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INFORMATIVE CALENDAR ITEM

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PROPOSED OWENS LAKE
MINERAL LEASE EXTRACTION

On September 29, 1977, the State Lands Commission authorized the offering by competitive bid of approximately 6,880 acres in the bed of Owens Lake, Inyo County, for Mineral Extraction Lease. The royalty provided in the proposed lease was 10% of the gross sales of all unprocessed or crude ore removed from the lake bed and 5% of the gross sales of all processed products, subject to an escalator, based on the lessee's relative profitability, to be applied to the royalty on processed products. (See attached Exhibit A--Section 3 of the lease, entitled Considuration.) The escalator and lease form was subject to approval of the Executive Office and the Office of the Attorney General. The lease will be awarded to the most qualified bidder offering the highest bid factor which would be applied to both the crude ore and processed product royalty rates.

The Executive Officer and the Office of the Attorney General have approved the profitability index escalator and the form of the lease. The escalator will become effective upon the execution of the lease and be applied annually to the processed products royalty beginning with the lessee's second fiscal year. The escalator is based on the ratio of the lessee's annual net after tax income to the corresponding gross revenues for processed products as that bears to 15% (average profit ratio of similar mining companies). The effect of this escalation will provide the State with 25% of the net after tax income from the sale of all processed products. For all crude ore sold the State will receive 10% of the gross sales.

The Staff of the Commission has publicly advertised the "Notice of Intention to Receive Bids for Lease" on January 19, 1978 and January 26, 1978. Bids will be received on February 14, 1978, in the Long Beach Office of the State Lands Commission. After analysis of the bids, a recommendation will be presented to the Commission for their consideration on the award of the lease.

Attachment: Exhibit "A"

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EXHIBIT "A"

CONSIDERATION:

Royalties for the mineral resources produced and/or extracted and sold are to be determined according to the following formula:

ROYALTY FORMULA

$$R = [0.10\ C\ (T) + 0.05\ (P.F.)\ P]B$$

Where R = royalty in dollars and cents paid to the State. In the case of unprocessed ore, the royalty per ton shall not be less than $1.

C = weighted average gross sales price per month per ton of unprocessed ore extracted and sold, FOB Owens Lake.

T = total tonnage of unprocossed ore extracted and sold per month from this lease.

P.F. = profitability factor (as defined below).

P = total gross sales for all processed products sold by lessee at gross sales price FOB, Owens Lake.

B = bid factor submitted by lessee as Exhibit 1 attached hereto, expressed as 1.0, 1.1, 1.13, etc., but not less than 1.0, which exhibit is incorporated herein by reference.

The determination of what is processed product and unprocessed ore for purposes of the application of the various royalty rates for processed products and unprocessed ore shall be made by the State. Generally, however, the State shall utilize the following definitions for the determination of what is processed product and unprocessed ore:

1. Unprocessed ore shall be the unconcentrated ore as it leaves the lakebed except for the physical separation of brine or free moisture;

2. Processed products shall be that which is not unprocessed ore.

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Annual minimum royalties shall be $25,000 for the first year, $50,000 for the second, and $100,000 for the third and each successive lease year thereafter.

The above royalty formula relative to processed products shall be subject to yearly adjustments, beginning with and effective from, the beginning date of the lessee's second fiscal year which occurs after the effective date of this lease. The first adjustment shall be based on the lessee's first fiscal year which began on or after the effective date of this lease. Said adjustment shall be made in accordance with the following:

The multiplier 0.05 (hereinafter referred to as a "multiplier") applied to the factor "p", in the above formula, shall be changed by multiplication by a profitability factor.

$$P.F. = \frac{I}{G(0.15)}$$

Where I = the total net aftertax income attributable to processed products for the previous fiscal year.

G = the total gross revenues attributable to such processed products for the previous fiscal year.

Each year's adjustment, if any, shall be based upon the lessee's accounting statements and other information required to be provided to the State by the lessee as set forth below. At the end of any fiscal year and prior to determination of the profitability factor (P.F.) for the next year as set forth above, the royalty rate shall remain or revert to 5%.

Upon the determination of the profitability factor to be applicable to any fiscal year, as set forth herein, the lessee agrees to pay any additional royalties determined to be due based upon the new royalty rate on processed products. Said obligation shall be retroactive to the date at which an adjustment could have been made. Lessee further agrees to pay interest on said additional royalties, at the rate specified in Public Resources Code Section 6224, from the date the additional royalties would have been due, until paid.

In the event that the P.F. is equal to or less than 1, no adjustment to the multiplier in the royalty formula shall be made during the next following year.

In order to obtain values for "I" and "G" and thereby derive the profitability factor, the lessee shall submit an audited balance sheet and an audited income statement of lessee's operations, accompanied by an unqualified opinion of an independent certified public accountant for each fiscal year beginning with the first full fiscal year following the effective date of this lease. These financial statements shall include the following information related to the processed products: gross revenues, operating expenses, net profits before taxes, income taxes allocable to the processed products and net profits after taxes. If requested by the State, lessee shall require that the independent certified public accounting firm provide the State with copies of any and all audit working papers used to determine the processed product information. These audited financial statements shall be due within 90 days following the end of the respective fiscal year unless lessee has obtained permission in writing from the State Lands Commission's Staff for later submission.

The State, upon receipt of the above, shall compute the "profitability factor" and shall notify the lessee of its determination of the new royalty rate on processed products. In the event the State determines that such statements contain or are based on inaccurate or unreasonable information, the State may utilize such information as it deems necessary in order to compute the above factor. Said rate shall be effective from the beginning date on which said adjustments could be made by the State.

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