

Mr. Verne Walton

October 2, 1980

Ken McManigal

Working Interest Transfers of Oil and Gas Leases

This is in response to your July 25, 1980, Memorandum concerning such transfers.

First, in the course of the recent Tehama County survey, it was ascertained that the Tehama County Assessor differentiated between working interests and royalty interests in gas producing properties such that where a working interest in such a property was transferred from one operator to another, but the related royalty interest was not, the assessor revalued the working interest at market value as of the date of transfer but left the royalty interest at the appropriately-indexed 1975 base year value.

As indicated in Glenn Rigby's December 6, 1979, memorandum to Ray Rothermel and Bob Milam's December 7, 1979, memorandum to Ray, copies attached, the transfer of a working interest in a mineral property is equivalent to a transfer of the fee interest insofar as mineral rights are concerned, and a royalty interest is not property which, by itself, is subject to property taxation. Pursuant thereto, working interests alone should be considered for assessment purpose, and upon the transfer of an entire working interest, whether from a fee holder to an operator or from an operator to another operator, the entire interest should be revalued at market value as of the date of transfer.

Second, in instances in which term oil and gas leases have been executed, you ask if the working interest alone is transferred, is that transfer considered a transfer equivalent to a fee interest or is it the term of the lease which determines whether there has been a change in ownership?

Where mineral reserves measured in terms of years exceed lease periods for which working interests therein have been entered into, both working interests and reversionary interests are created. In such instances, the transfers of working interests are not equivalent to transfers of fee interests since leases are not equivalent to fee interests. Rather, the terms of the lease periods are determinative (Revenue and Taxation Code section 61(c)(1)), and where lease periods are for terms less than 35 years, transfers thereof do not constitute changes in ownership. Where lease periods are for terms more than 35 years, however, transfers thereof are changes in ownership, with the result that the transfers give rise to reappraisals.

JKM:fr

cc: Mr. J.J. Delaney
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Mr. Gordon P. Adelman
Mr. Robert H. Gustafson
Mr. Gene Mayer
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