MINUTE ITEM
This Calendar Item No. C40 was approved as Minute Item No. 40 by the California State Lands Commission by a vote of 2 to 0 at its 10-20-05 meeting.

CALENDAR ITEM
C40

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10/20/05
PRC 8605
J. L. Smith

CONSIDER APPROVAL OF THE FIRST AMENDMENT TO NEGOTIATED LIMITED SURFACE USE OIL AND GAS LEASE NO. PRC 8605, SACRAMENTO RIVER, COLUSA AND SUTTER COUNTIES

APPLICANTS:

Orchard Petroleum, Inc.
Attn.: Mr. Steve Freeman
56 E. Main Street, Suite 200
Ventura, CA 93301

Livingstone Energy, Inc.
Attn.: Mr. Craig Burton
3585 Maple St., Suite 284
Ventura, CA 93303

AREA, LAND TYPE, AND LOCATION:

Negotiated subsurface (no surface use) Oil and Gas Lease comprises about 16.28 acres in the Sacramento River, Colusa and Sutter Counties, California.

BACKGROUND:

On April 26, 2005, the California State Lands Commission (Commission) issued a negotiated subsurface (no surface use) Oil and Gas Lease PRC 8605 (Lease) to Matris Exploration Company (Matris) and Orchard Petroleum, Inc. (Orchard). Matris and Orchard each owned an undivided fifty percent (50%) interest in the Lease. On August 8, 2005, the Commission approved the assignment of Matris's 50 percent (50%) interest in the Lease to Livingstone Energy, Inc. (Livingstone). Currently, Orchard and Livingstone (jointly the Lessee) each own a fifty percent (50%) interest in the Lease.

In addition to the right to prospect for, drill for, produce and take oil, gas and other hydrocarbon substances from the leased lands, Lessee is requesting a

non-exclusive right of way to drill one or more "pass-through" well(s) into and through the lease lands. A "pass-through well" is a well that is drilled through the leased lands and produced from an interval in the reservoir not closer to the lease lands than 1,489 feet, provided however, that a pass-through well may produce from an interval within 1,489 feet of the leased lands with the written consent of the State, upon a determination by the State that a closer production interval will not subject the State land to uncompensated drainage of oil or gas. As consideration for the Pass-Through Agreement, the State would be compensated by the payment of an overriding royalty in the amount of four percent (4%) of all production from the pass-through well(s). If the Lessee forms a unit or pool to optimize economic recovery from the well that includes State lands not presently associated with PRC 8605, the State will convert the pass-through compensation to a compensating revenue interest equivalent to four percent (4%) overriding royalty within the pool, in addition to the royalty interest lands included in the pool, provided there is complete disclosure to all lessors in the unit.

Under the terms of the Lease, the Lessee is required to pay an annual rental of $20.00 per net acre ($340.00 for 16.28 acres) and to commence drilling operations on the leased lands within five years.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction of Small Structures: Title 14, California Code of Regulations, section 15303.

   Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300.

2. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. However, the Commission has declared that all state school lands and submerged lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 6370, et seq., use classifications for such lands have not been designated. Therefore, the

finding of the project's consistency with the use classification as required by Title 2, California Code of Regulations, section 2954 is not applicable.

EXHIBITS:

A. Lease Site
B. Amendment

RECOMMEND ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15062 AS A CATEGORICALLY EXEMPT PROJECT, CLASS 3, NEW CONSTRUCTION OF SMALL STRUCTURES; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15303.

