MINUTE ITEM
This Calendar Item No. 12
was approved as Minute Item
No. 12 of the State Lands
Commission by a vote of 3
to 0 at the 8-20-87
meeting

CALENDAR ITEM

A 58

C 12

08/20/87
PRC 7072
Tanner

S 37

WAIVER OF PENALTY AND INTEREST CHARGES
FOR ROYALTY OIL SALES
CONTRACT NUMBER PRC 7072
HUNTINGTON BEACH, ORANGE COUNTY

On April 23, 1987, the State Lands Commission awarded the Royalty Oil Sales Contract for State Oil and Gas Lease PRC 426, Huntington Beach Field, Orange County to Alton Corporation. Alton Corporation was the highest responsible bidder for the competitively bid contract, offering to pay the State a bonus per barrel of $0.511 above the Base Price. The Base Price is defined as the highest price posted for oil of like gravity and quality in the Huntington Beach Field on the day of delivery among the postings of Chevron USA, Inc., Mobil Oil Corporation and Union Oil Company of California. The contract is for a term of six months commencing on May 1, 1987 and expiring on November 1, 1987.

On June 4, 1987, the Accounting Department of the State Lands Commission delivered Alton Corporation an invoice for the State's share of Royalty Oil which Alton Corporation purchased during the month of May 1987. The amount of the invoice was $230,144.11 and was due and payable on June 15, 1987 at 12 noon. Both parties, the State Lands Commission and Alton Corporation, had agreed that payment was to be made by wire transfer from Alton Corporation's bank, Bank Indosuez, located in Los Angeles, to the State's bank, Bank of America, Sacramento Main Office.

Alton Corporation instructed its bank on June 15, 1987 to make payment to the State. The amount of the invoice was transferred from Bank Indosuez to Bank of America, Sacramento. However, the State's bank received payment at 1430 hours, rather than 1200 hours as required by the contract. Alton Corporation claims the money was transferred from its account prior to the 1200 hour deadline required by the contract. The delay was allegedly caused by Bank of America in San Francisco transferring the funds to the State's bank in Sacramento. Furthermore, the invoice itself did not indicate the 1200-hour deadline.

Because the State's bank received payment after the 1200-hour deadline, Alton Corporation was invoiced by Administrative Services for an additional $11,620.66 in penalty and interest. Alton Corporation was charged a 5% penalty of $11,507.20 and interest at a daily rate of 0.493% for one day, amounting to $113.46, totalling $11,620.66.

Alton Corporation is protesting penalty and interest charges claiming it acted in good faith instructing its bank to pay the State on June 15, 1987. Alton claims payment was received by the State's bank prior to close of business on June 15, 1987. Therefore, there was no loss of interest by the State.

Extractive Development staff recommends waiving the penalty and interest charges in this particular case since (1) this was the first invoice delivered to Alton Corporation under the contract, (2) the Invoice did not provide that payment was to be made by 1200 hours on June 15, 1987, and (3) there was no loss of revenue by the State. Alton Corporation has assured staff that it will meet the 1200 noon payment deadline for the future.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

   Authority: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE IT IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.
2. WAIVE PENALTY AND INTEREST CHARGES FOR LATE PAYMENT ON JUNE 15, 1987 BY ALTON CORPORATION UNDER ROYALTY OIL SALES CONTRACT NUMBER PRC 7072.