

CALENDAR ITEM

66

A 35

PRC 7911.1

PRC 4000.1

M. Voskanian

S 18

J. Planck

**CONSIDER FINDING CARONE PETROLEUM CORPORATION
IN DEFAULT OF SUBSURFACE (NO SURFACE USE)
OIL AND GAS LEASE NOS. PRC 7911.1 AND PRC 4000.1,
OFFSHORE CARPINTERIA,
SANTA BARBARA COUNTY**

LESSEE:

Carone Petroleum Corporation
Attn.: Mr. Charles W. Cappel, President
1145 Eugenia Place, Suite 200
Carpinteria, CA 93013

AREA, LAND TYPE, AND LOCATION:

Oil and Gas Lease No. PRC 7911.1 contains approximately 1,541 acres of submerged land, which originally comprised the southern portion of Oil and Gas Lease No. PRC 3150.1, and Oil and Gas Lease No. 4000.1 contains approximately 204 acres of submerged land. Both are offshore Carpinteria, Santa Barbara County, California.

BACKGROUND:

The original Calendar Item for the Commission public meeting on April 9, 2009, containing the entire background and history for the staff recommendation for finding Carone Petroleum Corporation (Carone) in default of Oil and Gas Lease Nos. PRC 7911.1 and PRC 4000.1, for failure to diligently pursue returning those leases to production, is incorporated by reference and can be found attached as Exhibit "F" to this Calendar Item.

UPDATE:

This item was heard by the Commission at its public meeting held on April 9, 2009. The Commission, after considering the staff report, and the testimony of staff and Carone's representatives, continued the matter to its June 1, 2009, meeting. The Commission instructed Carone to complete the following before

CALENDAR ITEM NO. 66 (CONT'D)

that meeting:

1. To complete the structural evaluation of platform Hogan pursuant to the MMS requirements regarding platform requalification with the use of an independent third party Certified Verification Agent (CVA) acceptable to the MMS and Commission staff, to report the results of the evaluation, and, if incomplete, to have the CVA testify to the Commission on June 1, 2009, as to why the report is not complete;
2. To file, in sufficient form and content, an application with the MMS for approval of a Right of Use and Easement (RUE) agreement in order to procure the right to drill from federal platform Hogan into the state leases; and,
3. To execute and fully fund a reimbursement agreement in the amount of \$650,000.00 with the state to cover the costs of an Environmental Impact Report and estimated staff costs, for the purposes of processing and considering the application on file with the state for the project of developing and producing from state oil and gas leases PRC 7911.1 and PRC 4000.1, in the Carpinteria Field.

The Commission further indicated that if Carone failed to complete all three tasks without acceptable reasons sufficiently outside of the control of Carone, the Commission would then accept the staff recommendation and find Carone in default of State Oil and Gas leases PRC 7911.1 and PRC 4000.1. Carone would then have 90 days to cure the default or lose the leases.

Since the April 9th meeting, Carone has been diligently trying to achieve the Commission's requirements.

- (1) With respect to the first requirement, Carone nominated, and on May 6, 2009, the MMS accepted the nomination of Peter Marshall as a Certified Verification Agent (CVA) to review the structural analysis for Platform Hogan and determine whether it could be "re-qualified" under the federal statutes and American Petroleum Institute standards. This nomination of Peter Marshall is also acceptable to Commission staff. The CVA has been in constant contact with Carone's structural consultant and Carone submitted a copy of its final report to the MMS and the CVA on May 24, 2009. Carone has informed Commission staff that the CVA will submit his report to the MMS prior to June 1, 2009. The MMS estimates that the time for its acceptance and approval to be 30-90 days.
- (2) With respect to the second requirement, Carone hired a consultant who

CALENDAR ITEM NO. 66 (CONT'D)

has been in contact with the MMS regarding the resubmittal of Carone's expanded and detailed RUE application, including appropriate responses to comments by MMS in its letter of February 2008 citing deficiencies in Carone's initial submission. Carone has informed Commission staff that its application will be resubmitted prior to June 1, 2009. In a conversation with Commission staff, the MMS believes that it will be able to respond to that re-submission within 30 days (although there is no statutory time limit).