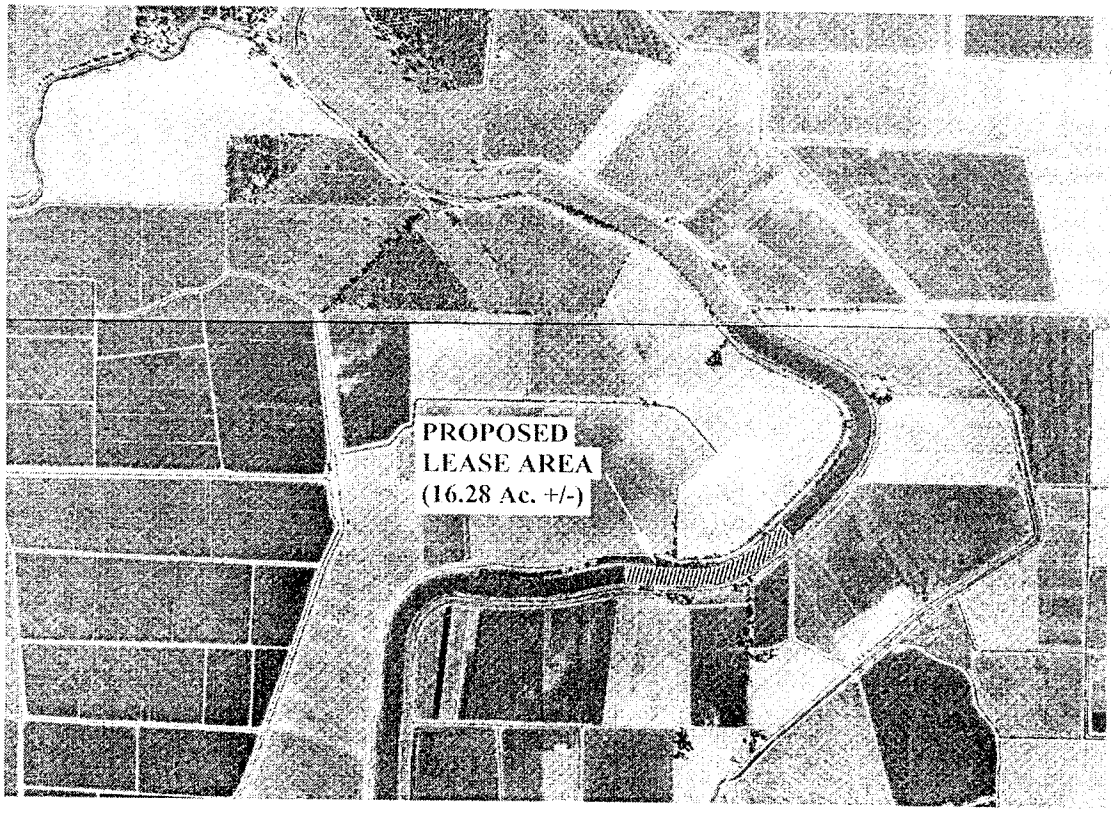
AUTHORIZATION:

1. AMEND THE LEASE DOCUMENTS TO INCLUDE ADDED PARAGRAPH 35 PROVIDING PASS-THROUGH RIGHTS AND TO PROVIDE FOR A PASS-THROUGH OVERRIDING ROYALTY PURSUANT TO PARAGRAPH 4, AMENDED EXHIBIT, B, ATTACHED HERETO.

2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY TO IMPLEMENT THE COMMISSION'S ACTION.

NO SCALE

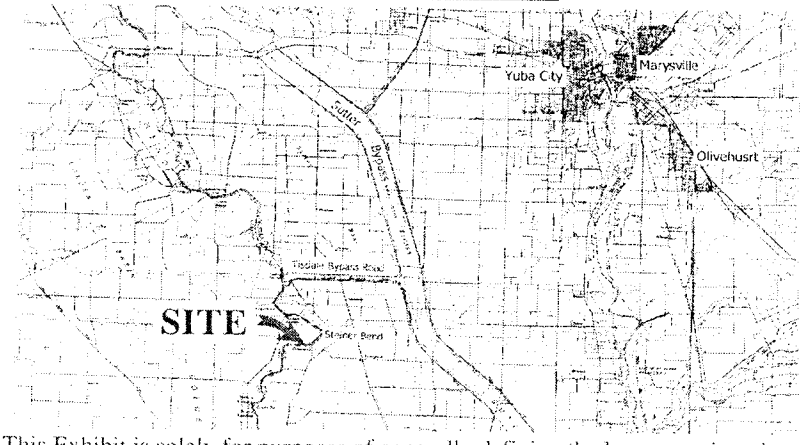
SITE



Proposed Oil and Gas Lease on the
Sacramento River, Southwest of Yuba City

NO SCALE

LOCATION



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

MAP SOURCE: USGS QUAD

Exhibit A

PRC 8605

OIL AND GAS LEASE
COLUSA AND SUTTER
COUNTIES

RAB 03/98

EXHIBIT B PRC 8605

STATE OF CALIFORNIA
STATE LANDS COMMISSION

AMENDMENT

THIS AMENDMENT is entered into by and among the State of California, acting by and through the State Lands Commission, herein referred to as "State", and Orchard Petroleum, Inc. (Orchard) and Livingstone Energy, Inc. (Livingstone), herein referred to collectively as "Lessee".

Negotiated Subsurface (no surface use) Oil and Gas Lease PRC 8605 was entered into on April 26, 2005. The Lease contains 16.28 acres of submerged land in the bed of the Sacramento River in Colusa and Sacramento Counties.

The State and Lessee hereby agree to amend the lease to include a non-exclusive right of way to a "pass-through" agreement into and through the lease lands. As consideration for the pass-through agreement, the State would be compensated by the payment of an overriding royalty in the amount of four percent (4%) of all production from the pass-through well(s). If the Lessee forms a unit or pool to optimize economic recovery from the well that includes state lands not presently associated with PRC 8605, the State will convert the pass-through compensation to a compensating revenue interest equivalent to four percent (4%) overriding royalty within the pool, in addition to the royalty interest lands included in the pool, provided there is complete disclosure to all lessors in the unit.

