

21. PROPOSED SALE OF ROYALTY OIL FROM STATE OIL AND GAS LEASES PRC 145.1, PRC 410.1, PRC 427.1, PRC 429.1, AND PRC 1466.1, RINCON FIELD, VENTURA COUNTY (CALENDAR ITEM 20); PROPOSED AWARD OF ROYALTY OIL SALES CONTRACTS FOR STATE OIL AND GAS LEASES PRC 163.1, PRC 186.1, E 392.1, PRC 425.1, PRC 426.1, PRC 3033.1, PRC 3095.1, PRC 3413.1, AND PRC 3455.1 (TRACT 2) (CALENDAR ITEM 21), Los Angeles and Orange Counties - 9603, W 9662, W 9663, W 9664, W 9665, W 9666, W 9667, W 9676.

During consideration of Calendar Items 20 and 21 attached, W. M. Thompson, Manager of Long Beach Operations, briefed the Commission on the royalty oil sell-off, stating that after the first bids were received in August, 1973, a question was raised as to the need for clarification under Phase 4 of the Cost of Living Council rules. A letter was received from the Council thereafter, stating that the State was exempt, and could proceed. However, problems developed, which he asked Assistant Attorney General Jay L. Shavelson to clarify.

Mr. Shavelson reported that just prior to the original date set for opening the bids, the State was approached with representations that it was in violation of the Phase 4 regulations, and in possible conflict with the oil allocation plan. Therefore, the Attorney General immediately contacted the local office of the Internal Revenue Service, which is charged in part with administering the Economic Stabilization Program, and was informed that they had no question as to the State's being in compliance with the regulations. However, shortly thereafter, the Internal Revenue Service's office indicated that they were referring the State's letter to Washington for a ruling. In line with that fact and in discussing the matter with the State Lands Division, the Attorney General's office determined that it would not be good policy to open the bids while there was a substantial doubt as to their legality because of the considerable confidential data contained therein. Subsequently the State received a copy of a letter from the General Counsel for the Economic Stabilization Program, addressed to Mr. William J. Lamont, Special Counsel for the Joint Legislative Committee on Public Domain. This letter confirmed the General Counsel's verbal advice that sales by the State of California of crude oil owned by the State do fall within the exemption from Phase 4 regulations.

Thereafter the State readvertised for bids, the new bids were received and opened, and were examined by the Attorney General's office for legal sufficiency. It was determined that if the bids were in substantial compliance with the bid proposal, they could be accepted by the Commission. However, on October 23 a telephone call was received from counsel for the Union Oil Company. Union's counsel informed the Attorney General's office that they were going into the Federal District Court the following morning to request a temporary restraining order against acceptance by the State of the bids. The papers on this action were received by the Attorney General's office only one day prior to the preliminary hearing. The preliminary hearing was held before Judge Gray of the Federal District Court. During the hearing

the Attorney General's staff pointed out the letter from the Federal Counsel stating that California was exempt, and an earlier ruling applying to the sell-off of Long Beach tideland's oil. Nevertheless, Judge Gray felt the language of the regulations did not exempt the State and granted a temporary restraining order, which was served on the Commissioners just prior to convening of this October 25 meeting. The matter is set for hearing on the injunction on Monday, November 5. Meanwhile the temporary injunction prohibited the Commission from accepting any of the bids, although it did not preclude the Commission from authorizing the Executive Officer to issue the notices of intent to take royalty oil in kind to the lessee oil companies. Therefore there was a question as to how the Commission should proceed, inasmuch as the bid invitation called for six month's notice to the oil companies to take their royalty oil, and six month's notice to cease taking the oil.

On October 24 the Attorney General's Office received a telephone call from the Chief Counsel for Economic Stabilization, stating that although they considered the State to be exempt from the Phase 4 regulations, they were going to publish on October 25 a proposed change that would bring California within Phase 4 with regard to all products covered by Part L thereof, that is, oil and gas. There is provision in the procedures of the Cost of Living Council for 30 days of public comment on the proposed regulation, and it is possible that the regulation will not be adopted, and that it will be made clear, even to the Federal Court, that California is and always has been exempt. However, if the proposed regulation is adopted, it is planned to make it retroactive, to apply to all sales on or after October 25, 1973, and it is difficult to predict what is going to happen. It appears that the Cost of Living Council is concerned with the fact that California is getting higher prices for its crude oil than those posted, and also with the fact that a mandatory allocation program is being considered that could be affected by the State taking its royalty oil in kind. It is felt that the proposed change in regulations is directly aimed at California.

