20. (REVIEW AND SUGGESTED REVISION OF RENTAL RATES AND ROYALTIES - W.O. 1087.) At the meeting of the State Lands Commission on July 16, 1951 (Minute Item 12, Page 1414), there was presented to the Commission a review of the practices and policies concerning rates of rental, royalties, and other related matters with suggested amendments, with a view towards better coordination of the existing system. Action upon the recommendations was deferred to allow sufficient time for study by the Commission of the recommendations that were made.

At its meeting on September 20, 1951 (Minute Item 18, Page 1449), the Executive Officer was directed to publish a notice of the proposed revisions in order to give the public an opportunity to express its reaction; and the conclusion was reached to consider the proposed revisions at the next meeting, taking into consideration any comments or suggestions that might be received in the meantime. Notices were published on October 5, 1951, in "The Los Angeles Daily Journal" and the "Sacramento Bee", in which the public was advised of the proposed changes and was informed that those interested might obtain copies of them at either the Sacramento Office or the Los Angeles Office, and that any comments thereon would be received at the Los Angeles Office up to October 23, 1951. No requests for copies of the proposed revisions have been received to date, and no comments have been furnished.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE REVISIONS IN RENTAL RATES, ROYALTIES, AND POLICIES PRESENTED TO THE COMMISSION AT ITS MEETING ON JULY 16, 1951, TO BE USED BY THE STAFF IN NEGOTIATIONS; IN CASES REQUIRING SPECIAL TREATMENT, FULL INFORMATION AND RECOMMENDATIONS ARE TO BE PRESENTED TO THE COMMISSION FOR ITS CONSIDERATION. FURTHER AUTHORIZATION, AS FOLLOWS, WAS GIVEN:

1. APPLICATIONS FOR NEW LEASES RECEIVED IN FULL COMPLIANCE AS TO EXISTING RULES AND AS TO FEES AND EXPENSE DEPOSITS PRIOR TO JANUARY 1, 1952, ARE TO CARRY THE RATES IN EXISTENCE PRIOR TO OCTOBER 24, 1951.

2. PURPRESTURE CASES ARE TO CARRY THE RATES IN EXISTENCE PRIOR TO OCTOBER 24, 1951, IF THE LEASES ARE AUTHORIZED BY THE COMMISSION PRIOR TO JANUARY 1, 1952.

3. RENEWALS OF EXISTING LEASES ARE TO CARRY THE RATES IN EXISTENCE PRIOR TO OCTOBER 24, 1951, IF THEY ARE AUTHORIZED BY THE COMMISSION PRIOR TO JANUARY 1, 1952; PROVIDED, HOWEVER, THAT IF ANY SUCH RENEWALS APPLY TO LEASES EXPIRING AFTER DECEMBER 31, 1951, ONLY THOSE APPLICATIONS FOR RENEWAL THAT ARE ON HAND AS OF OCTOBER 24, 1951, ARE TO CARRY THE RATES EXISTING PRIOR TO THAT DATE.

4. ALL APPLICATIONS NOT COMING WITHIN THE PURVIEW OF THE ABOVE THREE ITEMS AND THOSE RECEIVED AFTER JANUARY 1, 1952, WILL CARRY THE NEW SCHEDULE OF RATES.

Discussion of the several changes follows:

## Right-of-Way Easements

Past practice has been to require a yearly rental of $40 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 will 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 will 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 practice of the State Lands Commission has been 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, provision is being made to increase the term of such easements to for so long as the lands are used for the specified purpose. The term is not to 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.

The minimum total consideration to be paid to the State will be $50. All fees and rentals are to be paid in advance. Bonds will 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 to apply to all cases except those involving lands which appraise in excess of $50 per acre. For the latter, special negotiations will be had in each case.

## Grazing, Recreational, and Agricultural Leases

Grazing and agricultural leases in the past have been 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 was the greater. There has been practically no bidding by other than the original applicant, and the minimum has been set so high that usually the lease was entered into only in order to qualify for a Federal lease on adjoining lands. Such leases, in the future, will be based upon an appraisal of the value of the land for supporting the intended use, and are to be negotiated, and not made subject to competitive bidding unless conditions warrant such procedure. These leases will run for terms of from one to five years, with preferential right of renewal in the lessee for like periods at such terms and conditions as the Commission may decide at the time of renewal. Bonds will be required where the cost of installed facilities is in excess of $1000. A minimum annual rental of $10 has been fixed.

