

12. (REVIEW AND SUGGESTED REVISION OF RENTAL RATES AND ROYALTIES - W.O. 1087.) Concurrently with the study of proposed revisions to the Rules and Regulations of the State Lands Commission, the staff of the Division of State Lands has reviewed the practice and policies concerning rates of rental, royalties, and other related matters, with the view of better coordination of a system which has evolved over the past years in a somewhat piecemeal fashion. Inconsistencies were found to exist in some cases; in others, methods followed and rates charged were not working out satisfactorily. The attached tabulation brings together the salient items of all types of leases. It contains changes which are believed to be desirable, and which are recommended for consideration by the Commission. Discussion of the several changes follows.

#### Right-of-Way Easements

Past practice has been to require a yearly rental of \$40.00 plus two cents per lineal foot. It has been seriously complained of as being excessive, to such an extent that the applicant, in some cases, has found it cheaper to purchase the whole of a school section than to pay for a right of way across it. This can be seen to be correct because when the two-cent rental rate is capitalized at 4%, the cost of the land amounts to about \$200 per acre, well in excess of its actual value.

P.R.C. 6976 establishes a rate of \$2.50 per acre per year for right-of-way easements over certain State lands. For consistency, and to conform to this law, this rate should be applied. For a right of way 100 feet in width it is the equivalent of about 0.6 cents per lineal foot per year, which if capitalized at 4% becomes 15 cents per lineal foot in perpetuity. These rates should apply to use of all kinds of lands under the jurisdiction of the State Lands Commission, including the beds of navigable streams and tide and submerged lands.

Easements are generally desired for a long term, sometimes in perpetuity, and sometimes for so long as used for a specified purpose. The present practice of the State Lands Commission is to limit the term to 15 years, with rights of renewal for one or more periods of 10 years each. In view of the long-term financing procedures of public utilities, it is believed that provision should be made for increasing the term of such easements to for so long as the lands are used for the specified purpose. The term should not exceed 49 years, however; otherwise the State might be considered to lose its status of owner, which is contrary to law in the case of sovereign lands.

It is proposed that the minimum total consideration to be paid to the State be \$50.00. It is further suggested that all fees and rentals be paid in advance. Bonds should be required only where the installation is of such a nature as to result in a substantial severance, because otherwise the cost of removal of any installation would be negligible.

The foregoing procedures are recommended to be applied to all cases except those involving lands which appraise in excess of \$50.00 per acre. For the latter, special negotiations should be had in each case.

#### Grazing, Recreational, and Agricultural Leases

Grazing and agricultural leases are currently being issued on the basis of competitive bidding after receipt of a minimum acceptable offer of 5% of

the appraised value or of 20 cents per acre per year, whichever is the greater. There is practically no bidding by other than the original applicant, and the minimum is set so high that usually the lease is entered into only in order to qualify for a Federal lease on adjoining lands. Such leases, in the future, should be based upon an appraisal of the value of the land for supporting the intended use, and should be negotiated and not made subject to competitive bidding unless conditions warrant such procedure. These leases should run for terms of from one to five years, with preferential right of renewal in the lease for like periods at such terms and conditions as the Commission may decide at the time of renewal. Bonds should be required where the cost of installed facilities is in excess of \$1,000. A minimum annual rental of \$10.00 should be fixed.

These requirements should also be applied in cases involving the use of tide and submerged lands for recreational purposes.

#### Commercial and Industrial Leases

Leases for commercial and industrial uses are now being issued after negotiation on the basis of 5% of the appraised value per annum (with automatic increase of 10% in value every five years). The base rate is increased to 9% where there is a purpose. The terms are from one to fifteen years, with preferential right of renewal in the lease for one or more ten-year terms, on such conditions as the Commission may then prescribe. Bonds are now always required. It is believed that this requirement should be waived where proposed improvements do not cost in excess of \$1,000.

It is considered advisable to increase the minimum annual rental from \$50.00 to \$100.00. This is to bring the minimum for a commercial or industrial establishment to a higher rate than the flat rentals assessed for ark-sites for residential use.

This method should be applied also to ark-sites used for commercial purposes and to cases involving minor structures costing in excess of \$2,000 when used commercially.

#### Docks

No changes proposed.

