

18. AMENDMENT OF REGULATIONS IN DIVISION 3, CHAPTER 1, 2 CAL. ADM. CODE, ARTICLES 1 AND 5; REPEAL OF ARTICLE 2 IN ITS ENTIRETY; AND ADOPTION OF NEW ARTICLES 2 AND 2.5 - W 5125.1.

During consideration of Calendar Item 16 attached, Mr. William F. Northrop, Executive Officer, explained the background of the proposed amendments to the Commission's regulations. He stated that the staff has determined the present rental rates should be increased from 6% to 8% of appraised value of the State property. Mr. Northrop reported that at the recent public hearings where the proposed amendments were considered, little objection to the proposed increase was received. However, the pipeline throughput concept ran into considerable objection from the petroleum industry, as well as from the public utilities. The staff would, therefore, like to take an additional 90 days to review and conduct additional public hearings to formulate a meaningful rental program.

Mr. Paul Strengell, Manager of Engineering, Calnev Pipe Line Co., appeared in opposition to the proposed rental increase. Mr. Strengell's statement is attached as Exhibit "1" and by reference made a part hereof.

Mr. Gregory R. McClintock, attorney, representing Western Oil and Gas Association, appeared. Mr. McClintock was prepared to request that the Commission allow more time for the public and industry to study and comment on the proposed amendments. However, due to the staff's recommendation, he did not present his statement.

Mr. James F. Trout, Manager, Land Operations, read into the record an amendment to the staff's recommendation to comply with existing law.

Upon motion duly made and carried, the following resolution was adopted, as amended:

THE COMMISSION:

1. DETERMINES THAT THERE HAS BEEN COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11423 THROUGH 11425 RELATING TO PUBLICATION, PUBLIC HEARING AND NOTIFICATION TO THE RULES COMMITTEE OF EACH HOUSE OF THE LEGISLATURE AND OTHER INTERESTED PERSONS.
2. ADOPTS AMENDMENTS TO, REPEAL OF AND NEW REGULATIONS, AS SET FORTH IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, RELATING TO NONEXTRACTIVE LEASING AND SALE OF LAND, ALL OF WHICH SHALL BE EFFECTIVE JUNE 30, 1975.

MINUTE ITEM NO. 18. (CONTD)

3. DETERMINES THERE ARE NO STATE MANDATED LOCAL COSTS IN THIS REGULATION THAT REQUIRE REIMBURSEMENT UNDER SECTION 2231 OF THE REVENUE AND TAXATION CODE BECAUSE THERE IS AN OPTION AS TO COMPLIANCE AND, IN THE ALTERNATIVE NOTWITHSTANDING SECTION 2231 OF THE REVENUE AND TAXATION CODE, THERE SHALL BE NO REIMBURSEMENT PURSUANT TO THIS REGULATION BECAUSE DUTIES, OBLIGATIONS OR RESPONSIBILITIES IMPOSED ON LOCAL GOVERNMENTAL ENTITIES BY THIS REGULATION ARE SUCH THAT RELATED COSTS ARE INCURRED AS A PART OF THEIR NORMAL OPERATING PROCEDURES.
4. AUTHORIZES THE DIVISION TO TAKE SUCH ACTION AS MAY BE NECESSARY AND APPROPRIATE, INCLUDING PUBLICATION, PUBLIC HEARING, AND THE ADMINISTRATION OF OATHS AS AUTHORIZED AND AS REQUIRED BY GOVERNMENT CODE SECTIONS 11423 THROUGH 11425, FOR CHANGES IN THE CALIFORNIA ADMINISTRATIVE CODE ARTICLES HAVING TO DO WITH DETERMINATION OF RENTAL ON THE BASIS OF VOLUME OR QUANTITY OF MATERIALS PASSING OVER OR STORED UPON STATE LAND AS SPECIFICALLY SET FORTH IN EXHIBIT "A" TO MINUTE ITEM 24, PAGE 278, OF THE MARCH 31, 1975, COMMISSION MEETING.
5. AUTHORIZES THE ISSUANCE OF ADMINISTRATIVE SUBPOENAS IN CONNECTION WITH THE PUBLIC HEARING DESCRIBED IN ITEM 4 ABOVE.
6. AUTHORIZES THE DIVISION TO INITIATE SUCH ACTION AS MAY BE NECESSARY AND APPROPRIATE TO BRING THE CONSIDERATION FOR ALL EXISTING PUBLIC AGENCY PERMITS INTO LINE WITH NEW ARTICLE 2 OF THE REGULATIONS REFERRED TO IN ITEM 2 ABOVE.

