

This Calendar Item No. 26
 was approved as Minute Item
 No. 26 by the State Lands
 Commission by a vote of 3
2 at its 12/15/76
 meeting.

MINUTE ITEM

12/15/76
 CPP
 PRC 5217

26. PROPOSED GEOTHERMAL RESOURCES LEASE OF RESERVED MINERAL INTERESTS, SONOMA COUNTY - W 9683.

During consideration of Calendar Item 26, attached, Mr. N. Gregory Taylor, Assistant Attorney General, set forth the following three courses of action which the commission could follow: 1) accept the highest bid 2) accept the second highest bid; or 3) refuse to accept all the bids and direct the staff to start anew and repeat the process. He stated the staff was recommending that the commission accept the second highest bid.

Counsel for the high bidder made an appearance and during the course of an oral presentation submitted the following exhibits to the Commission for their consideration:

- Exhibit 1 - Proposal of the State Lands Commission to enter into a Lease for the Extraction of Geothermal Resources from Certain Reserved Mineral Interests of the State of California situate in Sonoma County, State of California.
- Exhibit 2 - Statement of Rodney C. Hill, Esq., on behalf of George P. Post with Declarations attached.
- Exhibit 3 - Declaration - Jeffrey E. Sultan.
- Exhibit 4 - Declaration - David R. Wilson.
- Exhibit 5 - Declaration - George P. Post.
- Exhibit 5a- Declaration - Albert T. Holmes II.
- Exhibit 6 - Letter from William F. Northrop, Executive Officer, dated November 23, 1976, to Jeffrey E. Sultan, Esq., Re Bid of George P. Post for Geothermal Lease, Sonoma County - W 9683.
- Exhibit 7 - One page press release from the Geothermal Energy Magazine.
- Exhibit 8 - Copy of a case entitled William F. Wilke, Inc. v. The Department of Army.
- Exhibit 9 - Copy of a case entitled Cameron v. the City of Escondido.
- Exhibit 10- Copy of a case entitled North American Coal Corporation, decision of the Department of Interior, Volume 74, at page 209.

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- Exhibit 11- Copy of the Decision of the Department of Interior, case in Volume 75.
- Exhibit 12- Copy of the case entitled Excavation Construction, Inc. v. The United States, 494 F2d., 1289.
- Exhibit 13- Summarization of a decision by the Bureau of Land Management in Ashland Oil and Refining Company case.

Mr. Taylor included in the record the following exhibits:

- Exhibit 14 - Bid Package.
- Exhibit 15 - Declaration - Lovia Miller.
- Exhibit 16 - Declaration - Charles P. Priddy.
- Exhibit 17 - Order of Bid Opening - November 3, 1976.
- Exhibit 18 - Memo to D. J. Everitts, dated November 3, 1976, from Donald Hoagland re Bid Opening.

The above documents were read into the record and are on file in the office of the State Lands Commission.

During the discussions the following witnesses were called, placed under oath and their testimony recorded: A. D. Willard, M. V. Brady, D. Hoagland and D. J. Everitts.

At the conclusion of all testimony, Mr. Taylor informed the Commissioners that in order for the Commission to determine that the highest acceptable bid was submitted by G. P. Post, they must find that the existing defects in the bid and bidding procedure did not give that bidder any substantial advantage over any other bidder. He read the following paragraph into the record which set forth on what bases the Commission must make its findings:

"No deviation from any requirements or provisions included within the form of the bid lease, or from the requirements or provisions which are specifically set forth hereafter in this proposal shall be permitted; provided, however, that the State Lands Commission may in its discretion, waive any technical defect which does not give the bidder any substantial advantage over other bidders."

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Mr. Taylor pointed out that in order for the Commission to find for the first bid, they must find, in their discretion, that they can waive any defects and that they have not given this bidder any substantial advantage over any other bidders.

For the record, Chairman Cory stated that given the facts presented, the technical defects could not have given any substantial advantage to the Post bid; therefore, it is his opinion Mr. Post was the high bid.

Upon motion duly made and carried the following resolution was adopted by a vote of 3-0.

THE COMMISSION:

1. DETERMINES THAT THE HIGHEST ACCEPTABLE BID FOR THE LEASE OF THE STATE'S GEOTHERMAL RESOURCES UNDERLYING 434.16 ACRES OF LAND, DESIGNATED AS W 9683, SONOMA COUNTY, WAS MADE BY GEORGE P. POST, AT 47.77% OF THE NET PROFITS.
2. AUTHORIZES THE NOTIFICATION OF THE SURFACE LANDOWNER OF SUCH BID IN ACCORDANCE WITH SECTION 6922, OF THE PUBLIC RESOURCES CODE.
3. AUTHORIZES THE EXECUTION OF A LEASE WITH THE SURFACE LANDOWNER IN THE EVENT THE SURFACE LANDOWNER MATCHES THE HIGHEST ACCEPTABLE BID WITHIN THE TIME PRESCRIBED BY PUBLIC RESOURCES CODE SECTION 6922, OR, IN THE ALTERNATIVE, IF THE SURFACE LANDOWNER FAILS TO FILE THE BID WITHIN THE TIME PRESCRIBED BY PUBLIC RESOURCES CODE SECTION 6922, AUTHORIZE THE EXECUTION OF A LEASE WITH GEORGE P. POST, THE DESIGNATED HIGH BIDDER, IN ACCORDANCE WITH THE BID OF GEORGE P. POST, ON THE SUBJECT PARCEL.