In opening the bids in the first instance, it was not believed that the voluntary allocation program was applicable to the State, but rather that the Commission had determined that its proposed royalty oil sell-off probably would have a salutary effect on the market by transferring oil from major to independent companies, thereby hopefully increasing the total amount of crude oil available to be refined in California, because the Commission assumed the major companies could continue to operate at full capacity, whereas the smaller refiners might not be able to do so without the sell-off oil.

It was pointed out that although the Commission could not accept any bids at this time, it had the option of either rejecting the bids received or of taking no action in regard to them at this meeting. However, in order to put the contracts into effect later, the Commission would have to give notice by November 1, 1975.

If the proposed Federal ruling is adopted and is valid, the State might challenge the fact of whether it could be made retroactive to October 25.

Assuming it does take effect and is valid, the bids received during the control period would be totally irrelevant because all that could be paid to the State would be the ceiling price.

The Executive Officer stated that there appeared to be two alternatives: (1) Reject all bids and ask to come back after the Phase 4 regulations are finally established with further recommendations, or to recognize and consider the objections of the Cost of Living Council; or (2) Take no action on the bids and instruct the Executive Officer to give notice that the State was going to take its royalty oil in kind with the hope that it would have a way to dispose of it. However, the Executive Officer discouraged this latter action because of possible problems it could create in disposing of the oil, which the State has no way to store even for a day.

Mr. Shavelson pointed out that the proposed regulation was not yet in effect, that usually 30 days is given for comment after publication, followed by a short time to review the comments, and then the regulation is promulgated on the basis of the publication in the Federal Register. He stated that the Attorney General's Office had been in contact with the Cost of Living Council, and had asked for a letter of confirmation, but they were dilatory; they began asking questions about the technical aspects of the sales. Therefore, it appeared that the timing of this new Federal regulation was aimed at California, and that the idea of desiring to make it retroactive was quite clear.

Deputy Attorney General Warren J. Abbott called attention to the fact that if notice was not given by November 1, the bids would be void and would have to be readvertised.

An appearance was then made by Robert Roth, Attorney and General Counsel for World Oil Company, who stated his company was the high bidder on two tracts at approximately \$1.11 a barrel over posted prices. He felt that his company's bids should be accepted by the State, and stated that if it were determined that the State could sell only at the posted price, it should so do to the independents on the royalty oil sell-off, in return for which arrangements possibly could be made to sell gasoline back to the State. He did not feel that it was in the public interest to continue to sell the State's royalty oil to the major companies at posted prices; that the Phase 4 regulations are just playing into the hands of the majors, who, he claimed, were paying considerably higher prices for their imported oil.

A question was raised by Commissioner Orr of seeking damages from the company (Union Oil Company of California) that filed for the restraining order if the Cost of Living Council does not drop the proposed regulation.

Discussion followed, during which Mr. Shavelson, speaking on his own behalf, not for the Attorney General, concurred in Commissioner Orr's suggestion that the State seek damages from Union Oil Company; however, it was noted that recovery of damages might be contingent upon adoption of the proposed regulation, as otherwise no loss to the State would have occurred.

Mr. Roth indicated that he felt the State was being cheated, and mentioned allocating oil to the bidders at the posted prices if the higher prices were not to be allowed, which he did not believe would constitute a legal action.

Commissioner Orr suggested instructing the Commission's staff to fight the Federal regulation only as to its effective date; to ask that it be made effective at some future date and not be made retroactive, because then the State could clearly establish that it had suffered damage from Union's restraining order.