Attachments:

Exhibit "1" (2 pages)
Calendar Item 16 (24 pages)

STATEMENT BEFORE STATE LANDS COMMISSION

My name is Paul Strengell and I am Manager of Engineering for Calnev Pipe Line Company. I would like to make a statement in opposition to the proposed increase in charges for use of State lands for pipeline occupancy as recommended in amendments and changes dated March 31, 1975. We consider that the result of the proposed thruput charges is to levy a tax on pipeline transportation and has no relationship whatever to fair or reasonable charges or rental based on value of State lands.

Calnev is a subsidiary of the Union Pacific Corporation and is classed as an independent pipeline carrier which is non-shipper owned. We are a common carrier reporting to, and filing tariffs with, the Interstate Commerce Commission for inter-state movements from California to Nevada. Additionally, for movements in California, Calnev is a public utility and common carrier filing intra-state tariffs with and regulated by the California Public Utilities Commission. Calnev is in the business of pipeline transportation. We have no ownership whatsoever in the commodity moving through the line nor are we involved in oil production, refining or the ultimate use of petroleum products. We are simply a common carrier engaged in public transportation. We transport jet fuel for the United States Air Force, turbine fuel for major airlines, diesel fuel for major railroads and truck lines and gasoline for the public in general.

Calnev now possesses a 50' right of way strip across two separate tracts of State land in California; one 2500' in length and the other 1104' in length. Both tracts are located in remote desert areas at the extreme eastern

edge of San Bernardino County in the Mohave Desert. The combined area of both tracts equals 4.14 acres. At the present time, Calnev is paying \$504 per year for the use of these rights of way which is based on 1¢ per diameter inch per lineal foot per year for a 14" pipeline. As we understand the proposed changes, the charges for transmission pipelines occupying State lands would increase from the present formula to a schedule of charges based on barrels of thruput and related to the length of the parcels. At current thruput levels, the new charges to Calnev for occupancy of these two tracts would increase to \$183,209 per year, an increase of 36,000%. This would result in a cost of \$44,250 per acre per year for rent on undeveloped desert property.

We believe that such a proposed increase is arbitrary, unreasonable and wholly unrelated to reasonable compensation for the land used. We further believe that such an increase must ultimately be born by the shipper which in the end will place an undue burden on the consumer.

I thank you for the opportunity to appear here today.

CALENDAR ITEM

5/75

CRK

16.

W 5125.1

AMENDMENT OF REGULATIONS IN DIVISION 3, CHAPTER 1,
2 CAL. ADM. CODE, ARTICLES 1 AND 5;
REPEAL OF ARTICLE 2 IN ITS ENTIRETY;
AND ADOPTION OF NEW ARTICLES 2 AND 2.5

Pursuant to the Commission's authorization of March 31, 1975 (Minute Item 24, page 278) and in compliance with Government Code Sections 11423-25, public hearings were held in Sacramento on April 29 and in Long Beach on May 2. Notices of the hearings were published as required by the Administrative Procedures Act. The purpose of the hearings was to provide the public with opportunity to make statements, contentions or arguments regarding proposed changes in regulations having to do with nonextractive leasing and sale of lands, with emphasis on increased rentals and processing fees.

A preponderance of argument made by persons at the hearings and in written statements was against the proposal to determine rental according to volume or quantities of materials passing over or stored upon State lands, also known as "throughput". In addition, one lengthy argument was presented against proposed Article 2.5 covering exploration and salvage permits for abandoned property. A summary of all arguments made and written statements is on file in the office of the State Lands Commission and by reference made a part hereof.

Several speakers at the Long Beach hearing contended that insufficient time had been allowed for consideration of the "throughput" proposal and for preparation of arguments with respect thereto. Staff is inclined to accept this argument, primarily because of the financial impact involved in the proposal. Accordingly, Article 2 as originally proposed has been altered by the elimination for the present of any reference to rental determination on the basis of "throughput". It is proposed that a special hearing be held on this subject after additional time has been afforded affected lessees for preparation of their arguments.

As to proposed Article 2.5, upon consideration of arguments presented, staff is of the opinion that "exploration permits", as such would be improper. Actually, a person has the right to "explore" under the navigational servitude so long as he obeys all navigational rules, does not disturb the water bottom, or remove any material therefrom. Article 2.5 has been altered accordingly.

CALENDAR ITEM NO. 16.(CONTD)

The majority of permits issued to public agencies without monetary consideration in recent years provides for the Commission's right to review the consideration at any time and to set a monetary rental if the Commission determines such action to be in the State's best interest. In this connection, the proposed regulations require a monetary consideration if the permittee cannot show Statewide public benefit, use, health or safety. Accordingly, the Division proposes to review all existing permits and take action necessary to bring them into line with new rental requirements where indicated and where legal. Any proposed changes resulting in this review would, of course, be subject to the Commission's authorization in each instance.

