

29. MODIFIED FORM OF PROSPECTING PERMIT FOR GEOTHERMAL STEAM - W.O. 4493D.

During consideration of Calendar Item 3 attached, Commissioner Anderson reported that he had received a call from Senator Begovich about Senate Bill 44 (Geothermal Bill), stating that a Senate committee hearing on the bill was to be held and he hoped that the State Lands Commission would not take any action that would conflict with the hearing.

The Executive Officer outlined the history of the form of permit that had been used, and noted that Senator Farr had reported that it was no longer necessary to ask the Commission to withhold processing of pending applications. He reported receipt of a letter from the S. I. Corporation, stating that they believed "it would be to the best interest of the State if all applications filed with the Commission be delayed until after April 6, 1966."

Mr. Walter Capaccioli, representing persons having four geothermal permit applications pending, appeared before the Commission and stated that his clients were unalterably opposed to any further delays.

UPON MOTION DULY MADE AND CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED, WITH COMMISSIONER ANDERSON VOTING NO:

THE COMMISSION APPROVES AND ADOPTS, PURSUANT TO DIVISION 6, PART 2, CHAPTER 3, ARTICLE 5, OF THE PUBLIC RESOURCES CODE, THE FORM OF PROSPECTING PERMIT APPROVED APRIL 29, 1965 (MINUTE ITEM 31, PAGE 11,150), AS MODIFIED IN EXHIBIT "A" ATTACHED, AS THE FORM TO BE UTILIZED FOR PROSPECTING PERMITS FOR GEOTHERMAL STEAM AND RELATED PRODUCTS.

Attachment
Calendar Item 3 (5 pages)

3.

MODIFIED FORM OF PROSPECTING PERMIT FOR GEOTHERMAL STEAM - W.O. 4493D.

This item originally appeared on the January 26, 1966, agenda, but the Commission acted to defer the item at the request of the Senate Fact Finding Committee on Natural Resources. Further deferment was rescinded on March 1, 1966.

On April 29, 1965, the State Lands Commission approved and adopted a form of prospecting permit to be utilized in prospecting for geothermal steam and related products. The permit was originally drafted to cover prospecting on lands where the State is the surface owner. To provide for prospecting on lands that have been sold with minerals reserved to the State, a modification of the permit form is necessary.

The staff and the office of the Attorney General have prepared a modified form of prospecting permit to be utilized in issuing prospecting permits. The modified paragraphs are shown on Exhibit "A" attached; the added words are underlined and the deleted words are lined out.

IT IS RECOMMENDED THAT THE COMMISSION APPROVE AND ADOPT, PURSUANT TO DIVISION 6, PART 2, CHAPTER 3, ARTICLE 5, OF THE PUBLIC RESOURCES CODE, THE FORM OF PROSPECTING PERMIT APPROVED APRIL 29, 1965 (MINUTE ITEM 31, PAGE 11,150), AS MODIFIED IN EXHIBIT "A" ATTACHED, AS THE FORM TO BE UTILIZED FOR PROSPECTING PERMITS FOR GEOTHERMAL STEAM AND RELATED PRODUCTS.

Attachment
Exhibit "A"

PROPOSED MODIFICATION

PROSPECTING PERMIT P.R.C.
 PERMIT TO PROSPECT FOR GEOTHERMAL ENERGY,
 MINERAL WATERS AND FOR ALL MINERALS OTHER
 THAN OIL AND GAS

1. The above described land was purchased from the State of California subject to the reservation of mineral deposits and to such conditions and limitations prescribed by law providing for the State and persons authorized by the State to prospect for minerals, and remove such deposits and occupy and use so much of the surface of the land as may be required for all purposes reasonably extending to the mining and removal of such deposits therefrom. (This provision will be used where the State is not the surface owner, and will follow the area description.)

This permit and any ensuing lease is issued subject to any and all right, title and interest of the purchaser of said lands, and any successor in interest to any such purchaser, any other provision in this permit and any ensuing lease to the contrary notwithstanding. (This provision will be used where neither the State nor the applicant is the surface owner of the property to be prospected.)

2. Permittee hereby represents to the Commission that he it is fully qualified in accordance with the requirements of Division 6 of the Public Resources Code to receive this Prospecting Permit, and in the event that such Permittee is not so qualified, then this Prospecting Permit shall be cancelled and said Permittee shall be responsible to said Commission for all proceeds, materials, and things of value received and extracted by said Permittee from the lands covered by this permit, and in the event that said Permittee shall at any time during the life of this permit cease to be so qualified, then and in that event this permit shall immediately cease and terminate and such Permittee shall be fully liable to said Commission for all proceeds and materials and anything of value taken and extracted from the lands covered by this permit after such Permittee shall have ceased to meet the qualifications of of said Division 6 of the Public Resources Code.

9. To the extent of the right, title and interest of the State of California in the lands covered by this Prospecting Permit, the Commission shall have the right at any time during the life of this Prospecting Permit to allow upon such terms as it may determine, such easements or rights-of-way, including easements in tunnels bored through or in the land covered by this Prospecting Permit as the Commission may, in its discretion, determine to be necessary or appropriate for the working of the land covered by this permit, or of any other land or lands under the jurisdiction of said Commission.

~~10. Where the State of California is surface owner the Commission hereby reserves to the State the right to lease, sell, or otherwise dispose of the~~

EXHIBIT "A" (CONTD.)

~~surface-of-the-land-covered-by-this-Prospecting-Permit-insofar-as-such-surface or-any-part-or-portion-thereof,-is-not-required-by-Permittee-in-operations-by him-under-this-Prospecting-Permit.~~

10. The right to lease, sell, or otherwise dispose of the surface of the land embraced within this Prospecting Permit insofar as any surface, or any part or portion thereof, is not required by Permittee in the operations by it under this Prospecting Permit, is reserved to the State of California, to the extent of its rights, title, and interest therein, and to the surface owner of the land.

