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REPORT OF THE
NATIONAL PETROLEUM COUNCIL'S
COMMITTEE ON FEDERAL OIL AND GAS LEASING
AS ADOPTED
JANUARY 26, 1950

HEADQUARTERS OFFICE

Commonwealth Building
1625 K Street, N. W.

Suite 601
Washington 6, D.C.

REPORT OF THE
NATIONAL PETROLEUM COUNCIL'S
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JANUARY 25, 1950

The Acting Secretary of the Interior on October 20, 1949, requested that the National Petroleum Council consider the matter of issuance of oil and gas leases by the Federal Government with a view to expediting the granting of leases on Federal lands and assuring a fair initial return to the Federal Government without undue burden upon applicants in the development of the country's petroleum resources. Following such request the National Petroleum Council appointed this Committee to make an appropriate study with respect to the issuance of oil and gas leases by the Federal Government on acquired and public domain lands under the Federal Leasing Acts, and report thereon to the Council with such recommendations as may be deemed appropriate. Pursuant to such action, this Committee has made a study of the subjects assigned to it and now makes its report. This report concerns the leasing of public domain lands and acquired lands of the United States but does not concern the leasing of tidelands or submerged lands.

In his letter of October 20, 1949, the Acting Secretary referred to certain proposals that had been offered for consideration which were (a) adoption of a combined offer and lease form in a single document as to noncompetitive leases under Section 17 of the Federal Oil and Gas Leasing Act; (b) requiring competitive bids whenever a "competitive interest" is evident with respect

to wildcat lands, and (c) denial of issuance of a noncompetitive lease if, at the time of issuance, the land covered thereby is within the known geologic structure of a producing oil or gas field, even though it was not within such known geologic structure at the date of application for lease.

COMBINED OFFER AND LEASE FORM

With respect to proposal (a) above mentioned, that is, adoption of a combined offer and lease form in a single document for non-competitive leases, this Committee believes that the principles and objectives sought to be achieved by this proposed change in the regulations are proper and should be supported. The change proposed by the Department of the Interior was set forth in detail on pages 6518 to 6522 of the Federal Register, October 26, 1949. Although the public hearing scheduled for December 1 and 2, as mentioned in the Acting Secretary's letter, was postponed and has not been rescheduled, it is understood that this proposal is still under active consideration in the Department of the Interior and that steps will be taken to bring about this proposed change whether or not the hearing is rescheduled.

Although this Committee believes that the principles and objectives sought to be achieved by this proposed change are proper and should be supported, some of the mechanics involved in the proposed method of issuing leases are somewhat burdensome and are not in

furtherance of the objectives of the Department.

In view of the fact that the public meeting concerning these proposals was postponed after notice of such meeting was published, it is suggested that the Department of the Interior again give trade associations and others an opportunity at a public hearing to express their views as to these proposed changes before finally adopting them.

The Committee has given its particular attention to the manner of application for an issuance of noncompetitive leases, and apparently this has been in accordance with the desires of the Department in requesting the views of the Council. We have not attempted to set forth in detail in this report any objections that might be made to some of the substantive provisions as contained both in the old and the new lease forms. This report should, therefore, not be construed to indicate that the Committee is entirely in accord with all of the provisions of the lease form.

COMPETITIVE BIDS ON UNPROVEN LAND

With respect to proposal (b) above mentioned, that is, the requiring of competitive bids whenever a "competitive interest" is evident with respect to wildcat lands, this Committee is opposed to any change in the law or regulations which would require or permit the Department of the Interior to lease public domain

or acquired land at competitive bidding in any instances other than those in which competitive bids are now required. The proposal that competitive bids be obtained whenever "competitive interest" is evident does not set forth that objective standard which is desirable in dealings with governmental bodies; will be contrary to the present policy of Congress as evidenced in existing laws; will not expedite the granting of leases, but on the contrary will slow up such procedure and will not assure any greater return to the Government than the system of leasing now in use in conformity with well-considered Congressional policy and which has proven satisfactory and to the public interest since the adoption of the Mineral Leasing Act of 1920.

It is submitted that the existing policy of Congress has been wise and to the best interest of the public in the development of the petroleum resources of the Nation and that there have been no changes in fundamental principles and considerations which warrant any alteration in that policy.

The procedure of granting leases only upon competitive bidding will give an undue advantage to the large companies which have sufficient capital available for bidding and will work a hardship upon the small individual operators. In the Rocky Mountain Region, where the public doman lands constitute such a large portion of the prospective oil and gas lands available for development, a requirement of competitive bidding would force

such a curtailment upon many small operators that they would be driven out of business, with a resulting very unfortunate effect upon our economic system.

The general policy involved in requiring competitive bidding for unproven lands is contrary to the entire spirit and purpose of the Oil and Gas Leasing Act and our general statutes governing the disposal of the public domain. The primary purpose of our Homestead Acts has always been to afford to all citizens an opportunity to participate in the development of the public domain, rather than the more limited purpose of deriving an immediate maximum amount of revenue for the Government.

Competitive bidding would also be inequitable in its operation, inasmuch as it would require a party that has expended large sums of money in exploration, resulting in the location of a possible structure, to bid against parties desiring the lease for purely speculative purposes. Furthermore, under the suggested procedure, it would be extremely difficult to assemble a sufficient block of solid acreage for seismograph operations which now constitute the industry's principal method of exploration.

The carefully designed and very successful provisions of our present law, permitting seismograph operations on optioned blocks of leased acreage, would be destroyed and rendered ineffective by a requirement of competitive bidding.