- EXHIBITS:
- A. Proposed Amendments to Division 3, Chapter 1, 2 Cal. Adm. Code Articles 1 & 5; proposed new Articles 2 & 2.5.
 - B. Summary of Public Hearings and Written Statements.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT THERE HAS BEEN COMPLIANCE WITH GOVERNMENT CODE SECTIONS 11423 THROUGH 11425 RELATING TO PUBLICATION, PUBLIC HEARING AND NOTIFICATION TO THE RULES COMMITTEE OF EACH HOUSE OF THE LEGISLATURE AND OTHER INTERESTED PERSONS.
2. ADOPT AMENDMENTS TO, REPEAL OF AND NEW REGULATIONS, AS SET FORTH IN EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF, RELATING TO NONEXTRACTIVE LEASING AND SALE OF LAND, ALL OF WHICH SHALL BE EFFECTIVE JUNE 30, 1975.
3. DETERMINE THAT THE PROPOSED REGULATIONS WILL NOT CAUSE NEW COSTS TO LOCAL GOVERNMENT, PURSUANT TO REVENUE AND TAXATION CODE SECTION 2231.
4. AUTHORIZE THE DIVISION TO TAKE SUCH ACTION AS MAY BE NECESSARY AND APPROPRIATE, INCLUDING PUBLICATION, PUBLIC HEARING, AND THE ADMINISTRATION OF OATHS AS AUTHORIZED AND AS REQUIRED BY GOVERNMENT CODE SECTIONS 11423 THROUGH 11425, FOR CHANGES IN THE CALIFORNIA ADMINISTRATIVE CODE ARTICLES HAVING TO DO WITH DETERMINATION OF RENTAL ON THE BASIS OF VOLUME OR QUANTITY OF MATERIALS PASSING OVER OR STORED UPON STATE LAND AS SPECIFICALLY SET FORTH IN EXHIBIT "A" TO MINUTE ITEM 24, PAGE 278, OF THE MARCH 31, 1975, COMMISSION MEETING.
5. AUTHORIZE THE ISSUANCE OF ADMINISTRATIVE SUBPOENAS IN CONNECTION WITH THE PUBLIC HEARING DESCRIBED IN ITEM 4 ABOVE.

CALENDAR ITEM NO. 16. (CONTD)

6. AUTHORIZE THE DIVISION TO INITIATE SUCH ACTION AS MAY BE NECESSARY AND APPROPRIATE TO BRING THE CONSIDERATION FOR ALL EXISTING PUBLIC AGENCY PERMITS INTO LINE WITH NEW ARTICLE 2 OF THE REGULATIONS REFERRED TO IN ITEM 2 ABOVE.

Attachment: Exhibit "A"

PROPOSED AMENDMENT TO REGULATIONS
OF THE STATE LANDS COMMISSION IN DIVISION 3, CHAPTER 1,
2 CALIFORNIA ADMINISTRATIVE CODE, ARTICLES 1 AND 5;
REPEAL OF ARTICLE 2 IN ITS ENTIRETY;
AND ADOPTION OF NEW ARTICLES 2 AND 2.5
EFFECTIVE JUNE 30, 1975

ARTICLE 1

GENERAL PROVISIONS

Section 1901 is amended to read:

- (e) The term "lease" includes a permit, right-of-way, easement or license.
- (g) The term "submerged lands" means the area lying below the elevation of low water in the beds of all tidal and-of-nontidal navigable waters and below the natural bank of nontidal waters.
- (i) The term "uplands" includes all other classes of land which are neither submerged lands nor tidelands, excluding school lands.
- (j) For purposes of this title, the terms "merchandise", "product" and "commodity" are interchangeable and shall include: goods, wares, chattels, and personal property of every description, as well as cargo, freight, mail, vessel's stores and supplies, articles, matter and material.

Section 1903 is amended to read:

1903. MISCELLANEOUS FEE SCHEDULE. (Title change only)

Section 1903.1 is amended to read:

(a) Except as may otherwise be provided by law, costs and expenses of the Commission incurred in processing an application for land, or for Commission action of any kind, shall be chargeable as follows, provided in these regulations.

EXHIBIT "A"

~~(1) An applicant for a lease under Article 2 shall not be charged for such costs and expenses.~~

~~(2) Other applicants shall be charged for such costs and expenses as provided by the separate Articles hereof.~~

Section 1903.2 is amended to read:

1903.2. EXPENSE FEES AND DEPOSITS.

(a) In those instances where Commission costs and expenses are chargeable to the applicant, the applicant shall, at the time of filing the application, deposit ~~an expense~~ a minimum expense fee or expense deposit with the Commission in an amount ~~based on such costs and expenses~~ as provided in these regulations.

