

MINUTE ITEM

This Calendar Item No. 40
was approved as Minute Item
No. 40 by the State Lands
Commission by a vote of 12
to 0 at its 12-12-80
meeting.

CALENDAR ITEM

40

12/80

W 6325.5
Hoagland

ADOPTION 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 clarification 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.

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...".

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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 reserved mineral lands and also assist in diligent, but prudent development of the resource once the lease is issued.

Pursuant to provisions of the Public Resources Code, notice of the proposed regulatory changes was published September 24, 1980, in the Los Angeles Daily Journal seeking comments during the 45-day comment period provided by law. Additionally, notice of the proposed changes along with explanatory material was sent to a list of over 100 local government officials, firms and individuals involved in or interested in geothermal resource development on State-owned lands. Only two letters of comment were received during the period; neither of which raised substantive issues requiring revision of the proposed amendments.

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. DECLARE THAT THE COMMISSION HAS CONSIDERED THE PUBLIC STATEMENTS, ARGUMENTS AND CONTENTIONS IT HAS RECEIVED IN RESPONSE TO THE PUBLIC DRAFT REGULATIONS, PURSUANT TO SECTION 6110 OF THE P.R.C.

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3. DIRECT THE EXECUTIVE OFFICER TO FILE THE FINAL REVISIONS TO SUBSECTION (c) OF SECTION 2256 AND SUBSECTION (c) OF SECTION 2259 OF ARTICLE 4.1, TITLE 2, DIVISION 3, CAL. ADM. CODE, WITH THE SECRETARY OF STATE.

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