

Upon motion duly made and unanimously carried, a resolution was adopted authorizing the Executive Officer to extend the scope of inquiry at the proposed Public Hearing so as to cover other sales of lands in that locality in which the State Lands Commission might have been involved.

29. (Possible Exchange Federal Lands - Cow Mountain Deer Range - Sac. W.O. 149) The Commission was reminded that the Department of the Interior has suggested a possible exchange of State lands in Lake, Sonoma and Mendocino Counties for Federal lands in Joshua Tree and Death Valley National Monuments. The Federal lands are presently in a primitive area withdrawal. It has been proposed that the State take over the Cow Mountain Deer Range and administer it as a primitive area.

Mr. Dean informed the Commission that this same problem had come before the Wild Life Board, of which he is a member.

Upon motion duly made and unanimously carried, a resolution was adopted deferring this proposed exchange unless and until some responsible State or Local Public Agency sponsors the project and requests further action.

30. (Request for Discharge of Accountability - P.R.C. 117 and P.R.C. 119 - One Dollar each) The Commission was informed that on January 27, 1944, authorization was given the Executive Officer to issue to the War Department a Use Permit known as P.R.C. 117, for special Army maneuvers on 1280 acres of school land in San Bernardino County. It also authorized issuance of a permit for the use of two half sections of land in the vicinity of Wiley Wells, Riverside County, within the boundaries of P.R.C. 12, which permit was given the number P.R.C. 119.

Both of these permits recite, "In consideration of the sum of One Dollar, receipt whereof is hereby acknowledged, the person granting this permit, hereinafter called the Permitter", which language resulted in their being placed upon the Accounts Receivable records of the Commission, charges against the United States Government, in the amount of \$1.00 each for the permits issued. Though invoices were rendered, these charges were not paid at the time of issuance of the permits.

At its meetings held December 10, 1948, and February 25, 1949, the Commission authorized acceptance of releases from the War Department for the properties involved, relinquishing the right to claims for rental arising out of the use and occupancy of the properties.

In view of the fact that the State of California in executing the permits acknowledged receipt of the consideration specified for use of the property, the Government considers the matter closed, and the claim for \$2.00 rental disallowed.

It was, therefore, deemed advisable to close the above-mentioned accounts receivable by means of a request for discharge of accountability from the State Board of Control.

Upon motion duly made and unanimously carried, a resolution was adopted authorizing the Executive Officer to request a discharge of accountability from the State Board of Control for the following accounts receivable items appearing on the records of the Commission:

<u>Lease No.</u>	<u>Lessor</u>	<u>Amount</u>
P.R.C. 117	War Department, U. S. A.	\$1.00
P.R.C. 119	" " "	1.00

for the reason that the United States Government has refused to acknowledge this indebtedness, and upon approval of the State Board of Control of such discharge of accountability, appropriate credits shall be applied to the lease accounts receivables Nos. P.R.C. 117 and P.R.C. 119, thus closing these accounts on the records of the State Lands Commission.

31. (Application for Modification of Royalty Rate - Well "H.B. 19" - Wilshire Oil Company, Inc., Agreement for Easement No. 275 - Huntington Beach) The Commission was informed that the Wilshire Oil Company, Inc., lessee under Agreement for Easement No. 275, Huntington Beach, has requested the cancellation of the amendment of August 31, 1944, to said agreement for easement, which amendment fixed the minimum royalty payable on crude oil production from Well "H.B. 19" at 20 percent. The original agreement for easement carried a royalty formula with no minimum but which would have amounted to about 10 percent on the average.

The request for modification is based on a contention that lack of approval by the State of request for the redrilling of Well "H.B. 19" for a period of approximately 4 years placed an inequitable burden upon the company; that the ultimate redrilling costs were far in excess of those that the company would have had at the time the amendment fixing the minimum royalty was entered into and that depletion of the reserves available to that well has been substantial. It is also claimed by the Wilshire Oil Company that the consideration on their part for the increased royalty agreed to was assurance by the State of approval of their request for redrilling within a reasonable time.

Investigation of the history of these transactions reveals that these allegations are largely correct and the facts appear to be as follows:

1. On August 11, 1944, lessee originally requested authority to redrill Well "H.B. 19". Application was renewed on December 3, 1947. Permission was finally granted on July 6, 1948;
2. Under date of August 31, 1944, a modification of agreement was executed by the State and the lessee, calling for an increase in royalty rate to a minimum of 20%;
3. Estimates of economic loss through depletion and higher drilling costs are substantial;
4. If approval of redrilling within a reasonable time was a consideration to the lessee for its action in agreeing to the increase of royalties, the State failed to deliver on its part of the bargain;
5. If that approval was a consideration, the royalty amendment was a violation of the original easement, Section 2g of which states in part "the State shall not exact any royalty or royalties in addition to those herein specified from the grantee in consideration of granting of such permission" (to redrill);
6. Only the statement of the lessee is available as direct evidence that approval of the redrilling was a consideration, however, correspondence on file in this office creates a presumption in that regard.