

**CALENDAR ITEM
C83**

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J. L. Smith

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M. Hamilton

**CONSIDER ISSUANCE OF A NEGOTIATED SUBSURFACE
(NO SURFACE USE) OIL AND GAS LEASE,
COVERING STATE OWNED LANDS UNDER THE
TULE ELK STATE RESERVE,
NEAR ELK HILLS OIL FIELD,
KERN COUNTY**

APPLICANT:

Cirque Resources, LP
Attn.: Mr. William E. Nicas
475 17th Street, Suite 1600
Denver, CO 80202

AREA, LAND TYPE, AND LOCATION:

Proposed negotiated subsurface (no surface use) oil and gas lease involves 954± acres that were originally disposed of as patented swamp and overflow lands with no minerals reserved; however, the lands and mineral interests were reacquired through donation with the surface use now administered by the Department of Parks and Recreation and the minerals disposition under the jurisdiction of the California State Lands Commission (Commission). The State-owned lands are known as the Tule Elk State Reserve and are located about 20 miles west of the city of Bakersfield, north of and adjacent to the east side of Elk Hills Oil Field in Kern County (Exhibit B, attached hereto).

LAND USE:

Surface drill sites are prohibited in the Tule Elk State Reserve pursuant to Public Resources Code section 5001.65 which states, in part: "Commercial exploitation of resources in units of the state park system is prohibited. However, slant or directional drilling for oil or gas with the intent of extracting deposits underlying the Tule Elk State Reserve in Kern County is permissible in accordance with Section 6854." As operator and applicant, Cirque Resources LP (Cirque) intends to drill a Vertical test well on private property adjacent to and east of the Tule Elk

CALENDAR ITEM NO. **C83** (CONT'D)

State Reserve. This exploratory well will be located about 250 feet from the eastern fence of the Tule Elk Reserve. If Cirque receives Commission approval for Tule Elk State Reserve Oil and Gas Lease, the test well will be drilled diagonally into lands underlying the State park. Should commercial quantities of oil and gas be found under the Tule Elk State Reserve, Cirque will submit a development plan for Commission approval for further commercial exploitation of this resource by slant or directional drilling from the adjoining private lands.

BACKGROUND:

Cirque has submitted a complete application for a negotiated subsurface (no surface use) Oil and Gas Lease for 954± acres under the Tule Elk Reserve, Kern County. Because the surface of the State land is located in a unit of the state park system, surface locations for oil and gas operations (drill sites) are not available. However, oil and gas resources that may underlie the State land can be developed and protected pursuant to the Commission's negotiated subsurface (no surface use) oil and gas lease, which would permit Commission-approved directional drilling from a County-approved drill site and would permit inclusion of the leased lands in a Commission-approved pooled area or unit.

Public Resources Code section 6815(a) authorizes the Commission to negotiate and enter into oil and gas leases on State lands if any of the following exists: wells drilled on private or public lands are draining or may drain oil and gas from the State lands, the Commission determines the State lands to be unsuitable for competitive bidding because of such factors as their small size or irregular configuration or their inaccessibility from surface drill sites reasonably available or obtainable, the State owns a fractional mineral interest in the lands, or the Commission determines the lease to be in the best interests of the State.

Because Cirque controls, by lease and agreement, all of the private property adjacent to the State land described in Exhibit A, attached hereto, and because Cirque has County and Division of Oil, Gas and Geothermal Resources (Lead Agency) approval to drill a well near the State land, Commission staff has concluded that the criteria of Public Resources Code section 6815(a) have been satisfied. A negotiated subsurface (no surface use) Oil and Gas Lease with Cirque will protect oil and gas resources that may underlie the State land, which is unsuitable for competitive bidding because surface drill sites are not available and wells drilled on the adjacent private property may drain State oil and gas resources.

TERMS OF THE PROPOSED OIL AND GAS LEASE:

The subject parcel is surrounded by land under lease to Cirque. The general area is considered "wildcat" territory as it has not previously produced oil or gas.

