

MINUTE ITEM

This Calendar Item No. 60
was approved as Minute Item
No. 60 by the State Lands
Commission by a vote of 4-2
0 at its 9-26-80
meeting.

CALENDAR ITEM

60.

8/80

W 5325.5
Hoagland

PROPOSED REVISION OF REGULATIONS
WITH REGARD TO GEOTHERMAL DEVELOPMENT
ON STATE LANDS

In 1978, the Legislature enacted Senate Bill 1027 making major revisions in the Public Resources Code provisions for leasing and development of geothermal resources from State-owned lands. That measure became effective in January of last year (Chapter 1139, Statutes of 1978).

Staff then commenced revision of Article 4.1 of the California Administrative Code to reflect changes enacted by the new statute. After public hearings, amendments to Article 4.1 were approved by the Commission on June 27, 1979.

Operating under the provisions of the new law and regulations, staff commenced a program of sequential leasing of geothermal resources by competitive bidding and during this period it was determined that two sections of the regulations needed further refinement to eliminate confusion and to give the Commission additional discretion to expedite drilling and development of State-owned lands.

Specifically, it is proposed to amend Subsection (c) of Section 2256 and Subsection (c) of Section 2259 of the California Administrative Code, Title 2, Division 3, Article 4.1.

Subsection (c) of Section 2256 relates to the period during which the surface owner of lands for which the State has sold the surface and retained the minerals has an option to match the high bid in a competitive geothermal lease sale. There were comments after the first lease sale this year that the 10-day period currently provided for in statute and regulation is not sufficient time for the surface owner to make his decision. Current regulations also leave some uncertainty as to the effective date of the 10-day option period when there is no evidence the surface owner ever received the notice.

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Current regulations call for the 10-day period to commence when the notice "...is sent by the Commission...". It is proposed to amend this section to make the notice effective "...when received by the surface owner or five days after being sent; whichever comes first...".

We have also received comments on our regulations pertaining to the requirement that the lessee continue drilling on a regular basis, after drilling the first potentially commercial well, even though there may be no prospect for utilization of the steam from these wells for several years while negotiations to secure a market or permitting procedures are under way.

Currently Section 2259 (c) permits the Commission to waive the requirement contained in Section 2259 (a) that the lessee drill a well or lose the lease during the first three years of the lease if the Commission makes a finding that such a deferment would be in the best interests of the State. Presently such a deferment of drilling requirements is only provided for during the first three years of the lease and it is proposed to amend Subsection (c) of Section 2259, by removing the reference to Section 2259 (a) so that the Commission could defer drilling requirements at any time during the lease upon a finding that such a deferment is in the best interests of the State.

These proposed changes will help expedite the Commission's program of competitive leasing by clarifying the position of the surface owner on reserve mineral lands and also assist in diligent, but prudent development of the resource once the lease is issued.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF P.R.C. 21065, 14 CAL. ADM. CODE 15037 AND 15060.
2. AUTHORIZE THE EXECUTIVE OFFICER TO UNDERTAKE ALL APPROPRIATE ACTION TO OBTAIN PUBLIC COMMENT ON THE PROPOSED AMENDMENT OF SUBSECTION (c) OF SECTION 2256 AND SUBSECTION (c) OF SECTION 2259 OF ARTICLE 4.1, TITLE 2, DIVISION 3, CALIFORNIA ADMINISTRATIVE CODE.