

OFFICE OF THE CITY AUDITOR

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GARY L. BURROUGHS, CPA City Auditor

September 21, 2004

Michael A. Killebrew, Acting Director Financial Management

At your request, we have applied certain review procedures to the Oil Production Tax collection records maintained by the Tidelands Accounting Division. The purpose was to determine if oil tax revenue due the City has been properly received. Additionally, we reviewed Billing and Collection (B&C) records of Oil Code Enforcement to verify that all "wellheads" in the City were captured. B&C system generates Well Permit Fee invoices that are sent annually to oil producers.

Procedures performed include:

- Interviewing key personnel involved in Oil Production Tax and Well Permit Fee collection.
- Obtaining and reviewing "Quarterly Report of Oil Production Tax" (Form F535) submitted by operators producing oil from wells located in the City.
- Reviewing oil production data as reported by the California Department of Oil, Gas, and Geothermal Resources (DOGGR).
- Obtaining and reviewing digitized mapping data generated by the City's Geographic Information System (GIS) to verify well location.
- Identifying and resolving discrepancy in oil production as reported to the City versus production reported to the DOGGR.
- Comparing the City's database of active wells to the DOGGR listing of active wells in Long Beach.

Based on the results of the procedures performed, we:

- Billed and collected an additional \$113,489 in unreported oil production tax and penalties from oil producers.
- Recommend that the City's policy on production tax exemption for wells located in the Los Angeles Flood Control District be clarified.

Oil Production Tax and Well Permit Fee Collection Review September 21, 2004 Page 2 of 8

- Recommend some enhancements in oil producers reporting requirements and periodic review procedures by the City to improve oversight, which may result in additional revenue to the City.
- Support the City's continued effort to evaluate an increase to the oil production tax amount per barrel. We understand that in order for the tax increase to become code, it has to be passed by the voters as a City ballot measure with first opportunity being April 2006.

Complete details on all issues and recommendations are included in the attached report.

We would like to express our appreciation to management and staff of the Tidelands and Compliance Section and the Department of Planning and Building for their cooperation and valuable assistance to us during the course of this review.

Sincerely,

GARY L. BURROUGHS, CPA

City Auditor

By

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Oil Production Tax and Well Permit Fee Collection Review September 21, 2004 Page 3 of 8

Background

Oil Production Tax

In accordance with the Long Beach Municipal Code 3.80.221, a tax of fifteen cents per barrel (bbl) is assessed on oil produced from all wells located in the City. The tax shall be paid on a fiscal year basis, payable quarterly. Oil operators use the City's "Quarterly Report of Oil Production Tax" form (F535) to self-report production and remit the corresponding tax by the following dates:

Due by:	March 31	June 30	September 30	December 31
Report for Quarter	December January	March April	June July	September October
Qualter	February	May	August	November

Failure to pay production tax within the quarter month results in the assessment of a twenty five percent (25%) penalty on the total amount due. Additional penalties are assessed in the following manner: ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty five percent penalty if the tax remains unpaid; up to a maximum of one hundred percent (100%) of the tax payable on the due date. Chapter 3.80.221 of the City's municipal code is reflected in **Attachment A**.

Well Permit Fees

Chapter 12.20.020 of the Long Beach Municipal Code requires operators maintaining any well in the City for petroleum purposes, whether active or suspended, to obtain a permit from the Department of Planning and Building. The Oil Code Enforcement Section bills operators annually. The well permit fee is \$215.00 per well, and a twenty five percent (25%) penalty is assessed on fees not received within one month of the due date.

Review of Compliance

To substantiate payment of oil production tax, we reviewed production reported to the City by oil producers for the 1st Quarter 2003 (Dec 2002 – Feb 2003) and 3rd Quarter 2002 (Jun 2002 – Aug 2002). We compared these production levels with amounts reported to the Department of Oil, Gas, & Geothermal Resources (DOGGR). We noted any discrepancies and researched them by:

- (1) Evaluating whether the wellhead fell within City proper if it was situated near the City border.
- (2) Contacting the producer to determine the reasons for the discrepancies and followed up on the reasons given.