(b) Should the a minimum expense deposit or expense fee, be insufficient to cover ~~such~~ the Commission's costs and expenses, an additional expense deposit, sufficient for such purpose, shall be made by applicant from time to time, within ~~20~~ 21 days after written notice of the amount thereof and demand therefor shall have been mailed to the applicant at the address of applicant supplied to the Commission by applicant. Should applicant fail to make such additional expense deposit with the Commission, the application may be cancelled without further notice.

(c) The Commission shall be entitled to apply such an expense deposit, or any portion thereof, to the costs and expenses chargeable to applicant. Any unexpended portion thereof shall be refunded to applicant.

Section 1904 is amended to read:

1904. GUARANTY DEPOSITS - BOND OR CASH. (Title change only)

Section 1905 is amended to read:

The principal office of the Commission and of the State Lands Division is ~~at 20-12th Street~~ 1807 13th Street, Sacramento, California 95814. ~~A Bbranch offices office are is~~ located at ~~1600-L Street, Sacramento-95814~~ and 100 Oceangate, Suite 300, Long Beach 90802. Except as otherwise specified hereinafter, all applications shall be addressed to the principal office.

Section 1906 is amended to read:

(a) The Commission shall meet at ~~its principal office~~ Sacramento on the last Thursday of each month unless the date and place of meeting are, upon due notice, otherwise designated by at least two members.

Article 2 is repealed in its entirety and the following adopted therefor;

ARTICLE 2

LEASING OR OTHER USE OF LANDS

2000. GENERAL

(a) This article applies to leases of lands for all uses except for the exploration or salvage of abandoned property, prospecting for or extraction of minerals, including oil and gas, and geothermal resources. Rules for procedures and permits for the salvage of abandoned property are to be found in Article 2.5, those for operations under leases for the extraction of oil and gas or other hydrocarbons are to be found in Article 3 and those for mineral extraction leases are set forth in Article 4. All authorizations for use granted pursuant to this article are subject to the right of the State to grant separate permits and leases for the salvage of abandoned property, extraction of minerals, including oil and gas, and geothermal resources from the lands involved or for other uses not incompatible with the original lease. Leases granted under this article are classified according to the lease purposes as follows:

(1) COMMERCIAL LEASE: Income-producing enterprises, including, but not limited to private marinas, restaurants, clubhouses, amusements, fishing piers, helicopter decks, service stations, mooring sites, buoys, watercraft rental, and water ski facilities; except those described under Minor Commercial Leases below.

(2) MINOR COMMERCIAL LEASE: Small income-producing enterprises capable of grossing not more than \$25,000 per annum under optimum management.

(3) INDUSTRIAL LEASE: Oil terminals, pipelines appurtenant thereto; wharves, piers, stowage sites, dolphins, moorings, man-made or other islands, and similar industrial uses.

(4) RIGHTS OF WAY: (a) Power lines, pipelines and conduits, private bridges and access structures, roadways requiring monetary consideration, communications, and similar uses.

(b) Utilities, outfall lines, sewer lines and similar facilities owned or operated by a governmental entity primarily for the benefit of a discreet segment of the public.

(5) PUBLIC AGENCY LEASE: Marinas, recreational piers, concessionaires, boating facilities and other similar income-producing leases to public agencies.

(6) NONCOMMERCIAL LEASE: Inclusive of, but not necessarily limited to subdivisions, clubs, associations, organizations not using land to produce direct income, and for accommodation piers, boathouses, floats, dwellings, cabins, arks, campsites, and other leases of a similar nature.

(7) USE PERMIT: Noncommercial and nonindustrial use by a natural person or persons of a minimum pier, dock, buoy, or float of an area of State lands no greater than 3,000 square feet.

(8) GRAZING OR AGRICULTURAL LEASE: Livestock, silviculture, seasonal crops, and other agricultural purposes.

(9) PUBLIC AGENCY PERMIT: Public bridge, public roads, recreational structures, and other similar uses by public agencies; all of which uses must have a state-wide public benefit.

(10) PROTECTIVE STRUCTURE PERMIT; This category includes permits granted under the authority of Section 6321 of the Public Resources Code, including groins, jetties, seawalls, bulkheads, breakwaters, and other similar uses.

(11) PRIVATE RECREATIONAL PIER PERMITS: This category is limited to permits granted pursuant to the provisions of Section 6503 of the Public Resources Code.

(12) SALVAGE PERMIT: This category includes permits granted pursuant to the provisions of Section 6309 of the Public Resources Code. (See Article 2.5)

(b) Applications for leases under this Article shall be filed with the State Lands Division, 1807 13th Street, Sacramento, California 95814.

(c) Priorities of applications shall be as provided in Section 6223 of the Public Resources Code.