Mr. Shavelson called attention to the fact that the regulation apparently proposed to affect all deliveries, but not sales, so the State should urge the Cost of Living Council to make it applicable where there was no binding agreement in effect until actual formal adoption of the regulation. He suggested obtaining a stipulation from Union that the State could give notice anytime after the hearing on the restraining order that is to be held on November 5. He stated that notice then could be given by the State within 30 days, by which time it should be known what the ruling was under the Cost of Living Council. As to Signal, he thought the State might have legal grounds for damages against Union.

Mr. Bernard Roth, President of World Oil Company, appeared next, stating that the question raised by Mr. Shavelson could be moot as to notice; that if the Commission did not take action at this meeting, then those companies who would have been successful bidders, later might not be successful, and, as far as the independents were concerned, they would be out of business. He claimed that with the single exception of Signal, the independents could not go to any of the major companies--Texaco, Shell, Union, Mobil, or any others--and buy even one gallon of gasoline; that the independents bid on the State's royalty oil in good faith, and if the Commission did not accept their bids, it would not be benefiting the motoring public of the State.

Attention was then called to the fact that higher prices can be charged for "new" oil, which term was explained by Mr. Thompson.

Mr. George Bond of Union Oil Company asked to correct for the record a statement made that major oil companies were paying higher prices for imported oil than California posted prices, saying this was not true, that prices on imported oil had dropped, and quoted from a letter signed by Signal Oil and Gas Company about the independent market. He believed the Federal Government was acting in a responsible manner, and that under bills passed by Congress there would be mandatory allocations.

Mr. Shavelson responded to the two Messrs. Roth of World Oil Company, who asked that their bids be accepted, saying that the State could not do so, but neither was it required to reject the bids at this time; that possibly the Commission could take action not to reject the bids, but to leave them open for the future, especially if the President of World Oil Company did not raise any objection to this action. Assurance was given that World Oil Company would not object.

Mr. Bond of Union stated that he had made a presentation before Assemblyman Cory's committee, at a time when representatives from State Lands were present, to the effect that the State's interpretation of market price was not correct, and that the only way to clarify the matter was through the courts.

Mr. J. H. Hayman of Gustafson Oil Company of California, high bidder on two of the tracts, said that in light of testimony at this meeting, it would appear that his company should receive some special consideration if there was going to be a delay. He felt that the State was well qualified for this delay, because if it developed that the Cost of Living Council was not going to act, then the State would be in a position to move ahead on Gustafson's contract without any stipulation as to length of time. Mr. Abbott concurred. Mr. Gustafson then indicated that he was willing to wait until the matter was cleared.

Commissioner Orr went on record as saying that the State should be on public record as having been officially damaged by the action of Union Oil Company in seeking the injunction.

Acting Commissioner Kirk West suggested that action on the bids should be postponed until the next meeting of the Commission if nothing would be lost by so doing.

Commissioner Orr asked that the Attorney General be requested to seek to have the Federal regulation not made retroactive to date of publication, but to be effective as of the date of adoption. A letter to this effect is to be prepared by the Commission, for presentation to the Cost of Living Council by the Attorney General.

The Commission, upon his suggestion that he was willing to do so, authorized Mr. Roth of World Oil Company to get a written waiver from Signal Oil Company, and Mr. Roth said that he would personally fly to Houston, Texas, to obtain this waiver, which is to be prepared by the Office of the Attorney General.

There was an understanding that the Commission possibly would have to hold an emergency meeting shortly on this over-all matter.

Upon motion duly made, and carried unanimously, the following resolution was adopted on Calendar Item 21, the proposed award of contracts for sale of royalty oil on bids received on August 23, September 26, and September 28, 1973:

THE COMMISSION DIRECTS THE EXECUTIVE OFFICER TO RETAIN TEMPORARILY ALL BIDS FOR SALE OF ROYALTY OIL, AND TO TAKE NO ACTION WITH REGARD TO SERVING NOTICE OF INTENTION TO TAKE ROYALTY OIL IN KIND AT THIS TIME.

No action was taken by the Commission on Calendar Item 20, the proposed authorization to the Executive Officer to offer additional royalty oil for sale by competitive public bid.

Attachments:

- Calendar Item 20 (2 pages)
- Calendar Item 21 (2 pages)

CALENDAR ITEM

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20.