Oil Production Tax and Well Permit Fee Collection Review September 21, 2004 Page 4 of 8

Oil production reported to the City for the 1st Quarter 2003 from operators for wells subject to Long Beach Oil Production Tax is summarized in the following table:

Operator	bbls reported to the City
Barco Oil Co.	192
Brietburn Energy	42,864
Cather & Southwick	106
Cather Barnes & Co.	826
Cecile M. Colvin	627
Charles E. Cather	839
Estate of J.E. Cather	135
ChevronTexaco Expl. & Prod.	<u>-</u>
Elliot & Ten Eyck, Ltd	8,653
Finco Oil Co.	708
Global Oil Production, LLC	8,461
Graner Oil Co.	10,664
H&L Operators	6,057
Herley Kelley Co.	2,129
Lansdale Co.	6,325
Mitchell-Grossu Oil Co.	503
Mitchwil Investments, LLC	717
Pacific Energy Resources	13,360
P&M Oil Co.	501
S&C Oil Co.	4,328
Signal Hill Petroleum, Inc.	49,718
Terra Expl. & Production Co.	2,515
The Termo Co.	27,031
Thums Long Beach Co.	2,965,533
Tidelands Oil Production Co.	466,325
Total Reported Production	3,619,117

Based on production of roughly 3.6 million barrels per quarter, the City earned an average \$540,000 each quarter in oil production tax.

Summary of Findings

ChevronTexaco Expl & Prod. Co (CTEP).

When we reviewed the digitized mapping data provided from the Geographic Information System (GIS) by Technology Services, we identified ten (10) wells operated by CTEP that are located within City limits. The location, on which these wells exist,

Oil Production Tax and Well Permit Fee Collection Review September 21, 2004 Page 5 of 8

known as the Southeast Area Development and Improvement Plan (SEADIP) area, became City property through annexation in October 1997.

We noted that no production tax had been received from CTEP for these wells. We reviewed production data on these wells as reflected in DOGGR database for the period 4th Quarter 1997 through 3rd Quarter 2003 to calculate the amount due. We then applied the penalty assessment in accordance with the Code to arrive at the total amount due of \$68,550.49. CTEP paid the amount in full.

Signal Hill Petroleum, Inc. (SHP).

Upon review of the supporting documentation for oil production tax received from SHP, we noted that total production reported was understated during the period March 2000 through May 2003. We were told that this was caused by a format error on the spreadsheet used to add the barrels produced from the wells located in the City. As a result of this error SHP underpaid its oil production tax. We calculated the underpayment and applied the corresponding penalty. The total amount due the City was \$44,938.14. SHP concurred with our finding and paid the subject tax; however, they requested a waiver of the penalty assessment. In consultation with the City Attorney's Office it was determined that the Long Beach Municipal Code does not allow for mitigation of the penalty. SHP was notified to make payment of the penalty assessed. SHP subsequently paid the penalty.

Summary of Oil Production Tax Collected by the Auditor's Office

Company	Tax	Penalty	Total Received
ChevronTexaco Expl. & Prod. Co.	\$34,920.30	\$33,630.19	\$68,550.49
Signal Hill Petroleum, Inc.	23,590.35	21,347.79	44,938.14
Total	\$58,510.65	\$54,977.98	\$113,488.63

Other Matter for Consideration

Pacific Energy Resources

We noted that Pacific Energy Resources (PER) operates a number of wells in the Los Angeles County Flood Control District (LACFCD). These wells are located in the flood control channel adjacent to the Los Angeles River and fall within the boundary of the City. There are 31 active wells in the channel, of which PER claims exemption status from well permit and oil production tax for 12 wells.

Oil Production Tax and Well Permit Fee Collection Review September 21, 2004
Page 6 of 8

We contacted PER to determine the basis for exemption and received documentation that pointed to conflicting criteria. PER forwarded documentation that essentially based exemption on either of the following criteria:

- Exemption based on an action entitled "Continental Corp. vs. City of Long Beach" which purportedly ruled that wells under the jurisdiction of the county flood control district shall be exempt from City taxes.
- 2. Exemption based on whether a well's "producing interval" is under County property.

The Long Beach Municipal Code states that surface location of the well determines whether a well is within the City regardless of where the well hole may be bottomed. Our analysis of the well locations indicated that all 31 wells are located within the City. We have referred the matter to the City Attorney for further evaluation on the appropriateness of these exemptions.

Recommendation for Process Enhancement

As indicated above, the City receives Quarterly Report of Oil Production Tax, form F535, from oil producers along with tax payment. Well description is required information on form F535, however, it is not specific as to what information is to be supplied. Consequently, the type of information submitted by oil producers varies.

