

MINUTE ITEM
This Calendar Item No. 29
was approved as Minute Item
No. 29 by the State Lands
Commission by a vote of 3
to 0 at its 5/31/89
meeting.

CALENDAR ITEM

A 2, 8
S 5, 4

29

05/31/89
PRC 5217
PRC 5820
PRC 5821
Willard

NOTICE OF DEFAULT FOR FAILURE TO COMPLY WITH GEOTHERMAL
RESOURCES LEASE OBLIGATIONS, PRC 5217, PRC 5820
AND PRC 5821, SONOMA COUNTY

LESSEE: GRI Exploration Corporation and
GRI Development Corporation
1825 South Grant Street, Suite 900
San Mateo, CA 94402

AREA, TYPE OF LAND AND LOCATION:
Approximately 674 acres (PRC 5217 - 434 acres,
PRC 5820 - 40 acres and PRC 5821 - 200 acres)
of reserved mineral interest land in the
northwestern portion the The Geysers Geothermal
Steam Field, Sonoma County.

BACKGROUND:

PRC 5217 was leased by competitive bidding in 1976. George P. Post, an individual, was the high bidder with a bid of 47.77 percent of net profits in addition to a royalty of ten percent of gross revenue from the sale of steam and an annual rent of \$1 per acre. Pursuant to the provisions of PRC Section 6912(b), the surface owner matched the high bid, was awarded the lease, and then assigned the lease to Aminoil USA, Inc. Aminoil subsequently assigned the lease to GRI Exploration Corporation (GRIE) and GRI Development Corporation (GRID), subsidiaries of Geothermal Resources International, Inc. which has provided guarantees that it would be fully responsible for its subsidiaries.

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(ADDED pgs. 154 (a - 154 (e)

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PRC 5820 and PRC 5821 were issued by competitive bidding in 1980. Lease PRC 5820 was issued to Geothermal Power Corporation as highest bidder for a net profit bid of 72.5 percent. Lease PRC 5821 was issued to the surface owner, Squaw Creek Investment Company, for a net profit of 76.1 percent. Both leases were assigned to Aminoil USA, Inc. and then assigned to GRIE and GRID. On February 9, 1982, the Commission approved the pooling of Lease PRC 5820 (40 acres) with PRC 5821 (200 acres) so that the parcels could be developed jointly under a single drilling obligation and for purposes of royalties and net profits calculations production would be allocated to the respective leases in the proportion that the acreage in the lease bears to the total acreage in the pool.

PERTINENT INFORMATION:

Since the discovery of geothermal resources on these leases, staff of the Commissions has been conducting ongoing negotiations with GRI over a number of issues which are required under the terms and conditions of the Geothermal Leases. The lease provisions which the lessee has failed to comply with are listed below, together with a summary of the facts concerning the breach.

LEASE PRC 5217

1. Delinquent Royalties. GRI has failed to pay Royalties to the Commission in accordance with the Steam Sales Agreement approved by the Commission on March 22, 1984. GRI is required to pay a royalty equal to ten percent of gross revenue from the sale of steam from the leased property (lease paragraph 4(a)), and such steam sales may only be made pursuant to steam sales contracts that have first been approved by the Commission (lease paragraph 9(c)). Subsequent to the commencement of production in 1988, GRI began making royalty payments on steam sales pursuant to a steam sales contract bearing a date of June 1, 1984. Neither the Commission nor the staff had previously been advised of this second steam sales contract, nor had the Commission approved it. The unapproved steam sales contract provides for a lower sales price

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for the State's steam, and would therefore result in reduced royalty payments to the State by GRI. Although GRI has subsequently requested approval of the second steam sales contract, current and past royalties must be paid to the Commission in accordance with the steam sales contract approved by the Commission on March 22, 1984. Through March 1989, the delinquent royalties, exclusive of penalty and interest, total \$54,947.

2. Sales of Steam Under Unapproved Contract. The sale of steam pursuant to a contract that has not been approved by the Commission, as outlined above, is itself a breach of the lease (lease paragraph 9(c)).

3. Failure to Comply With Drilling Requirement. GRI has failed to drill additional wells on the leased property and has not received deferment of the drilling obligation, in violation of lease paragraph 8(b).

4. Net Profits Statements. GRI has failed to provide the Commission with the monthly accounting statements concerning the net profits account provided for by Exhibit "C" of the lease, in violation of lease paragraph 19(a).

5. Late Payments and Failure to Pay Penalty and Interest. GRI has failed to make timely royalty payments in accordance with the due date provided for by lease paragraph 4(a). Further, GRI has failed to pay the penalty and interest that is due on these late payments under lease paragraph 7, subparagraphs (a) and (b). To date, the following royalty payments have been received late by the Commission:

<u>Month</u>	<u>Date Due</u>	<u>Date Received</u>	<u>Amount</u>
March 1988	4-25-88	6-27-88	\$ 3,429.37
April	5-25-88	6-27-88	14,697.31
May	6-25-88	7-12-88	41,043.85
June	7-25-88	8-9-88	73,010.02
July	8-25-88	8-31-88	75,436.75
September	10-25-88	11-1-88	47,944.01

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October	11-25-88	11-29-88	62,026.04
December	1-25-89	1-27-89	66,475.35
January 1989	2-25-89	3-3-89	73,545.31
February	3-25-89	3-31-89	52,526.25
March	4-25-89	4-26-89	82,974.88

The penalty due for these late payments totals \$32,630.54. The accrued interest on these late payments and the underpayments as of May 31, 1989 totals \$5909.80. The foregoing amounts are calculated based on royalties due under the steam sales contract approved by the Commission in March 1984.

LEASES NOS. PRC 5820 AND PRC 5821

6. Failure to Comply With Drilling Requirement. GRI has failed to drill wells on the leased property in conformity with the drilling requirement of lease paragraph 9(a)(1) in both leases, and has not received a deferment of the drilling obligation.

7. Net Profits Statements
GRI has failed to provide the Commission with the monthly accounting statements concerning the net profits account provided for by Exhibit "C" of the leases, in violation of lease paragraph 20(a) of both leases.

8. Failure to Develop a Market for Geothermal Resources. GRI has failed to proceed diligently to develop a market for the geothermal resources on these leases, in violation of lease paragraph 9(b) of both leases.

9. Failure to Submit Plans of Development and Operation. Lease paragraph 10(a) of both leases requires the annual preparation and submission for approval by the State Lands Commission of a plan of development and operation. GRI has not submitted these plans.

Because the staff has been unable to conclude a negotiated agreement with GRI for compliance with all of the lease provisions, staff is seeking authorization to notify the lessee that they are in default under the terms of the leases.

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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), staff had determined that this activity is exempt from the requirements of CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

Authority: P.R.C. 6804, P.R.C. 21065 and 14 Cal. Code Regs. 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 THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.
2. AUTHORIZE THE EXECUTIVE OFFICER TO NOTIFY GRI EXPLORATION CORPORATION AND GRI DEVELOPMENT CORPORATION, LESSEE, UNDER STATE GEOTHERMAL LEASES PRC 5217, PRC 5820 AND PRC 5821 THAT (1) THEY HAVE FAILED TO COMPLY WITH PROVISIONS OF THE LEASES AND ARE IN DEFAULT UNDER THE TERMS OF THE LEASES; AND (2) REQUEST COMPLIANCE BY THE LESSEE OF THE SPECIFIED LEASE PROVISIONS.