The Department has presently, at the request of a Member of Congress, suspended the issuance of noncompetitive leases upon wildcat acquired lands except under circumstances largely directed to the necessity for immediate drilling thereon. This Committee feels that such action is contrary to existing pertinent laws so that no regulation of the Department in such respect could be legally effective. As heretofore indicated, the Committee feels that the policy for noncompetitive leases for wildcat acquired lands, as well as wildcat public domain lands, should continue to be, as it has been in the past, the policy established by Congress. It follows that the Department should adhere to such policy established by laws as they exist, and not attempt to circumvent such laws nor anticipate a change in the laws which the Department may desire but which may or may not be effected. This suspension procedure should be rescinded immediately and noncompetitive leases on acquired wildcat lands issued promptly in due course in accordance with the existing laws.

SUBSTITUTION OF DATE OF LEASE FOR DATE OF APPLICATION AS TIME FOR DETERMINING STATUS OF LAND

Proposal (c) above mentioned concerns the proposition that issuance of a noncompetitive lease should be denied if, at the date of issuance of such lease, the land covered thereby is within the known geologic structure of a producing oil or gas field, even though it was not at the date of application for the lease. As set forth in the Acting Secretary's letter above mentioned, the suggestion that has been made is "substitute the date of the lease issuance for the date of the application as the time for determining whether the lands to be leased are within the known geologic structure of a producing oil or gas field."

Whether this proposed change would require an amendment of the statutes or merely an amendment of the regulations, this Committee is definitely opposed to such change. We do not believe that this proposed change would achieve any increased efficiency in the Department. Such change would be violative of the mineral leasing laws and of the spirit of fair business practices.

If noncompetitive leases are issued promptly upon application, either as a result of the proposed rule making as discussed as point (a) herein, or because of other increases in the efficiency of the Department of the Interior, then this third point would become of little or no importance because the status of the land would not have changed in the meantime.

A provision to the effect that an applicant should be denied his rights if discovery is made nearby after the date of his application would very definitely discourage development. Every such applicant would realize that the Department could withhold issuance of a lease until completion of a test well in the area and then offer a lease at public bid. No operator would be willing to incur expenditures for exploration and development without the certainty of holding sufficient acreage to warrant such expenditures.

This proposal is so much at variance with the principles of fairness and justice which should characterize the actions of the Department that your Committee is reluctant to believe that there is now any serious intention in the Department to insist upon this change in practices.

GENERAL COMMENTS AND RECOMMENDATIONS

Your Committee desires to make certain general comments briefly with respect to Federal oil and gas leasing, and such comments appear to be in order because of the request by the Acting Secretary that the matter of issuance of oil and gas leases by the Federal Government be fully considered. After the 1946 amendment to the Federal Leasing Act, the Council was requested to and did make comments and recommendations concerning that act. One of the principal changes brought about by such act in the Federal leasing procedure was the provision to the effect that an operator might

hold exploratory options or shooting options on sizable blocks of land for the purpose of geophysical examination, and with the definite assurance that he would be able to obtain operating rights (up to 15,360 acres in each state) upon the portion which should be found to be valuable. This amendment took into consideration the practical aspects of the oil and gas business and the absolute necessity of certainty on the part of the operator that he would be able to obtain the acreage proven up by his expenditures of time and money. We are pleased to state that in our opinion this innovation, which first appeared in the 1946 Act, has proven to be successful. The wisdom of this provision has been amply demonstrated by an increase in geological and geophysical exploration on public land and by the discovery of valuable resources that were theretofore unknown. Whatever changes may be made in the present laws or regulations, it is believed that the rights of the operators to hold acreage for exploratory purposes, as herein mentioned, should be preserved, and it may well be enlarged.

Your Committee was assigned its duties at a time when it was anticipated that a public hearing would be held in Denver, at which meeting these problems would be fully discussed. Although such hearing was postponed and has not as yet been rescheduled, your Committee has believed that it was nevertheless its duty to study and report upon the questions submitted to it. Your Committee expresses the hope that such hearing be held, and the National

Petroleum Council be permitted to supplement its response to the Acting Secretary's letter with such studies, proposals and recommendations as may seem proper after considering and appraising the statements and arguments presented at such hearing.

Respectfully submitted,

COMMITTEE ON FEDERAL OIL AND GAS LEASING

J. C. Donnell II, Chairman

Rush M. Blodget
E. F. Bullard
R. G. Follis
H. L. Hunt
A. Jacobsen
John M. Lovejoy
A. C. Mattei
L. F. McCollum
Glenn E. Nielson
E. E. Pyles
R. S. Shannon
W. G. Skelly
L. S. Wescoat
H. E. Zoller

COMMITTEE ON FEDERAL OIL AND GAS LEASING

CHAIRMAN - J. C. Donnell, II
The Ohio Oil Company

Rush M. Blodget
Oil Producers Agency of California

E. F. Bullard
Stanolind Oil & Gas Company

R. G. Follis
Standard Oil Company of California

H. L. Hunt
Hunt Oil Company

A. Jacobsen
Amerada Petroleum Corporation

John M. Lovejoy
Seaboard Oil Company of Delaware

A. C. Mattei
Honolulu Oil Corporation

L. F. McCollum
Continental Oil Company

Glenn E. Nielson
Husky Refining Company

E. E. Pyles
Jergins Oil Company

R. S. Shannon
Pioneer Oil Corporation

W. G. Skelly
Skelly Oil Company

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The Pure Oil Company

Henry E. Zoller
The Derby Oil Company