We recommend the following process enhancement to strengthen the monitoring of oil production tax by Financial Management:

- Communicate to all oil producers in the City the requirement to submit additional detail with their submission of form F535. The additional information should include oil production for each well by month indicating each well's API identifier. We note that some producers already submit well production information by month. We understand that in order to make such information submission mandatory, it may require a change in the municipal code.
- 2. Obtain a list of all wells, by producer, from the City's Billing & Collections (B&C) system that is used to generate well permit invoices.
- 3. Compare list of wells from B&C to the detailed list of wells provided quarterly by the oil producers.
- 4. Additionally, the DOGGR database may be queried periodically to determine if any wells within the City are missing from the B&C system or from oil production tax reporting. The DOGGR production data is available through the Department of Conservation: www.consrv.ca.gov. The longitude & latitude coordinates could be obtained from the DOGGR website and entered into the GIS system to

Oil Production Tax and Well Permit Fee Collection Review September 21, 2004
Page 7 of 8

determine if the well head falls within City limits. This will be a three-way match on wells between the City's B&C, oil production tax data reported to the City, and the DOGGR database. **Attachment B** outlines the steps in getting the DOGGR well listing.

- 5. Download oil production data by well including API number for each well from the DOGGR. **Attachment C** outlines the steps in getting this information.
- 6. Compare production reported to the City with well production reported to DOGGR for each oil producer operating in Long Beach.

All comparisons of databases can be automated. All Data from the DOGGR can be downloaded directly into a Microsoft Excel spreadsheet. Hence, if the information from the B&C system is also downloaded into a Microsoft Excel spreadsheet, then the comparison process can easily be automated. If oil producers can provide their quarterly well production information electronically to the City, by month and well, the comparison between what they report to the City and what they report to the DOGGR can also be automated.

Oil Production Tax Amount

Oil production tax is currently 15¢ per barrel (bbl) of oil produced from wells that have their wellheads in the City. The last time oil production tax was changed was in 1990 when it was increased from 12¢/bbl of oil produced in excess of 300 bbl per quarter to its present 15¢/bbl on all oil produced. Financial Management and the Budget Oversight Committee of the City Council have been evaluating increasing oil production tax. Article 13C of the California Constitution (Proposition 218) requires that for the City to increase tax it needs to have a ballot measure "consolidated with a regularly scheduled general election for members of the governing body of the local government, except in cases of emergency declared by a unanimous vote of the governing body." This implies that the first opportunity for such ballot measure will be in April 2006.

One possible option to consider is to have oil production tax a sliding scale tied to the price of oil instead of a flat amount per barrel. This will be fair to oil producers and will not hamper oil production in times of low oil prices. For simplicity of calculating and monitoring, oil production tax could be set monthly and tied to a widely published index, even though the index price may be different than locally produced oil prices because of quality, grade and location. One such index could be West Texas Intermediate-Cushing (WTI-Cushing) as published on the 15th day of the month. Also, a tax floor could be established and the tax rate could be progressive above a certain price. An example of how the oil production tax could be effected is presented in the table below. In our example, we used 25¢/bbl as the oil production tax floor for WTI below \$20/bbl. Between \$20/bbl and \$30/bbl WTI, we increased the tax rate at 1¢/bbl for every \$1 increase in the price of oil. Above \$30/bbl WTI, we increased the tax rate is to allow

oil producers to recover their production cost and make a healthy profit before sharing more in what will be a windfall profit going dollar-for-dollar to the bottom line.

mid month WTI-Cushing \$/bbl	oil production tax ¢/bbl
Below 20	25
20 - 20.99	26
21 - 21.99	27
22 - 22.99	28
23 - 23.99	29
24 - 24.99	30
25 - 25.99	31
26 - 26.99	32
27 - 27.99	33
28 - 28.99	34
29 - 29.99	35
30 - 30.99	37
31 - 31.99	39
32 - 32.99	41
33 - 33.99	43
34 - 34.99	45
35 - 3 <u>5.99</u>	47
36 - 36.99	49
37 - 37.99	51
38 - 38.99	53
39 - 39.99	55
40 - 40.99	57
41 - 41.99	59
42 - 42.99	61
43 - 43.99	63
44 - 44.99	65
additional \$/bbl band	additional 2¢/bbl

Alternatively, oil production tax can be tied to revenue generated from actual sale. However, this is a more complicated approach, especially since some Wilmingtom Field oil prices will not be known until over a year after the sale date.

