MINUTE ITEM
This Calendar Item No. 26
was approved as Minute Item
No. 26 by the State Lands
Commission by a vote of 2
to 0 at its 3/30/78
meeting.

CALENDAR ITEM

3/78
W 40018
Smith
PRC 5464

26.

AWARD OF MINERAL EXTRACTION LEASE

At the Commission meeting of September 29, 1977, the Commission authorized the staff to offer a competitive bid, a lease of portions of the bed of Owens Lake for the extraction of minerals other than oil, gas, and geothermal resources. In accordance with this authorization, the staff prepared a bid package and a notice inviting responses was published twice in the Los Angeles Daily Journal on January 19, 1978 and January 26, 1978, and twice in the Inyo Register on January 19, 1978 and January 26, 1978, calling for a bid opening on February 14, 1978.

On February 14, 1978 the bids were opened in accordance with the notice in the Commission's Long Beach Office, and the Lake Minerals Corporation was the high bidder with a bid factor of 1.0. The bid factor 1.0 was to be applied to the royalty formula attached as Exhibit "B" hereto. The bid factor operates as a multiplier to the lease royalty formula.

The Office of the Attorney General has reviewed and approved the bid of Lake Minerals Corporation as being in compliance with the Commission's proposal to enter into a Mineral Extraction Lease on those specified sovereign lands in Owens Lake and as to compliance with applicable provisions of law and the rules and regulations of the State Lands Commission.

EXHIBITS: A. Legal Description. B. Royalty Formula.
C. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION, IN ACCORDANCE WITH THE PROVISIONS OF DIVISION 6 OF THE PUBLIC RESOURCES CODE, AUTHORIZE THE ISSUANCE OF A MINERAL EXTRACTION LEASE TO LAKE MINERALS CORPORATION, ON 6,880 ACRES OF SOVEREIGN LANDS IN OWENS LAKE, INYO COUNTY, MORE PARTICULARLY DESCRIBED IN EXHIBIT "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF; AT A ROYALTY DETERMINED IN ACCORDANCE WITH THE FORMULA ATTACHED AS EXHIBIT "B" AND THE OTHER TERMS AND CONDITIONS AS SET FORTH IN THE LEASE AND LEASE OFFERING.

Attachments: Exhibits "A" and "B"

A 34

S 16

EXHIBIT "A"

W 40018

hose portions of the State-owned bed of Owens Lake, Inyo County, State of California, as shown on that certain map entitled "Plat of Owens Lake", approved by W. S. Kingsbury, dated November, 1921, on file in the office of the Division of State Lands and designated as LRB 237. Said portions being more particularly described as follows:

PROJECTED SECTIONS 20, 21, 27, 28, 29, 33, 34, E½ 19, S½ 22, W½ 26, E½ E½ 30, N½, SE¼ and E½ of SW¼ 32, NW¼ 35, ALL IN T17S, R37E, MDM.

PROJECTED SECTIONS 4, NW¼ 3, E½, S½ of SW¼ 5 ALL IN T18S, R37E, MDM

END OF DESCRIPTION

Prepared W. W. Kunnecke Checked [illegible]

Reviewed D. Bitthacher Date 11/22/76

446

EXHIBIT B

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 case of unprocessed ore, the royalty per ton shall not be less than $1.00.

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

T = total tonnage of unprocessed 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, expressed as 1.0, 1.1, 1.5, etc., but not less than 1.0.

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.

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 PRC 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 (one), no adjustment to the multiplier in the royalty formula shall be made during the next 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.