(d) Leases under this Article, or renewals of existing leases to the extent of the terms and conditions of such leases being renewed do not otherwise provide, shall be governed by the rules and regulations of the Commission in effect on the date of Commission approval and authorization to execute the lease or renewal.

(e) Expense fees as required by Section 2005 of this article will be governed by the rules and regulations of the Commission in effect on the date of filing of the application for lease or permit.

2001. GROINS, JETTIES, ETC.

(a) Authority to construct or maintain groins, jetties, seawalls, breakwaters or bulkheads may be granted to public bodies of the State, or to a littoral owner or licensee of such littoral owner.

(b) The Commission reserves the right to revoke any authorization issued under this section, when in its judgment, it is to the best interest of "the public so to do.

2002. LESSEES.

(a) Leases to occupy tidelands and submerged lands may be granted to the littoral owner or to others with the consent of such littoral owners or to public bodies of the State; however, such lands may, consistent with development and utilization to the maximum economic potential, consistent with the legal rights of the littoral owner, be leased to the best qualified applicants, as determined by the Commission, whether or not the applicant be the littoral owner. The Commission may advertise and invite bids where in its judgment it is in the best interests of the State.

(b) Leases of other State lands under this Article may be issued to qualified applicants.

2003. APPLICATION REQUIREMENTS.

Information requirements upon lease applications and minimum qualifications of applicants shall be prescribed by the State Lands Division, not inconsistent with law and the rules of the Commission.

2004. DURATION OF LEASES.

The term of any lease granted hereunder shall be for the period deemed by the Commission to be in the best interests of the State as set forth in the following schedule, except, however, that upon a

special finding of the Commission that a term in excess of that specified below is in the best interests of the State, the term may be so extended in excess of said schedule where otherwise permitted by law, but in no event shall the term of any lease exceed 66 years. The schedule of lease terms, including optional renewal periods is as follows:

- | | |
|--|---------------------------------|
| (A) Commercial Lease | Not to exceed 49 years |
| (B) Minor Commercial Lease | Not to exceed 10 years |
| (C) Industrial Lease | Not to exceed 49 years |
| (D) Right of Way | Not to exceed 49 years |
| (E) Public Agency Lease | Not to exceed 49 years |
| (F) Noncommercial Lease | |
| (1) Dwelling, cabin and ark sites (except as provided by Public Resources Code Section 6505.5) | Not to exceed 10 years |
| (2) Other | Not to exceed 49 years |
| (G) Use Permit | Not to exceed 5 years |
| (H) Grazing or Agricultural Lease | |
| (1) Livestock (See Public Resources Code Section 6505.5) | Not to exceed 10 years |
| (2) Seasonal crops | Not to exceed 10 years |
| (3) Silviculture | Not to exceed 49 years |
| (I) Public Agency Permit | Not to exceed 49 years |
| (J) Protective Structure Permit | Not to exceed 49 years |
| (K) Private Recreational Pier Permit (See Public Resources Code Section 6503) | Not to exceed 5 years |
| (L) Salvage Exploration Permit | Not to exceed 1 year |
| (M) Salvage Permit | Not to exceed 1 year |

2005. EXPENSE FEES.

(a) Applicants for the following leases and actions not resulting in monetary payment to the State shall remit the minimum expense fee, in addition to any filing fee required by law, with their application pursuant to Section 1903.2:

<u>Transaction</u>	<u>Minimum Nonrefundable Expense Fee</u>
(1) Right of Way not providing a monetary rental	\$350
(2) Public Agency Lease	\$400
(3) Public Agency Permit	\$325
(4) Protective Structure Permit not providing monetary rental	\$300
(5) Recreational Pier Permit as authorized by Public Resources Code Section 6503	\$250
(6) Any other type permit not listed above	\$200
(7) Assignment of a lease	\$300
(8) Amendment of a lease to accommodate lessee and which does not increase the rental	\$375
(9) Approval of sublease under this Article	\$300

(b) The above fees are the minimum necessary to reimburse the Commission for the cost to process typical, uncomplicated transactions. If the amount proves to be insufficient due to unusual complexities or for other purposes, additional funds will be requested. If the funds are not received within 21 days, the application will be cancelled pursuant to Section 1903.2(b).

(c) Expense fees may be waived where the Commission finds that it is in the best interest of the State.

2006. PAYMENT OF RENTALS.

(a) Amount: Leases executed pursuant to this Article shall contain provisions for the payment of rental based upon the rates established by the following schedule in fixed sums, in sums based in whole or in part on gross income, volume or quantity of materials passing over State land, or for such other consideration as, in the judgment of the Commission, may be in the best interests of the State.