#### Ark-Site Leases

Present policy at Corte Madera requires an annual rental of \$42.00. More recently the Commission fixed rentals in the Black Point area at \$20.00 plus \$15.00 per structure. As the Corte Madera leases are expiring this year, they should be brought in line with those at Black Point. It is further believed that arks used for commercial purposes should be considered as in the same category as docks and piers. Therefore, this rate of \$50.00 plus \$15.00 should apply to ark-sites used for residential purposes only.

#### Minor-Structure Permits

These presently cover buoys, moorings, floating equipment, etc.; also catwalks, small boat landings, and boat houses, costing not in excess of \$500. A flat fee of \$25.00 is assessed, and the term of the permit is for not to

exceed five years. No expense deposit is required since no appraisals are made. To meet the costs of administration more closely, the fee should be increased to \$25.00 where recreational use is involved; and to be consistent in the differentiation between recreational and commercial use, the fee for the latter is recommended to be \$50.00 where facilities costing not in excess of \$1,000 are proposed, and \$100.00 where the cost exceeds \$1,000 and does not exceed \$2,000. To reduce further the burden of field appraisals for minor projects, it is recommended that the cost limit be raised to \$1,000.00 for recreational uses, and to \$2,000.00 for commercial.

#### Mineral Leases (other than oil and gas)

Except for prospecting permits and for renewals of certain leases issued prior to 1941, the Public Resources Code leaves the fixing of royalty rates with the Commission, subject to competitive bidding in all but preferential leases. In the latter the formula  $R = a + KV^n$  has been used, where  $R$  = royalty rate in %,  $K = 0.00890625$ ,  $V$  = assay value per ton in excess of \$20,  $a$  = minimum royalty rate in %, and  $n = 2$ . This is designed for precious metals, but appears in one preferential lease where perlite is the principal mineral involved. In another case involving perlite, a stepped scale of 12½ to 20% of the gross sales price, the rate depending upon the volume of production, is used. For renewals of Owens Lake leases, and for the Williams lease at Mono Lake, the rate has been set at 50 cents per ton or 2% of the weighted average sales price f.o.b. the plant, whichever is the greater.

The foregoing methods of computing royalties involve quarterly, if not monthly, determinations of average sales prices, and thus impose complicated and burdensome accounting upon the State and the lessee. To obviate this the following formula and method is suggested:

$$R = a + b(c-d), \text{ in which}$$

$R$  = Royalty in dollars and cents per unit

$a$  = Fixed minimum royalty

$b$  = Bid factor (expressed as 1.1, or 0.6, etc.)

$c$  = Weighted average gross sales price per unit for "yardstick year"

$d$  = Estimated weighted gross sales value at the beginning of the lease.

The "yardstick year" is one selected at intervals throughout the life of the lease for which the actual weighted average gross sales price is determined and utilized in the formula for computing the royalty for the ensuing interval. The intervals would be selected with due regard for the type of operation involved. For the first interval of the lease  $R$  equals  $a$ . Thereafter  $R$  will equal  $a$  or  $a + b(c-d)$ , whichever is the greater. This method will reduce the determination of the "weighted average gross sales price" to once every several years.

In any particular case the selection of  $a$ , the fixed minimum, and of  $d$ , the initial estimated sales value, should be done with care. Stepped values

should be assigned to  $a$  to allow for an increased royalty with a substantial increase in volume of production. The bid factor  $b$  would be whatever the bidder would want to make it, in the case of competitive bidding, or what the Commission would fix, in the case of preferential leases.

For precious minerals the above method should be followed, but the formula should be modified to  $R = a + b(c-d)^2$  to allow for a more rapid increase in royalty in cases of high-value ores.

A top limit of  $R = 25\%$  should be set for nonprecious minerals, and one of  $R = 50\%$  for precious metals.

Dredging of sand and gravel from navigable streams was coordinated by the Commission at its meeting on April 28, 1950, as follows:

1. For dredging for the specific improvement of navigation under a contract with the Federal Government or other authorized public agency where public monies are being used, permits would be issued and no royalty charged.
2. Where dredging is done at private cost for the specific benefit of navigation, or where it is done so as to have concurrent benefits to navigation, flood control, and recreational interests, a minimum royalty rate of one cent per cubic yard is required. In these cases a favorable opinion from the U. S. Corps of Engineers to the effect that such benefits will result is a requisite.
3. For purely commercial operations the minimum royalty rate to be specified is three cents per cubic yard; leases in such cases to issue only after waiver of objection by U. S. Corps of Engineers.

It is believed that where dredging is done under Federal permit at private cost for the specific benefit of navigation, no royalty should be charged; this will more closely conform to the intent of P.R.C. 6503 as amended in 1949.