In addition, natural gas production, which is currently not taxed by the City, could also be subjected to production tax. Oil industry equates 6 thousand cubic feet (MCF) of gas to one barrel of oil equivalent (BOE). Another consideration is to stay in line with the California oil severance tax which equates every 10 MCF to 1 BOE for tax purposes.

A survey of severance and ad valorem taxes charged by the various states, as of October 2002, that was published by the Interstate Oil and Gas Compact Commission, is presented in **Attachment D**. As the survey shows, California is one of the lower taxing states, which implies there is more room for taxation.

3.80.221 Tax on oil production.

Notwithstanding any other provision of this chapter 3.80, the provisions of this section 3.80.221 and section 3.80.223 shall apply to the business license tax on the business of oil production.

A. Every person conducting, managing or carrying on the business of oil production from any well located in the city, including the city when functioning in the capacity of a unit operator, shall pay an annual business license tax to the city of fifteen cents (\$0.15) per barrel produced.

B. The sum or sums paid shall be on a per fiscal year basis, payable quarterly. Production for the three (3) months immediately prior to the quarter month shall constitute the measurement of the amount due on or before the last day of the quarter month.

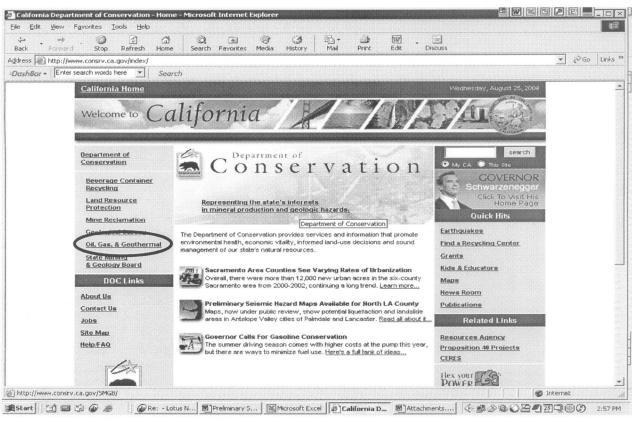
The applicant who fails to pay such production tax within the quarter month shall pay in addition to the taxes a penalty for nonpayment in the sum equal to twenty five percent (25%) of the total amount on the first day of the month following the close of the calendar quarter. Additional penalties will be assessed in the following manner: ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty five percent (25%) penalty if the tax remains unpaid; up to a maximum of one hundred percent (100%) of the tax payable on the due date.

C. The person subject to the payment of the tax shall, before the business tax for each quarter becomes delinquent, file with the director of financial management a written statement setting forth the number of barrels of oil produced by each well during the pertinent three (3) month period of production upon which the tax due is to be calculated, and such person shall pay at such time the amount of the business tax computed upon the measure of the tax reported in the statement. The written statement shall be made upon a form prescribed by the director of financial management and shall include a declaration substantially as follows:

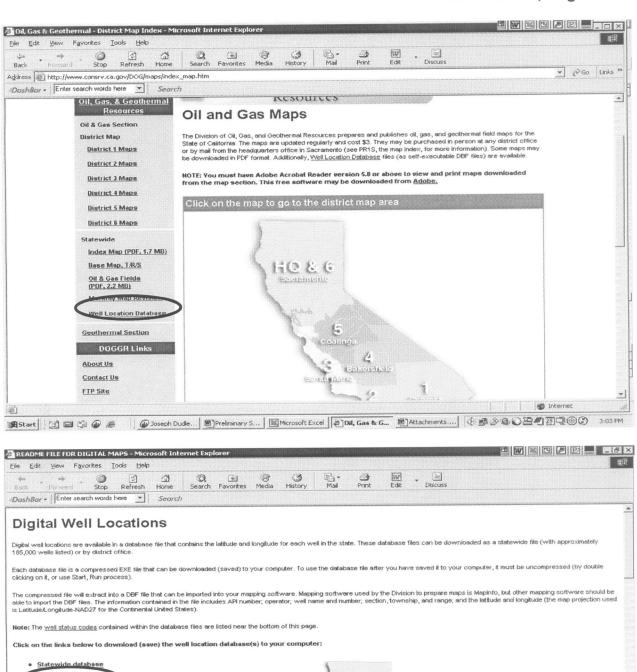
"I declare under penalty of making a false declaration that I am authorized to make this statement, and that to the best of my knowledge and belief it is a true, correct and complete statement made in good faith for the period stated, in compliance with the provisions of the Long Beach Municipal Code."