- (3) With respect to the third requirement, Carone has informed Commission staff that they are attempting to secure, and expect to close a deal with a funding source to enable the submittal of the \$650,000.00 in reimbursement funds and the executed reimbursement agreement for re-starting the CEQA process on or before June 1, 2009.

STATUTORY AND OTHER REFERENCES:

Public Resources Code Sections 6827 and 6829 and Lease Paragraphs 1 and 6

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060(c)(3)], the staff has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.

2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq., but such activity will not affect those significant lands.

Authority: Public Resources Code sections 6370 et seq.

EXHIBITS:

- A1. Land Description – PRC 7911.1
- A2. Land Description – PRC 4000.1
- B. Location Map
- C. Staff's September 2008 Letter
- D. Carone's January 2009 response to Staff's Letter
- E. Staff's February 2009 Letter
- F. Calendar Item from the April 9, 2009 Commission Meeting

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

1. FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15060(c)(3) BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

2. FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

AUTHORIZATION:

A: AS OF MAY 27, 2009 (THE DATE OF THIS WRITING), THE THREE ACTIONS REQUIRED BY THE COMMISSION TO BE COMPLETED BY THE JUNE 1, 2009 MEETING ARE STILL INCOMPLETE. THEREFORE, THE STAFF RECOMMENDS THE COMMISSION ISSUE THE FOLLOWING AUTHORIZATION BASED ON THE REASONS SET FORTH IN THE APRIL 9, 2009 STAFF REPORT (AND ATTACHED HEREWITH AS EXHIBIT F):

1. FIND CARONE PETROLEUM CORPORATION, AS LESSEE, IN DEFAULT UNDER THE OBLIGATIONS OF OIL AND GAS LEASE NOS. PRC 4000.1 AND PRC 7911.1, FOR FAILURE TO PURSUE WITH DILIGENCE THE DEVELOPMENT OF THOSE LEASES

2. DIRECT STAFF TO ISSUE A DEFAULT NOTICE THAT WILL PROVIDE THAT IF THE DEFAULT IS NOT CURED BY FULLY COMPLYING WITH THE THREE DEMANDS SET FORTH IN THE STAFF LETTER OF SEPTEMBER 30, 2008, WITHIN NINETY (90) DAYS OF THE DEFAULT NOTICE, THE LEASES SHALL BE FORFEITED AND CANCELED.

CALENDAR ITEM NO. 66 (CONT'D)

3. DIRECT STAFF AND THE ATTORNEY GENERAL'S OFFICE TO TAKE ALL OTHER ACTIONS NECESSARY TO CARRY OUT THE FOREGOING, INCLUDING ACTION TO COMPEL THE LESSEE TO QUITCLAIM OIL AND GAS LEASE NOS. PRC 4000.1 AND PRC 7911.1 TO THE STATE.

B: IN THE ALTERNATIVE, IF CARONE CAN DEMONSTRATE TO THE COMMISSION'S SATISFACTION AT THE JUNE 1, 2009 MEETING THAT:

- (1) THE CVA'S REPORT RECOMMENDING RE-QUALIFICATION OF PLATFORM HOGAN HAS BEEN, OR WILL BE SUBMITTED IN A TIMELY MANNER, TO THE MMS, AND
- (2) CARONE HAS RESUBMITTED AN APPLICATION FOR AN RUE TO THE MMS THAT INCLUDES APPROPRIATE RESPONSES TO ALL OF THE DEFICIENCIES NOTED IN THE FEBRUARY 2008 LETTER SENT TO CARONE BY THE MMS, AND
- (3) CARONE HAS FULLY EXECUTED AND FUNDED THE COMMISSION'S REIMBURSEMENT AGREEMENT, THEN THE STAFF RECOMMENDS THAT THE COMMISSION:
 1. DIRECT STAFF TO FOLLOW UP TO ENSURE THAT THE PLATFORM IS RE-QUALIFIED BY THE MMS AND THAT THE APPLICATION FOR AN RUE IS DEEMED COMPLETE BY THE MMS AND TO REPORT BACK TO THE COMMISSION SHOULD THERE BE ANY FURTHER DELAY IN MOVING THE PROJECT FORWARD.