(b) Rental Rate Schedule: Rental rates shall be computed at the rate of 8% per annum of the appraised value of the leased land, provided, however, that the following rates shall apply to the classifications listed below:

(1) Commercial Leases: A percentage, as provided in Section 2007, of annual gross income, and/or 8% per annum of the appraised value of the leased land, with a \$450 minimum annual rental.

(2) Industrial Lease: Eight percent (8%) per annum of the appraised value of land not underlying pipelines or conduits, plus 1-1/2 cents per diameter inch per lineal foot for conduits and pipelines, with a \$450 minimum annual rental.

(3) Use Permits: A fixed rental of \$75 per annum for areas less than 1,000 square feet, and \$100 per annum for areas of 1,000 square feet to 3,000 square feet.

(4) Grazing and Agricultural Leases: Rental based on appraisal for the use intended

(5) Public Agency Leases: Leases of State land to public agencies shall provide for monetary rental, unless the Commission determines that a state-wide public benefit accrues, equal to that prescribed for other leases and permits according to intended land use and as set forth in this section.

(6) Public Agency Permits: The consideration for this type permit shall be the state-wide public benefit, use, health or safety; provided, that it shall be incumbent upon the applicant to show such state-wide applicability; otherwise, a Public Agency Lease with monetary consideration shall apply.

(7) Right of Way: 8% of the appraised land value, together with damages, if any, except that rental rates for rights of way for pipeline and conduit purposes shall be at the rate of one and one-half cent per diameter inch per lineal foot. Minimum rental shall be \$100 per annum.

(8) Protective Structure Permits: 8% of the appraised land value, however, with consideration for state-wide public benefits.

(9) Noncommercial Leases and Minor Commercial Leases: 8% of the appraised land value, with a \$225 minimum annual rental.

(c) Rentals subject to law: In cases where leases are exempted from rental by law or if rates are particularly controlled or established by law, rental charges shall be governed by such law.

(d) Other Consideration: The Commission reserves the right to grant leases for such other considerations as may be deemed by the Commission to be in the best interests of the State.

(e) Review; Leases may contain provisions which provide for review of rental rates, at intervals as the Commission may require. Such leases shall provide that any new rental rate shall be effective upon reasonable notice to the lessee as more specifically set forth in the lease.

(f) Time of Payment: The first year's rental shall be paid in advance; rentals for following years shall be paid not later than 15 days after the beginning of each such following year, provided, however, that rental under leases requiring computations to ascertain the rental rate may be paid in whole or in part at other times as specified in the lease. Where the annual rental for any period is \$225 or less, the total rental for such period or for 5 years, whichever is less, shall be paid in advance.

(g) Interest on Retroactive Payments: In the event that, for purposes of lease renewal or extension, a lessee does not agree to an annual rental, as offered by the Commission at the expiration of the lease period, and the lessee remains in possession of the leased lands while continuing to pay interim rental until a firm rental is agreed upon by the parties, then at such time as lessee submits payment for any or all retroactive rentals, the lessee shall pay interest to the State on said retroactive payments at the legal rate in effect at the time of said retroactive payment.

2007. PERCENTAGE RENTALS.

Commercial leases may provide for the payment to the State by the lessee of a minimum flat rent based upon land value, and/or a reasonable percentage of gross receipts where the Commission finds it is in the best interests of the State.

2008. TERMINATION.

Leases for grazing purposes may be terminated by the State Lands Division under the following conditions;

(a) Upon the sale of the leased premises: Under these conditions the lease shall terminate on the date of approval of sale by the Commission, except that when an application is filed by an actual settler to purchase land suitable for cultivation, the lease shall terminate on the date such application is filed.

(b) Upon the exchange of the leased premises for federal lands.

(c) Upon the surrender of a lease thus terminated the lessee shall receive a refund of the unearned rental, or, at the option of the lessee, a new lease shall be issued for the balance of the unexpired term covering any land described in the surrendered lease not disposed of by the State.

2009. MARKER.

Where required by the terms of any lease or authorization, there shall be installed on each structure, a substantial brass marker not less than 2-1/2 inches in diameter inscribed "State Lands Commission (application file number), (structure letter), (type of structure)."

The marker will be installed under the direction of the State Lands Division; all cost involved shall be borne by the lessee.

2010. PUBLIC NOTICE, WARNING AND OWNERSHIP SIGNS.

Where required by the terms of any lease, agreement, or authorization, ownership, public access notices, or warning signs and

appropriate markers shall be installed and maintained to show established public access ways, the name and address of the owner or the location of partially or wholly submerged structures, if any. Such signs and markers shall conform to the requirements of the Commission, of the United States Coast Guard, or other bodies having jurisdiction over access, navigation, or safety.

2011. REPAIR OF DAMAGED STRUCTURES.

Nothing in this article shall be construed to hinder or prevent the immediate repair or replacement of portions of damaged structures by a lessee for which authorizations have been issued, provided such repair or replacement does not differ materially from the approved plans of the structure. Prompt notice of intention to repair or replace portions of damaged structures shall be given the State Lands Division.