Under the terms of the Lease, the Lessee is required to pay an annual rental of $20.00 per net acre ($340.00 for 16.28 acres) and to commence drilling operations on the leased lands within five years.

The above changes are reflected in the Added Paragraph 35 and the Amended Exhibit B (attached hereto) for Lease No PRC 8605.

And it is further agreed that all other terms and conditions of said Lease are to remain unchanged and in full force and effect.

This Amendment will become binding on the Lessor only when duly executed on behalf of the State Lands Commission of the State of California.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date hereafter affixed.

LESSEE:
Orchard Petroleum, Inc.

By: _____
(Signature)

_____
(Name of Officer)

_____
(Title)

Date: _____

ATTEST

LESSEE:
Livingstone Energy, Inc.

By: _____
(Signature)

_____
(Name of Officer)

_____
(Title)

Date: _____

ATTEST

LESSOR:
State of California

By: _____
(Signature)

Paul B. Mount II, P.E.
(Name of Officer)

Chief, Mineral Resources Management Division
(Title)

Date: _____

ATTEST

PRC 8605 – ADDED PARAGRAPH 35

35. RIGHT OF WAY FOR PASS-THROUGH WELL

In addition to the right to prospect for, drill for, produce and take oil, gas and other hydrocarbon substances from the leased lands as provided above, Lessee is hereby granted a non-exclusive right of way (the "ROW") to drill one or more pass-through well(s) into and through the leased lands, subject to the following terms and conditions:

(a) A "pass-through well" is defined as a well that is drilled through the leased land at a depth greater than 500 feet below the surface, which produces oil, gas and/or other hydrocarbon substances from one or more producing intervals in the wellbore, no producing interval of which is located within 1489 feet of the leased lands. Notwithstanding the foregoing, with the prior written consent of the State a pass-through well may be completed with a producing interval within 1489 feet of the leased lands, provided it can be determined to the satisfaction of the State that such pass-through well will not subject the leased lands, or any part thereof to uncompensated drainage.

(b) The ROW shall lapse and be of no force and effect if a pass-through well is not drilled and completed during the term of this lease. Provided the ROW is timely exercised, it shall remain in effect for: (i) so long as the pass-through well produces oil or gas in paying quantities, or Lessee is diligently conducting producing, drilling, repairing, redrilling or other necessary well maintenance operations; or (ii) forty-nine years from the effective date of this lease, whichever period is shorter. The parties acknowledge that the ROW may survive the termination of this Lease, in which event Lessee shall promptly surrender the lease in accordance with the provisions of Paragraph 30, excepting and reserving a 50-foot diameter right of way surrounding the borehole.

(c) The following provisions of this lease shall apply to pass-through wells and govern operations under the ROW: Paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 18, 21, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33 and 34.

(d) In consideration of the rights granted in this Paragraph 35, Lessee shall pay to Lessor, in addition to any other payment due under this lease, an overriding royalty in the amount of four percent (4%) of the current market price of all oil, gas and hydrocarbon substances produced from the pass-through well. The overriding royalty shall be calculated and payable monthly in the same manner as royalty under this lease. With the approval of the State, if the Lessee forms a unit or pool to optimize economic recovery from the well that includes State lands not presently associated with PRC 8605, the State will convert the pass-through compensation to a compensating revenue interest equivalent to four percent (4%) overriding royalty within the pool, in addition to the royalty interest lands included in the pool, provided there is complete disclosure to all lessors in the unit.

AMENDED EXHIBIT B

LEASE PRC 8605

RENTAL, ROYALTY PERCENTAGE AND BOND REQUIREMENTS

1. **RENTAL**

The annual rental for this lease shall be twenty dollars ($20.00) per acre or fraction of an acre for a total of two hundred and twenty dollars ($340.00) for approximately 16.28 acres.

2. **ROYALTY PERCENTAGE**

The royalty percentage on gas substances shall be fixed at twenty percent (20%). The royalty percentage on oil shall be fixed at twenty percent (20%).

3. **BOND**

The performance bond or other security to be furnished and maintained by the Lessee shall be in the sum of ten thousand dollars ($10,000.00). The State may review, from time to time, the sufficiency of the bond and modify its amount and its terms, as it deems necessary to ensure performance by the Lessee of all of the covenants and obligations under this lease.

4. **PASS-THROUGH ROYALTY AGREEMENT**

The State would be compensated by the payment of an overriding royalty in the amount of four percent (**4**%) of all production from the pass-through well(s).