Such statements shall not be conclusive against the city as to the information set forth therein, nor shall the filing of a statement preclude the city from collecting by appropriate action any additional tax that is later determined to be due and payable.

- D. For the purpose of this section a well shall be deemed to be located in the city if the surface location of the well or the surface of the well itself, is located in the city regardless of where the hole of the well may be bottomed.
- E. For the purpose of this section "oil" has the meaning as defined in section 12.04.300.
- F. The payment of the license as provided in this section shall permit the engaging in any of the following businesses without the payment of an additional business license tax: oil well, injection well, or water source well drilling or servicing operations; refining oil or petroleum products and producing the byproducts thereof; marketing, selling and distributing oil or any petroleum products or byproducts thereof at wholesale; or maintaining tankage in connection with any of the above business activities; except that nothing in this section shall be deemed to apply to the operation of automobile filling/service stations. (Ord. C-6751 § 1, 1990; Ord. C-6259 § 1 (part), 1986).







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District 1 database

District 2 database

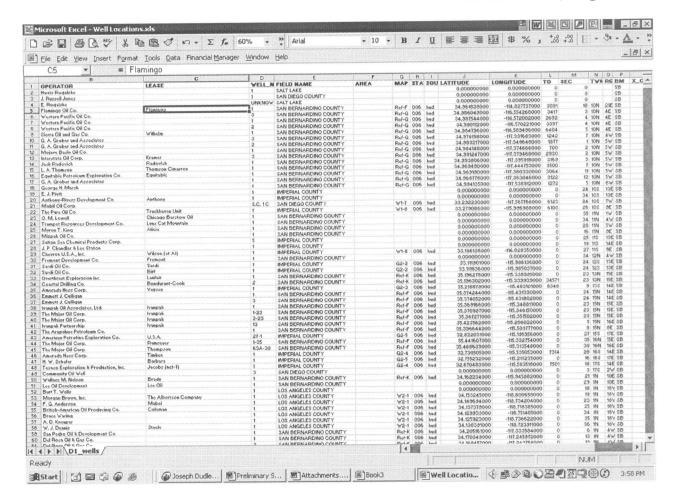
District 3 database

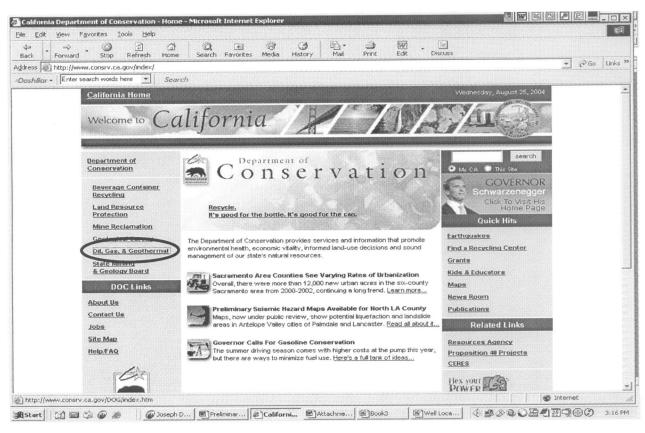
District 4 database

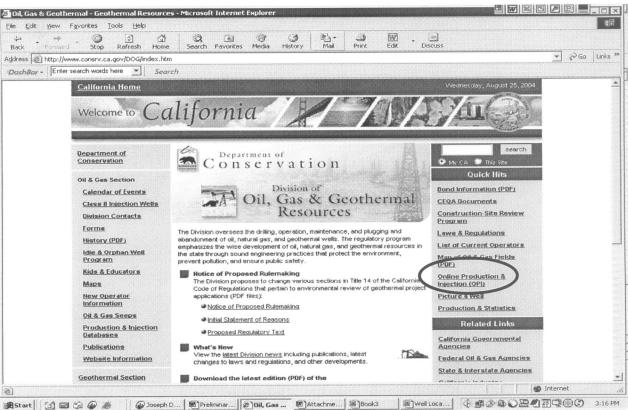
District 5 database

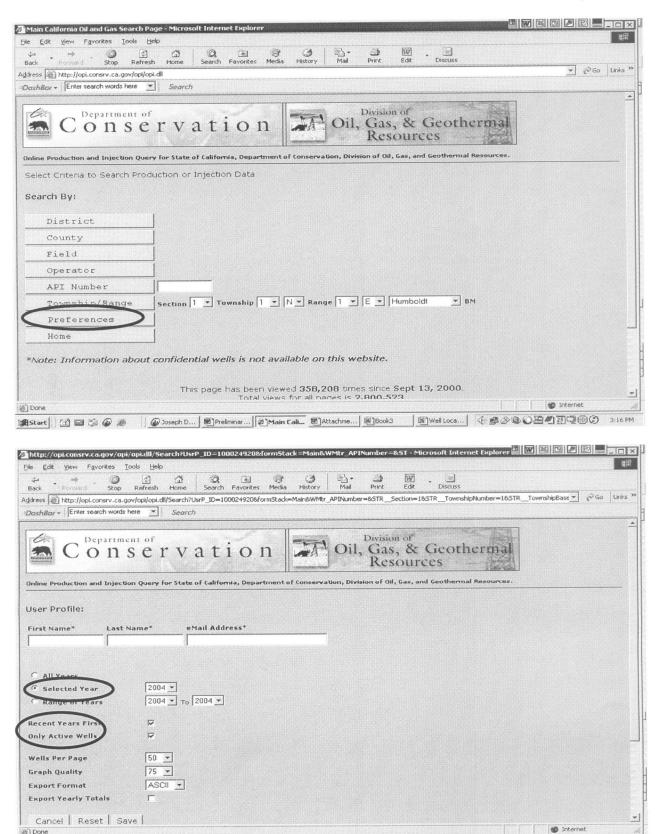
District 5 database

Attachment B, Page 3 of 3

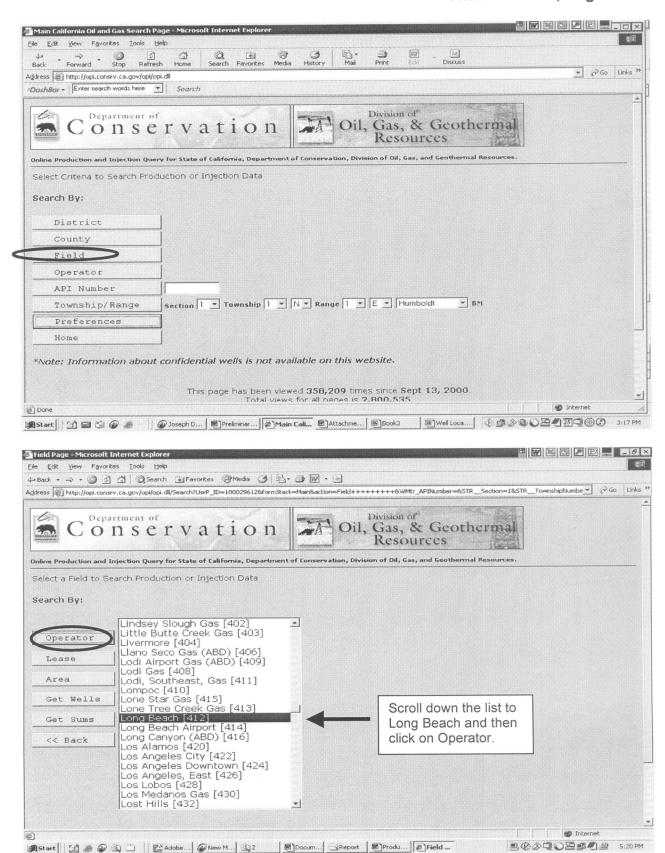


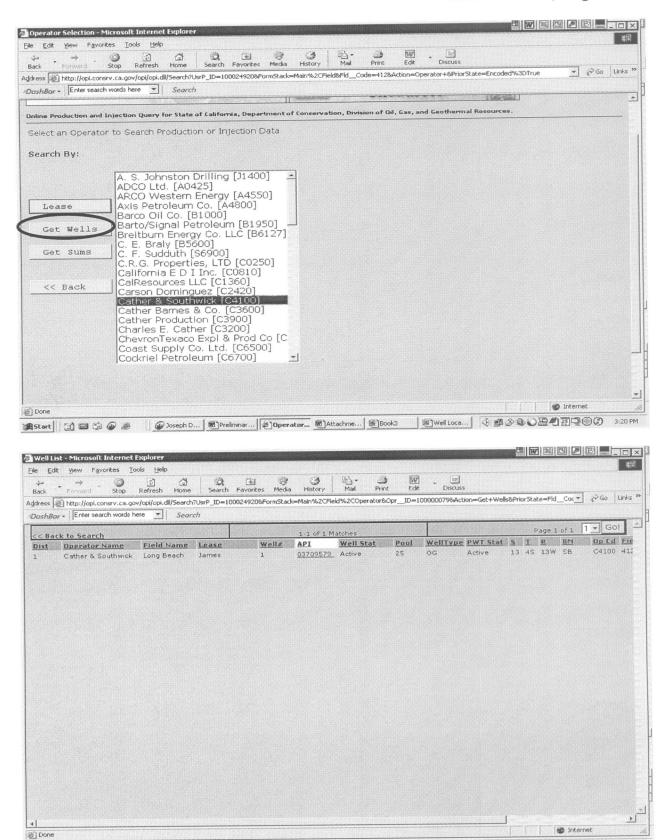




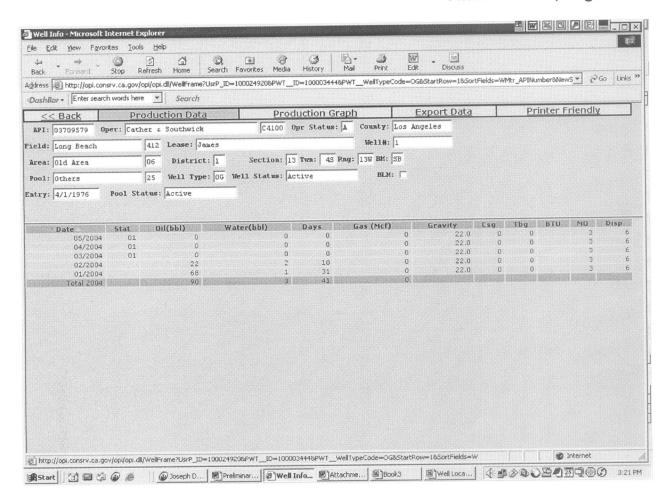


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Attachment C, Page 5 of 5



Attachment D, Page 1 of 2

State Name	Oil Severance Tax	Oll Ad Valorem Tax	Misc. Oil Tax	Total Oil Tax Burden	Gas Severance Tax	Gas Ad Valorem Tax	Misc. Gas Tax	Total Gas Tax Burden
Alabama	10.00%	0.00%		10.00%	10.00%	%00:0		10.00%
Alaska	0 to 15.0%	2% of assessed value		Avg. 9.9% of taxable value	0 to 10%	2% of assessed value		Avg. 5% of taxable value
Arizona	3.437% Avg.	13.5642% Avg.		17.0012% Avg.	3.437% Avg.	13.5642% Avg.		17.0012% Avg.
Arkansas	4.0 to 5.0%	Variable by county	Conserv. Assess. 43 mills/bbl	4.0 to 5.0% + co. ad valorem tax	0.3 of 1 cent/MCF	Variable	Gas conserv. Assessment = 9 mills/MCF	0.3 of 1 cent / MCF + co. ad valorem tax
California	\$0.0421689 per barrel	0.00%		\$0.0421689 per barrel	\$0.0421689 per 10,000 cubic feet	0.00%		\$0.0421689 per 10,000 cubic feet
Colorado	2 to 5%	4 to 10%		%01 ot S	2 to 5%	4 to 10%		5 to 10%
Florida	%8	0.00%		%8	12.5% per MCF	%00.0		12.5% per MCF