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

## Commercial and Industrial Leases

In the past leases for commercial and industrial uses have been issued after negotiation on the basis of 6 percent of the appraised value per annum (with automatic increase of 10 percent in value every five years). The base rate is increased to 9 percent where there is a purpresture. The terms are from one to fifteen years, with preferential right of renewal in the lessee for one or more ten-year terms, on such conditions as the Commission may then prescribe. Bonds have always been required. This requirement will now be waived where proposed improvements do not cost in excess of $1000.

The minimum annual rental has been increased from $50 to $100. This will 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 will be applied also to ark-sites used for commercial purposes, and to cases involving minor structures costing in excess of $2000 when used commercially.

## Groins

No changes.

## Ark-site Leases

Past policy at Corte Madera required an annual rental of $42. More recently the Commission fixed rentals in the Black Point are at $50 plus $15 per structure. As the Corte Madera leases are expiring this year, they will be brought in line with those at Black Point. Arks used for commercial purposes will be considered as in the same category as docks and piers. Therefore, the rate of $50 plus $15 will apply to ark-sites used for residential purposes only.

## Minor-structure Permits

These cover buoys, moorings, floating equipment etc.; also catwalks, small boat landings, and boat houses, costing not in excess of $500. A flat fee of $15 has been assessed, and the term of the permit has been for not to exceed five years. No expense deposit has been required since no appraisals are made. To meet the costs of administration more closely, the fee is increased to $25 where recreational use is involved; and, to be consistent in the differentiation between recreational and commercial use, the fee for the latter is to be $50 where facilities costing not in excess of $1000 are proposed, and $100 where the cost exceeds $1000 and does not exceed $2000. To reduce further the burden of field appraisals for minor projects, the cost limit is raised to $1000 for recreational uses, and to $2000 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 in the past, where R = royalty rate in %, K = 0.00390625, V = assay value per ton in excess of $20, a = minimum royalty rate in %, and n = 2. This was 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, was used. For renewals of Owens Lake leases, and for the Williams lease at Mono Lake, the rate had been set at 50 cents per ton or 2% of the weighted average sales price f.o.b. the plant, whichever was 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 has been adopted:

$R = a + b(c-d)$, 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, is to be done with care. Stepped values are to be assigned to a to allow for an increased royalty with a substantial increase in volume of production. The bid factor b will be whatever the bidder wants to make it, in the case of competitive bidding, or what the Commission fixes, in the case of preferential leases.

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

A top limit of R = 25% will 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 will 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.

Where dredging is done under Federal permit at private cost for the specific benefit of navigation, no royalty will be charged; this will more closely conform to the intent of P.R.C. 6303 as amended in 1949.

The formula given above for nonprecious minerals can 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

Current procedure is to be followed. Study is being given, however, to a simplification of the royalty formula now in use.

## STATE LANDS COMMISSION - PROPOSED LEASING SCHEDULE - JULY 16, 1957

| TYPE OF LEASE | MINIMUM RENTAL | RENTAL OR ROYALTY RATES | TERM OF LEASE | RENEWALS |
|---|---|---|---|---|
| 1) Right of Way | \$50 total | 0.6¢ per ft. per yr.<br>15¢ per ft. | 1 to 49 yrs.<br>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 purpresture exists | 1 to 15 yrs. | One to three at 10 yrs. |
| 4) Groins, 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. | $R = a + b(c-d)^2$<br>Max. of 50% | 20 yrs. | Successive 10-year periods |
| c) Non-precious | \$1 per acre per yr. | $R = a + b(c-d)$<br>Max. of 25% | 20 yrs. | As above |
| d) Dredging | 0 to 5¢ per cu. yd. | $R = a + b(c-d)$<br>Max. of 25% | 20 yrs. | As above |
| e) Soda ash, etc. | 50¢ per ton | $R = a + b(c-d)$<br>Max. of 25% | 20 yrs. | As above |
| f) Oil and Gas | 16-2/3% plus acreage rental | $R = \frac{(P - 36.67)F}{2.5 + .016667 P}$ | 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.

| BONDS REQUIRED | METHOD OF LEASING | AMOUNT OF INITIAL DEPOSIT | REMARKS |
|---|---|---|---|
| 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 ~~[illegible]~~ 10% * 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.