2012. APPROVAL OF PLANS.

The Commission may approve or disapprove any plans submitted or authorize such action.

2013. CONSUMMATION OF LEASE.

(a) The Commission shall determine the term of occupancy, amount of rental and other consideration, and the amount of bond and insurance, if required; the Commission may then authorize the execution and delivery of the appropriate instrument permitting occupancy of the land for the approved purposes, subject to the payment and delivery of all fees, costs, bonds, insurance, rent or other consideration required by these rules and the instrument.

(b) The beginning date of any lease shall be the date of authorization by the Commission unless specifically designated otherwise.

2014. EXTENT OF LEASED LAND.

Irrespective of the description of the land contained in any application, the land to be leased shall be as determined by the Commission.

2015. BONDS AND INSURANCE.

In addition to such bonds and insurance as may be required by law, the Commission may require additional bonds and liability insurance as may be in the best interests of the State.

2016. ASSIGNMENTS AND SUBLEASING.

Leases shall not be assigned or sublet by the State's lessee without prior approval of the Commission. Leases of tide and submerged lands shall provide for termination thereof, at the option of the Commission, upon conveyance by lessee of the upland. As a condition for the approval by the Commission, of any assignment or sublease, the Lease Agreement shall be reviewed and the provisions thereof may be changed, altered or amended as deemed by the Commission to be in the best interests of the State.

2017. PROJECTION FROM SHORELINE.

The projection from a shoreline shall be normal to the general direction of the shoreline, or as the Commission may determine to be reasonable and proper, and in the best interests of the State.

Article 2.5 is adopted as follows:

ARTICLE 2.5

SALVAGE PERMITS FOR ABANDONED PROPERTY

2050. CHARACTER AND EXTENT OF LANDS AND PROPERTY.

(a) Lands subject to permit include all ungranted tide and submerged lands subject to the jurisdiction of the Commission

(b) Property subject to permit includes all abandoned property over and upon ungranted tide and submerged lands of the State which is the property of the State and under the jurisdiction of the Commission.

2051. DURATION OF PERMITS.

Salvage permits are limited to a period not exceeding one (1) year, extendable for a period of an additional one (1) year at the discretion of and upon such reasonable terms and conditions as may be imposed by the Commission.

2052. SALVAGE PERMIT PROCEDURES.

(a) Applications. Any person desiring to apply for a salvage permit on or upon any ungranted tide and submerged land under the jurisdiction of the Commission shall file with the Commission a written application containing:

(1) Name, address and status of citizenship of applicant; if applicant is a corporation, the corporate name and name of president, secretary, and officer authorized to execute contracts and permits;

(2) A description of the State lands upon which salvage operations will be conducted;

(3) A statement describing the method and conduct of the salvage operation;

(4) A statement of the duration of the salvage operation;

(5) An explanation of why the applicant claims the property to be in an abandoned state.

(6) A description of the nature of the abandoned property sought to be salvaged by the applicant;

(7) An environmental impact report (EIR) or environmental impact statement (EIS) if required under the guidelines of the California Environmental Quality Act (CEQA).

(b) Applications for permits under this article shall be filed with the State Lands Division, 1807 13th Street, Sacramento, California 95814.

(c) The application shall be accompanied by a filing fee, as provided in Section 1903(a), and a rental deposit equal to the amount of twenty-five dollars (\$25.00) per acre for each acre or fraction thereof within the desired permit area. In addition, if the salvor is permitted to keep the material salvaged, he shall pay in addition to the annual rent an amount equal to 25% of the net salvage value of \$25,000 or less; and 50% of the net salvage value in excess of \$25,000. If the State retains all or any part of the salvaged items, the State shall pay to the salvor the net salvage value of any items retained, less the percentage rental that the State would have received, had the item been sold.

(d) Permit forms shall be submitted for the applicant's acknowledgment or witnessed execution prior to placement on the Commission's agenda.

2053. SALVAGE PERMITS.

(a) This category includes permits granted pursuant to the provisions of Section 6309 of the Public Resources Code.

(b) All abandoned property over and upon ungranted tide and submerged lands of the State shall be the property of the State and under the jurisdiction of the Commission.

(c) The Commission may retain any salvaged items, may sell all or any part of them, or may, subject to appropriate consideration, permit the applicant to keep them.

(d) Salvage value shall be determined by competent appraisers, approved by the Commission, who are qualified to assess the fair market value of the salvaged items.

(1) If an agreement as to fair market value cannot be reached, the dispute shall be submitted to a mutually agreeable party for appraisal.

(2) All costs for appraisals shall be borne by the salvor.