Georgia	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production
Idaho	2.00%	%00:0		2.00%	2.00%	0.00%		2.00%
Illnois	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production
Indiana	1.0% or \$0.24 per barrel	%00'0		1.0% or \$0.24/barrel whichever is greater	1.0% or \$0.03 per MCF	0.00%		1.0% or \$0.03 MCF whichever is greater
Kansas	4.33%	Approx. 4% of revenue		Approx. 8% of revenue	4.33%	Approx. 10% of revenue		Approx. 15-17% of revenue
Kentucky	4.50%	Approx. 1%		Approx. 5.5%	4.50%	Approx. 1%		Approx. 5.5%
Louisiana	Full rate - 12.50% of value		3.125% stripper rate* (*exempt if the gross taxable value is less than	3.125% to 12.50%	Full rate - 12.2 cents/MCF	0.00%	Gas = 3 cents/MCF - Gas Well Gas = 1.3 cents/MCF	1.3 cents up to 12.2 cents per MCF
Maryland	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production
Michigan	6.60%	%00:0		%09:9	9:00%	0:00%		5.00%
Mississippi	6.00%	0.00%		6.00%	6.00%	0:00%		8:00%
Missouri	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production
Montana	interest, First 12 mo. = 0.8%, Pre 1999 = 12.8%, Post 1999 = 9.3%		Stripper oil production 1- 10 barrets/day 5.8% > than 10 = 9.3%	Variable depending on working or non-working interest	interest, First 12 mo. = 0.8%, Pre 1999 = 15.1%, Post 1999 = 9.3%		Working interest = 11.3%, Non-working = 15.1%	Variable depending on working or non-working interest