12. Permittee shall keep accurate books and records of his its operations hereunder, including records of all geothermal energy, minerals, mineral waters, or gases extracted from the lands covered by this permit, together with the cost of extraction of same and of processing, shipping or transporting thereof, and he it shall file with the Commission copies of all sales contracts for the disposition of any and all said minerals extracted or energy produced from the lands embraced within this Prospecting Permit, and shall not sell or otherwise dispose of any of said minerals or energy except in accordance with such sales contract or contracts or other method or methods which have first been approved in writing by the Commission.

14. Permittee shall comply with all valid laws of the United States and of the State of California and with all valid ordinances of cities and counties applicable to Permittee's operations hereunder, including without limitation by reason of the specification thereof Permittee's compliance with all provisions of the Public Resources Code and of statutes of California not within the jurisdiction of the Commission. Permittee further agrees without limitation by reason of the specification thereof to comply with all provisions of Division 3 and Division 6 of the Public Resources Code, Statutes of California, applicable to Permittee's operations hereunder, and with all rules and regulations now promulgated by the Commission or such other rules and regulations as may from time to time be issued by the Commission or by other State agencies applicable to the Permittee's operations hereunder.

15. Permittee, before commencing the work of drilling a well, shall notify the Commission of his its intention to drill and such notice shall contain:

- A. The surface location and elevation above sea level of derrick;
- B. Proposed depth;
- C. Casing program;
- D. Proposed subsurface course for directionally drilled wells; and
- E. Any information requested by the Commission or any other State agency having jurisdiction required to determine that all operations will be conducted in accordance with accepted drilling practices.

Any wells drilled in accordance with the provisions of this permit shall only be drilled from a surface location and on a course and to an objective approved in writing prior to the commencement of drilling operations by the Commission or any other agency exercising jurisdiction therein.

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22 B. That the amount upon which said royalty shall be fixed shall not be less than the reasonable market value as fixed by the Commission of any and all minerals secured from the land covered by such lease and shall not be less than the amount received from the sale or other disposition of such mineral or minerals. Any and all land covered by this Prospecting Permit and not covered by any lease or leases issued, as herein provided, shall, to the extent of the right, title, and interest of the State of California, be and remain under the exclusive jurisdiction of the Commission, and Permittee shall have no right of any kind whatsoever in or to any such land or lands if he does not otherwise have title thereto or if he has not secured from the owner thereof such owner's consent to exercise any rights thereon.

22 C. That ~~in any lease issued hereunder where the State of California is the surface owner, the Commission~~ may reserve to the State of California, to the extent of its right, title, and interest therein, and to the surface owner, the right to lease, sell, or otherwise dispose of the surface of the land covered by such lease, insofar as the surface is not required by the Lessee for the performance of the operations under such lease.

23. Permittee shall furnish a bond in favor of the State of California in the penal sum of \$10,000.00 \$ _____ to guarantee the faithful performance of Permittee of the terms and covenants and observance of the conditions of this permit, and of the provisions of the rules and regulations of the State Lands Commission.

24. Permittee agrees to indemnify the State, its officers, agents and employees against any loss, damage, claim, demand or action, caused by, arising out of, or connected with the construction or maintenance of structures upon, or the use by Permittee or its agents, of the lease permitted premises, regardless of whether or not such liability arises by reason of the negligence of Permittee or of third parties, including without limitation by reason of the specification thereof, liability, if any, arising by reason of damage or injury to the permanent improvements or the crops on such lands caused by such prospecting. At the option of the Commission, Permittee shall procure and maintain disability insurance for the benefit of the State in an amount satisfactory to the Commission.

27. A Permittee, who is not the surface owner, at the expiration of this Prospecting Permit or sooner termination thereof, shall deliver up and surrender possession of the lands covered by this Prospecting Permit, with all permanent improvements thereon, in good order and condition, or, at the option of the Commission and as specified by the Commission, Permittee shall remove such structures, fixtures and other things which have been put upon the lands covered by this Prospecting Permit by Permittee, removing such of the same as shall be required by the Commission within ninety (90) days, and otherwise restore the premises, all removal and restoration costs to be borne by Permittee, subject to Permittee's right to remove his equipment as provided in the statutes. Any Permittee who is not the surface owner shall remove all derricks and, all Permittees shall, at the option of the Commission, properly abandon all wells in a the manner approved in writing by the Commission and any other State Agency exercising jurisdiction therein, such removal and well abandonment to be within the time specified by the Commission and at the cost and expense of Permittee.

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Notwithstanding any provision of this Prospecting Permit, Permittee shall have the right to remove any and all drilling and producing equipment having a re-use or salvage value.

29. The Commission may terminate this Prospecting Permit at any time upon it being established to the satisfaction of said Commission that commercially valuable deposits of minerals, geothermal energy or mineral waters have been discovered within the limits of this Prospecting Permit, and it may terminate or cancel this permit for any breach thereof upon the part of Permittee and upon any failure on the part of Permittee to perform any of the conditions on his its part herein provided to be performed or upon his its failure to comply with any of the conditions contained herein, or upon his its failure to exercise due diligence and care in the prosecution of work or in any operations hereunder. In the event of any such termination or cancellation by the Commission, thirty (30) days' written notice thereof shall be given to Permittee. The giving of such notice shall be complete when delivered personally to Permittee or when deposited in the United States mail, postage prepaid, addressed to Permittee at such address as last filed in writing by Permittee with the Commission.