Said permit is revocable at any time by the State Lands Commission.

(g) Prior to the issuance of any permit under this section, each prospective permittee is required to accept in writing all terms, conditions and provisions thereof.

(h) Each permittee is required to file with the Division of State Lands a Notice of Intention to Drill each core hole, together with the proposed drilling program for each core hole.

Before the drilling of any core hole is commenced, it is necessary for the permittee to have obtained from the Division of State Lands, a written approval to drill such core hole at the location specified in the aforementioned Notice of Intention to Drill. Each such approval by the Division is subject to the following conditions:

(1) All drilling shall be in accordance with the drilling program submitted and the terms and conditions of the permittee's geological survey permit.

(2) Gas analysis and mud logging equipment shall be used continuously during drilling operations. The State Lands Division Inspector shall have access to this equipment at all times.

(3) If significant shows of oil or gas are encountered or if a potentially productive oil or gas sand is encountered, drilling operations shall be suspended. Such suspension order may be made by the State Lands Division Inspector.

(4) If operations are suspended pursuant to the foregoing, no samples shall be taken, or test, or logs made in the hole until a cement plug has been placed from the bottom of the hole to at least 50 feet above the top of the productive or potentially productive oil or gas sand.

(5) No core hole as to which drilling has not been suspended pursuant to the foregoing provision shall be drilled to a depth greater than that specified by the Division of State Lands.

(6) Upon completion of sampling and measurements, the core hole shall be abandoned as required by State Division Oil and Gas.

(i) Any action authorized to be done herein by the Division of State Lands may be taken and evidenced by the signature of the Commission's Executive Officer.

Finding of Emergency

The State Lands Commission finds that an emergency exists and that the foregoing regulation is necessary for the immediate preservation of the general welfare. A statement of the facts constituting such emergency is: The State Lands Commission currently is in the process of offering for oil and gas leases, pursuant to competitive bidding, various parcels of tide and submerged lands situated in Santa Barbara County, State of California. Offers to pay cash bonuses aggregating in excess of \$10,900,000 for two such leases already have been received by the Commission and additional multi-million dollar cash bonus offers for other leases reasonably may be expected. Objection has been filed to at least the award of one oil and gas lease to the highest bidder who offered a cash bonus of \$9,550,000. Said pending protest challenges the validity of the State Lands Commission's past and current geophysical and geological survey permit procedure and alleges that the same has resulted in an unfair competitive advantage to a particular bidder. By adopting this regulation the Commission concedes neither any irregularity in the aforementioned permit procedure nor any validity as to the merits of any pending protest to the award of any oil and gas lease. However, it is recognized that the aforesaid permit procedure can be further clarified and improved, and that public confidence in competitive bidding for State oil and gas leases on tide and submerged lands will be strengthened and promoted by the adoption of the emergency regulation herein set forth. The Commission determines that the instant rule adoption is desirable for the following reasons: It will stimulate increased geophysical and geological exploration on State tide and submerged land; will result in increased and substantial cash bonuses and revenues to the State from oil and gas leases thereon issued pursuant to competitive bidding; and, in the future, probably will minimize or eliminate objections to bids received on oil and gas leases awarded by the Commission.

The State Lands Commission hereby finds that the adoption of this regulation on the subject of geophysical and geological survey permits is necessary and desirable to the best interests of the State's oil and gas leasing program on tide and submerged lands; that said program will be substantially benefited by such rule adoption; and that unless said regulation is adopted as an emergency regulation, the State oil and gas leasing program in connection with tide and submerged lands is in danger of coming to a halt, to the great detriment of the State of California and the People thereof.

The said regulation is adopted as an emergency regulation to take effect upon filing with the Secretary of State and with the Rules Committee of each house of the Legislature, pursuant to the provisions of Section 11422(c) of the Government Code.

Said emergency regulation shall remain in effect not more than 120 days unless further proceedings, pursuant to Government Code Section 11422.1, are taken to make such regulation permanent.

The statutory authority for this regulation is Division 6 of the Public Resources Code, including the following sections thereof: 6103, 6105, 6108 and 6826.

The Executive Officer of the State Lands Commission is authorized to file this amendment to Title 2, California Administrative Code, with the Secretary of State and the Rules Committee of each house of the Legislature.

The Executive Officer also is authorized to institute and maintain such proceedings as will enable the Commission to file the Certificate of Compliance required by Government Code Section 11422.1 in connection with the adoption of this regulation.

Notice is also given that any person interested may present statement or arguments in writing relevant to the regulation so amended and adopted at Room 302, State Building, 217 West First Street, Los Angeles, California, at or before 3:00 o'clock, P.M. on the 6th day of July, 1961.

The State Lands Commission shall consider all relevant matter presented to it before determining whether or not to certify said regulation in the manner prescribed by Government Code Section 11422.1.

The State Lands Commission, upon its own motion, or at the instance of any interested person, may thereafter certify that in amending and adopting Section 2100, Title 2, of the California Code as aforesaid, it has duly complied with the provisions of Sections 11422.1 and 11422(c) of the Government Code, State of California, and that said regulation as herein set forth has been duly adopted.