Attachment D, Page 2 of 2

State Name	Oil Severance Tax	Oll Ad Valorem Tax	Misc. Oil Tax	Total Oil Tax Burden	Gas Severance Tax	Gas Ad Valorem Tax	Misc. Gas Tax	Total Gas Tax
Nebraska	3.00%	%00:0	Stripper oil 2% severance tax	3.00%	3.00%	%00:0		3.00%
Nevada			Admin fee = 100 mills per barrel	\$0.10 per barrel			Admin fee = 100 mills per 50,000 per cubic feet	\$0.10 per 50,000 cubic feet
New Mexico	3.75%	Variable by county	School = 3.15%, Conservation = .19%	Approx. 8.29%	3.75%	Variable by county	School = 4.0%, Conservation = .19%	Approx. 9.14%
New York	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production
North Carolina	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production
North Dakota	5.00%	0.00%	Extraction Tax 6.5%, 4.0% or 0%	11.5%, 9.0% or 5%	\$0.04 per MCF, adjusted annually per consumer price index	%00:0		\$0.04 per MCF, adjusted annually per consumer price index
Ohio	10 cents per barrel	Variable by county	Energy Education \$.01 bbl/oit	.11 cents per barrel of oil	2.5 cents per MCF	Variable by county	Energy Education \$.001/MCF (one tenth of one cent)	2.6 cents per MCF
Oklahoma	7.00%		Excise/Marginal Well	Variable	7.00%	%00.0	Excise/Marginal Well	Variable
Oregon	6.00%	0.00%		%00'9	6.00%	0.00%		900.9
Pernsylvania	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production
South Carolina	No state tax levied on oil production	No state tax levied on oil No state tax levied on oil production production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on gas production	No state tax levied on gas production	No state tax fevied on gas production	No state tax levied on gas production
South Dakota	4.5% of value	Variable by county	Conservation Tax 2.4 mils or .24%	4.74% of value	4.5% of value	Variable by county	Conservation Tax 2.4 mils or .24%	4.74% of value
Termessee	3.0% of sale price	%00'0		3.0% of sale price	3.0% of sale price	0.00%		3.0% of sale price
Texas	4.60%	Variable by county	Oil Spill Fee, Reg. Tax	Variable	7.50%	Variable by county	Oil Field Fee	Variable
Utah	3.0% to 5.0%	Variable		3.0% or greater	3.0 to 5.0%	Variable		3.0% or greater
Virginia	1/2 of 1% of gross receipts		Up to 1% Road Improvement Tax	Up to 1 1/2 of gross receipts	Up to 2% of gross receipts		Up to 1% road Improvement Tax	Up to 3% of gross receipts
Washington	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on oil production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production	No state tax levied on gas production
West Virginia	5.00%	%00.0		5.00%	5.00%	%00'0		5.00%
Wyoming	6.00%	5.9% to 7.7%	4% stripper well tax	9.9% to 13.7%	6.00%	5.9% to 7.7%		11.9% to 13.7%