PROPOSED SALE OF ROYALTY OIL FROM STATE OIL AND GAS LEASES
PRC 145.1, PRC 410.1, PRC 427.1, PRC 429.1, AND PRC 1466.1
RINCON FIELD, VENTURA COUNTY

At its meeting of March 29, 1973, the State Lands Commission authorized the Executive Officer to hold public hearings, relative to the sale of royalty oil from State Oil and Gas Leases pursuant to the provisions of Division 6 of the Public Resources Code, as a basis for future recommendation to the Commission regarding:

1. Feasibility of offering royalty oil for sale;
2. Amount of oil to be offered for sale; and
3. Proposed rules and regulations covering the procedure for sale of royalty oil.

In accordance with the Commission's authorization, a hearing was held on April 24, 1973, at 10:00 a.m. in Room 115, State Building, 217 West First Street, Los Angeles, California. Prior to the hearing, members of the public and of the oil industry, including all known independent and major refiners, were notified of the hearing and invited to attend and express their views regarding the sale of royalty oil.

Based on letters submitted to the Division, testimony presented at the hearing and staff evaluation, the following pertinent facts are presented for the Commission's information and consideration:

1. It is in the best interests of the State to offer royalty oil for sale by competitive bid.
2. The initial sales of royalty oil should use a bid factor specified in dollars per barrel over and above the base price (the base price, i.e., the average price posted for like oil in the specific field or in the nearest field, will fluctuate with the posted field price schedules or prices paid in such fields).
3. Initial sales contracts should be offered for terms of 3 to 5 years.
4. Initially the bonding requirement should be equivalent to the value of 60 days of royalty oil (approximate amount of oil delivered to purchaser in advance of settlement), provided that the Commission may in its discretion accept alternate security (such as cash deposit, letter of credit or similar security) in a form and amount determined to be adequate.

CALENDAR ITEM NO. 20. (CONTD)

On July 26, 1973 (Minute Item 14, page 583), the Commission authorized the offering of State royalty oil for sale from certain Huntington Beach and Seal Beach offshore leases. Bids were received on August 23, September 26, and September 28, 1973.

It is now proposed to offer the royalty oil from State Leases PRC 145.1, PRC 410.1, PRC 427.1, PRC 429.1, and PRC 1466.1 in the Rincon Field as a single contract. The combined royalty oil from the leases is approximately 450 barrels per day (based on May 1973 production). The leases provide that the State shall be paid its royalty oil in kind on demand. The bid deposit will be \$10,000 and the bond will be \$100,000. The bid contract will be issued for a term of three years.

Pursuant to the California Environmental Quality Act (CEQA) and the subsequent guidelines prepared for implementation of CEQA, Negative Declaration EIR No. 129 has been prepared and circulated to various federal, State and local agencies having jurisdiction and expertise. No adverse comments were received. This negative declaration is on file in the office of the Commission, available for public review and by reference made a part hereof. The declaration concludes that the proposed sales will not have a significant detrimental effect on the environment.

EXHIBIT: A. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS PROJECT BUT THAT A NEGATIVE DECLARATION HAS BEEN PREPARED BY THE DIVISION.
2. CONSIDER AND ADOPT NEGATIVE DECLARATION EIR NO. 129.
3. DETERMINE THAT THE PROJECT WILL HAVE NO SIGNIFICANT EFFECT ON THE ENVIRONMENT.
4. AUTHORIZE THE EXECUTIVE OFFICER TO OFFER FOR SALE IN 100% INCREMENTS BY COMPETITIVE PUBLIC BID ROYALTY OIL FROM STATE OIL AND GAS LEASES PRC 145.1, PRC 410.1, PRC 427.1, PRC 429.1 AND PRC 1466.1; ADOPT THE BID FORMS, NOTICE INVITING BIDS, BID PROPOSALS, AND THE SALES CONTRACTS ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF.

CALENDAR ITEM

21.