The formula suggested above for nonprecious minerals could be used for computing royalties and receiving bids for dredging sand and gravel, the fixed minimum royalty rate  $a$  being one cent or three cents, as circumstances might require.

#### Oil and Gas Leases

No change in current procedures is recommended at the present time. Study is being given, however, to a simplification of the royalty formula now in use.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED THAT THE PROPOSALS RELATIVE TO LEASING PRACTICES AND POLICIES BE TAKEN UNDER CONSIDERATION AND FOR FURTHER DISCUSSION AT THE NEXT MEETING.

STATE LANDS COMMISSION - PROPOSED LEASING SCHEDULE - JULY 16, 1951

<u>TYPES OF LEASE</u>	<u>MINIMUM RENTAL</u>	<u>RENTAL OR ROYALTY RATES</u>	<u>TERM OF LEASE</u>	<u>RENEWALS</u>
1) Right of Way	\$50 total	0.6¢ per ft. per yr. 15¢ per ft.	1 to 49 yrs. 49 yrs.	None provided for
2) Grazing, Agricultural, Recreational	\$10.00 per yr.	By negotiation after appraisal	1 to 5 yrs.	One to three at 5 yrs.
3) Commercial, Industrial	\$100.00 per yr.	6% of appraised value per yr.; 9% where prestructure exists	1 to 15 yrs.	One to three at 10 yrs.
4) Grains, etc.	No rental	No rental	Indefinite	None provided for
5) Ark Sites- Residential, Recreational	\$50 plus \$15 per dwelling per yr.	\$50 plus \$15 per dwelling per yr.	1 to 10 yrs.	As above
6) Fish Canyon	\$15 to \$30 per yr.	\$15 to \$30 per yr.	Varies	As above
7) Minor Structures- Recreational	\$25 fee	\$25 fee	1 to 5 yrs.	As above
8) Minor Structures- Commercial	\$50-\$100 fee	\$50-\$100 fee	1 to 5 yrs.	As above
9) Minerals:				
a) Prospecting	\$1 per acre	20% of gross value	2 yrs.	One at 1 yr.
b) Precious	\$1 per acre per yr.	$R = a + b(c-d)^2$ Max. of 50%	20 yrs.	Successive 10-year periods
c) Non- precious	\$1 per acre per yr.	$R = a + b(c-d)$ Max. of 25%	20 yrs.	As above
d) Dredging	0 to 3¢ per cu. yd.	$R = a + b(a-d)$ Max. of 25%	20 yrs.	As above
e) Soda ash, etc.	50¢ per ton	$R = a + b(c-d)$ Max. of 25%	20 yrs.	As above
f) Oil and Gas	16-2/3% plus acreage rental	$R = \frac{(P - 36.67)P}{2.5 + .016667P}$	20 yrs.	(Note 2)

Note 1 - Except preferential leases issued pursuant to prospecting permits.  
 Note 2 - For so long thereafter as oil and gas produced in paying quantities.

<u>BONDS REQUIRED</u>	<u>METHOD OF LEASING</u>	<u>AMOUNT OF INITIAL DEPOSIT</u>	<u>REMARKS</u>
Where substantial	By application	\$100.00	Amount of bond fixed by cost of removal of structure
Where improvements cost in excess of \$1000	By application and negotiation	\$25.00	as above
Where improvements cost in excess of \$1000	As above	\$100.00	amt. of bond fixed by removal cost. Appraised value automatically increased by <del>10%</del> every five years. # %
Yes	By application	\$100.00	Amount of bond fixed by cost of removal.
None	By application	None	None
None	By application	None	Current renewals for one yr. in view of possible exch. with U.S.
None	By application	None	Limited to cases where cost of facilities does not exceed \$1000.
None	By application	None	Where cost of facilities does not exceed \$1000, fee is \$50; where cost over \$1000 and does not exceed \$2000, fee is \$100
None	By application	\$1.00 per acre	Preferential mineral lease upon discovery
Yes	Competitive bids (Note 1)	\$50.00	\$1000 minimum bond
Yes	As above	\$50.00	As above
Yes	Competitive bids	\$50.00	As above
Yes	As above	\$50.00	\$1000 minimum bond
Yes	As above	None	\$25,000 minimum bond; bidders submit deposit to defray costs, if successful, and to guarantee acceptance.

*Corrected per Commission action taken April 18, 1952.*