(e) For purposes of these regulations, the term "net salvage value" shall be defined as the sales price of any items salvaged, whether for cash or on credit and whether or not payment has been made, or the fair market value of any item salvaged but unsold at the termination of this permit, less a deduction for the permittee's costs directly attributable to the salvaging thereof.

(1) Costs in the nature of fixed overhead may not be deducted in whole or in part. To the extent that they are variable and directly attributable to the salvage operations contemplated by this permit, the following costs of the permittee may be included as deductions from sales price or fair market value:

- (A) Wages and salaries;
- (B) Contributions to federal, State, and union funds for the benefit of employees;
- (C) Costs of routine maintenance and repair of equipment used in said salvage operations;
- (D) Costs of merchandise, supplies, and materials consumed in said salvage operations;
- (E) Expenses incurred in selling any items salvaged;
- (F) Any other items of variable cost incurred in connection with said salvage operations which are directly attributable to said salvage operations;
- (G) Neither depreciation nor State or federal income taxes may be deducted.

(2) That portion of the rental computed as a percentage of net salvage value shall be due and payable on the first of each month following the sale (or on the first of the month following termination of the permit, regarding unsold items) and shall bear interest at the rate of seven percent (7%) per annum if not paid within fifteen (15) days of the due date.

ARTICLE 5

SALE OF SCHOOL AND SWAMP AND OVERFLOWED LANDS

Section 2302 is amended to read:

2302. UNOCCUPIED LANDS NOT SUITABLE FOR CULTIVATION.

(a) PROCESSING APPLICATIONS

Upon the receipt of a bona fide application, except applications filed by school districts and those falling within the purview of Section 6223, Public Resources Code, the State Lands Division shall notify all State agencies having a land acquisition program, soliciting a response to be received within 45 days from date of the receipt of such application as to whether such agencies wish to have the land withdrawn from sale for the purpose of leasing or purchasing such lands within two years, subject to the availability of funds. If any entity referred to in Section 2300(h) indicates in writing that it will purchase or lease the applied for land within two years, subject to the availability of funds, all private applications shall be cancelled and the lands withdrawn from sale, except in instances where any application indicates that the land may fall within the purview of Sections 2300(c) or 2303, in which event the private application(s) shall continue in force, at the option of the applicant, pending classification of the land by formal action of the Commission. In the event no such entity indicates in writing within the aforementioned 45 day period that it will purchase or lease the land applied for within two years, or if the applicant is a county, city or officer of the State subject to the provisions of Section 6223, Public Resources Code, or is a school district, the State Lands Division shall prepare an estimate of the total expenses required

to complete processing of the application(s). If such estimate exceeds the amount of expense funds deposited by an applicant(s), such applicant(s) shall be notified to comply with the requirement of Section 1903.2(b) relating to deposit of additional expense funds. Upon receipt of such additional estimated expense funds, the State Lands Division shall proceed to appraise the land at its fair market value.

In the event the written offer of all of the bona fide applicants, including any State agency, county, city or district, is less than the appraised value, such applicants shall be given 20 days from receipt of written notice to amend their original offers, in writing, to an amount not less than the appraised value. Failure of any applicant to so amend shall cause his application to be cancelled, whereupon the expense provisions of Section 2302(d) shall apply.

In the event the original or any amended written offer of any bona fide applicant is at least equal to the appraised value, the land shall be advertised for sale, except that the land may be sold to a county, city, or officer of the state or a school district at the appraised value without advertising.

The advertisement shall state a minimum price which the Commission will consider. Such price shall be the minimum required offer specified by Commission resolution for all such lands under its jurisdiction or the appraised value, whichever is greater.

During the period up to 4:00 p.m. of the 30th day following the date of first publication of notice of sale, any qualified person may submit a bid to purchase said lands. Any such person may make

as many different bids as he may desire. Bids must be in the form prescribed by the Commission, sealed and delivered to the State Lands Division at Sacramento and accompanied with deposits on account of the offer as set forth in Section 2301, except that in the base of persons having applications on file prior to the date of first publication of notice of sale, such persons may amend their application by letter but must comply with provisions of the published notice not already complied with.

(b) NOTICE TO SUCCESSFUL PURCHASER

Following the award by the Commission, if additional monies are due, the State Lands Division shall give written notice to the person receiving the award to deposit in cash (check or money order) the balance of his offer or bid, within 15 days from receipt of such notice, except that if the award is made to a city, county, the State or a school district, 60 days may be allowed to deposit the purchase price. In the event the applicant fails to deposit the additional sum due, if any, in the time prescribed herein, the application shall be cancelled and the transaction terminated. The expense provisions of Section 2302(d) shall apply, except that all monies deposited on account of the bid shall be refunded.