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PROPOSED SALE OF ROYALTY OIL FROM STATE OIL AND GAS LEASES
 PRC 163.1, PRC 186.1, E 392.1, PRC 425.1, PRC 426.1, PRC 3033.1
 PRC 3095.1, PRC 3413.1, AND PRC 3455.1 (TRACT 2)

On August 23, September 26 and September 28, 1973, bids were received in response to published Notice of Intentions of offer for sale by competitive public bid royalty oil from State Oil and Gas Leases PRC 163.1, PRC 186.1, E 392.1, PRC 425.1, PRC 426.1, PRC 3033.1, PRC 3095.1, PRC 3413.1, and PRC 3455.1 (Tract 2). The offers were authorized by the Commission on July 26, 1973.

The sales contracts, high bidders and bid factors are tabulated below:

<u>Sales Contract</u>	<u>High Bidder</u>	<u>Bid Factor</u>
PRC 3455.1 (Tract 2)	U. S. Oil & Refining Co.	\$0.7368
PRC 163.1 and PRC 426.1	Gustafson Oil Company of California	0.77
PRC 425.1	U Save Automatic Corporation	1.2671
PRC 186.1 and PRC 3095.1	U Save Automatic Corporation	1.1171
E 392.1	World Oil Company	1.118
PRC 3033.1 and PRC 3413.1	World Oil Company	1.118

All bids submitted were reviewed by the staff as to technical sufficiency and economic factors. The Office of the Attorney General reviewed the high bids and determined:

1. That the Commission has complied with the procedural requirements of the law;
2. That the bids submitted conform with:
 - A. The bid requirements specified in the proposals of the Commission;
 - B. The applicable provisions of law; and
 - C. The rules and regulations of the Commission.

A summary tabulation of the bid offers received pursuant to the proposals is attached as Exhibit "A".

CALENDAR ITEM NO. 21. (CONTD)

Pursuant to the California Environmental Quality Act (CEQA), and the subsequent guidelines prepared for implementation of CEQA, Negative Declaration EIR 129 has been prepared and is on file in the office of the Commission, available for public review, and by reference made a part hereof. The declaration, covering the proposed sale of royalty oil, concludes that the proposed sales will not have a significant detrimental effect on the environment.

EXHIBIT: A. Bid Offers.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS PROJECT BUT THAT A NEGATIVE DECLARATION HAS BEEN PREPARED BY THE DIVISION.
2. CONSIDER AND ADOPT NEGATIVE DECLARATION EIR NO. 129.
3. DETERMINE THAT THE PROJECT WILL HAVE NO SIGNIFICANT EFFECT ON THE ENVIRONMENT.
4. ACCEPT THE HIGH BIDS AND AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE AND ISSUE ROYALTY OIL SALES CONTRACT PRC 3455.1 (TRACT 2) TO U. S. OIL & REFINING CO., ROYALTY OIL SALES CONTRACT PRC 163.1 AND PRC 426.1 TO GUSTAFSON OIL COMPANY OF CALIFORNIA, ROYALTY OIL SALES CONTRACT PRC 425.1 TO U SAVE AUTOMATIC CORPORATION, ROYALTY OIL SALES CONTRACT PRC 186.1 AND PRC 3095.1 TO U SAVE AUTOMATIC CORPORATION, ROYALTY OIL SALES CONTRACT E 392.1 TO WORLD OIL COMPANY, AND ROYALTY OIL SALES CONTRACT PRC 3033.1 AND PRC 3413.1 TO WORLD OIL COMPANY.
5. AUTHORIZE THE EXECUTIVE OFFICER TO NOTIFY THE LESSEES UNDER EACH RESPECTIVE LEASE THAT THE STATE, IN ACCORDANCE WITH THE LEASE TERMS, IS EXERCISING ITS RIGHT TO TAKE IN KIND ITS ROYALTY SHARE OF OIL PRODUCED UNDER THE LEASE; THE EFFECTIVE DATE FOR COMMENCEMENT OF TAKING ROYALTY OIL IN KIND WILL BE DECEMBER 1, 1973, FOR LEASES PRC 163.1 AND PRC 426.1; AND MAY 1, 1974, FOR LEASES PRC 186.1, PRC 3095.1, PRC 425.1, E 392.1, PRC 3033.1, PRC 3413.1, AND PRC 3455.1.