Attachment: Calendar Item 26 (3 pages)

PROPOSED GEOTHERMAL RESOURCES LEASE
OF RESERVED MINERAL INTERESTS,
SONOMA COUNTY

The Commission at its meeting of August 26, 1976, authorized the staff to offer for lease, by competitive public bid, 434.16 acres of land for extraction of geothermal resources. The parcel, in which the minerals are reserved to the State, is located adjacent to the Geysers Steam Field in Sonoma County.

On November 3, 1976, six bids were received in response to a Notice of Intention published on September 23 and September 30, 1976, in the Sonoma County Daily Herald Recorder and the Los Angeles Daily Journal. The bidders, percentage of net profits and cash equivalents are listed Exhibit "A" attached and by reference made a part hereof.

A bid from George P. Post was received after the published time for the opening of the bids and after the bid opening had commenced. In addition, this bid does not meet other bid requirements. Based on the foregoing the staff and the Office of the Attorney General recommends that this bid not be considered, and has made the recommendation contained herein.

The highest acceptable bid, submitted by Gates and Fox Company, Inc., was 45% of net profits. The bid, discounted for present worth, is estimated to be equivalent to a cash bonus of \$6,000,000 or \$14,000 per acre. This bid is over four times greater than the highest bid received by the Federal Government on similar acreage in the Geysers area.

All bids submitted were reviewed by the staff as to technical sufficiency and economic factors. A legal review was made of the bid, submitted by Gates and Fox Company, Inc., and it was determined that the bid submitted conforms with:

1. The bid requirements specified in the bid proposals;
2. The applicable provisions of law; and
3. The rules and regulations of the Commission.

Section 6922, of the Public Resources Code, provides that the surface landowner may, within ten days after notification by the Commission, submit a bid identical to the highest acceptable bid, in which case the Commission shall issue a lease to the surface landowner. If the surface landowner does not file such a bid, then the Commission may proceed with the award of the bid to other than such surface landowner.

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EXHIBITS: A. Bids Received. B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT THE HIGHEST ACCEPTABLE BID FOR THE LEASE OF THE STATE'S GEOTHERMAL RESOURCES UNDERLYING 434.16 ACRES OF LAND, DESIGNATED AS W 9683, SONOMA COUNTY, WAS MADE BY GATES & FOX COMPANY, INC., AT 45% OF THE NET PROFITS.
2. AUTHORIZE THE NOTIFICATION OF THE SURFACE LANDOWNER OF SUCH BID IN ACCORDANCE WITH SECTION 6922, OF THE PUBLIC RESOURCES CODE.
3. AUTHORIZE THE EXECUTION OF A LEASE WITH THE SURFACE LANDOWNER IN THE EVENT THE SURFACE LANDOWNER MATCHES THE HIGHEST ACCEPTABLE BID WITHIN THE TIME PRESCRIBED BY PUBLIC RESOURCES CODE SECTION 6922; OR, IN THE ALTERNATIVE, IF THE SURFACE LANDOWNER FAILS TO FILE THE BID WITHIN THE TIME PRESCRIBED BY PUBLIC RESOURCES CODE SECTION 6922, AUTHORIZE THE EXECUTION OF A LEASE WITH GATES & FOX COMPANY, INC., THE DESIGNATED HIGH BIDDER, IN ACCORDANCE WITH THE BID OF GATES & FOX COMPANY, INC., ON THE SUBJECT PARCEL.

Attachment: Exhibit "A"

W 9683

EXHIBIT "A"

<u>BIDDER</u>	<u>BID</u>	<u>CASH BONUS EQUIVALENT/ACRES</u>
1. George P. Post	47.77%*	\$15,000
2. Gates & Fox Company, Inc.	45%	\$14,000
3. Republic Geothermal, Inc.	41.1%	\$12,800
4. City of Santa Clara	30%	\$ 9,300
5. Union Oil Company of Calif., Magma Power Company, and Thermal Power Company	12.55%	\$ 3,950
6. AminOil USA, Inc.	12.5%	\$ 3,900

*NOTE: Disqualified for bid procedure deficiencies.