CALENDAR ITEM NO. **C83** (CONT'D)

Staff has evaluated Cirque's proposal and has negotiated with Cirque the following lease terms: (1) payment in advance of an annual rental in the sum of \$25 per acre, \$23,850 per year for a five-year paid-up lease of \$119,250; (2) a flat rate royalty of 20 percent on all oil and gas produced from the leased lands; and (3) initial drilling term of five years as specified in the lease on file in the Sacramento and Long Beach offices of the State Lands Commission.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code sections 5001.65, 6815 and 6854.
- B. California Code of Regulations, Title 2, Division 3; Title 14, Division 6.

OTHER PERTINENT INFORMATION:

1. A Negative Declaration (SCH #2009121008) was prepared by the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR), and adopted on April 21, 2010 for this project. The California State Lands Commission's staff has reviewed the document.
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 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.
3. Public Resources Code section 6854 states, in part: "The Commission may grant a subsurface oil and gas lease in accordance with subdivision (b) of Section 6815 covering all or any portion of the Tule Elk State Reserve in Kern County for the production of oil and gas underlying the reserve by means of slant or directional drilling from surface locations outside of the reserve." The proposed leasing has been reviewed by Staff Counsel who has advised that the development of the State-owned lands (Tule Elk State Reserve) is consistent and in full compliance with the applicable provisions of law and the rules and regulations of the Commission.

As required by Public Resources Code section 6854, the Commission staff has consulted with the Department of Parks and Recreation during

CALENDAR ITEM NO. **C83** (CONT'D)

the environmental review process to ensure that the purposes for which the lands encompassing the Tule Elk State Reserve were acquired are not adversely affected by the proposed leasing.

4. Drilling term of five (5) years.
5. Annual rental of \$25 per acre (\$23,850 for approximately 954 acres). Five years rental paid in advance (\$119,250 for five years prepaid non-refundable rent).
6. Royalty of twenty percent (20%) on gas and oil.
7. Performance bond or other security in the sum of \$25,000.

PERMIT STREAMLINING ACT DEADLINE:

N/A

EXHIBITS:

- A. Land Description
- B. Site Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

1. Find that a Negative Declaration (SCH #2009121008) was prepared by the California Department of Conservation, Division of Oil, Gas and Geothermal Resources (DOGGR) and adopted on April 21, 2010, for this project and that the Commission has reviewed and considered the information contained therein.

OTHER FINDINGS:

Determine that the criteria of Public Resources Code section 6815(a) have been met, that a negotiated subsurface (no surface use) oil and gas lease is the best instrument to develop and protect oil and gas resources that may underlie the State land described in Exhibit A, attached hereto, and that the State land is unsuitable for competitive bidding because surface drill sites are not available and wells drilled on the adjacent private property may drain State oil and gas resources.

CALENDAR ITEM NO. **C83** (CONT'D)

AUTHORIZATION

1. Pursuant to Public Resources Code section 6815(a), enter into a negotiated subsurface (no surface use) Oil and Gas Lease with Cirque Resources, LP. The lease will contain the State land described in Exhibit A, attached hereto, (approximately 954 acres), a drilling term of five (5) years, annual rental of \$25 per acre (\$23,850 for approximately 954 acres), the first five years annual rental to be prepaid (\$119,250 for five years) and non-refundable, royalty on gas substances and oil fixed at 20 percent and performance bond or other security in the sum of \$25,000.
2. Authorize the Executive Officer or his designee to execute any document necessary to implement the Commission's action.

EXHIBIT A

W40946

LAND DESCRIPTION

All those lands underlying that portion of the Tule Elk Reserve situate in portions of Sections 11, 13, 14, 23, and 24, Township 30 South, Range 24 East, MDM, as shown on Official GLO Plat approved June 21, 1895, County of Kern, State of California as described in Book 428, Page 284, Recorded March 15, 1932 and Book 458, Page 481, Recorded January 23, 1933 in Official Records of said County.

EXCEPTING THEREFROM Parcel 9 as described in said Book 428, Page 284.

END OF DESCRIPTION

Prepared February 17, 2010 by the California State Lands Commission Boundary Staff.



EXHIBIT B

W 40946

