

14. (ACQUISITION BY THE UNITED STATES OF LANDS OCCUPIED BY THE U. S. NAVY DESTROYER BASE, SAN DIEGO, SAN DIEGO COUNTY, CALIFORNIA, UNDER THE PROVISIONS OF SECTION 126, GOVERNMENT CODE - W.O. 763) The Commission was informed as follows: On July 6, 1950, the Commission authorized the Executive Officer to order and conduct the requisite hearings pursuant to Section 126 of the Government Code and under the rules and regulations adopted by the Commission on June 14, 1949, on applications for consent to acquisition by the United States of lands comprising a number of installations, among which was the United States Navy Destroyer Base at San Diego, California. On May 1, 1950, an application for acceptance of jurisdiction by the United States of the lands pertaining to this installation was executed by Francis P. Matthews, Secretary of the Navy.

Pursuant to said application, arrangements were made to conduct the requisite public hearings at San Diego, California, in connection with other similar hearings scheduled for the same day and place. The notice of such public hearing was published in the San Diego Union, at San Diego, California, on September 1, 1950, and service on the Clerk of the Board of Supervisors of San Diego County was made on August 22, 1950. Notices were thus published and served in compliance with Section 2702, California Administrative Code, Title 2.

Hearings were held by the Executive Officer at Headquarters, U. S. Naval Station, San Diego, California, beginning at 10 A.M., September 19, 1950. These hearings were adjourned to and completed on October 17, 1950. A record of the hearing was made and the transcript was made a part of the Commission record in this case. The Attorney General was represented by Mr. Walter Rountree, Deputy Attorney General.

Appearances were made on behalf of the Navy by the Commanding Officer of the U. S. Naval Station, San Diego, California, Captain William B. McHugh, U. S. Navy, also by Commander L. N. Evans and Mr. R. G. Muench representing the 11th Naval District. No other appearances were made in support of this application and none were made against it.

Section 126 of the Government Code requires that the State Lands Commission must have found and declared to have occurred and to exist the fulfillment of certain specified conditions. Oral and documentary evidence were presented and received at the hearings in support of the contention of the applicant that these conditions have been met and complied with. Conclusions in regard to their presentation are as follows:

Captain William B. McHugh, U.S. Navy, Commandant of the U. S. Naval Station, San Diego, California, testified to the effect that the Station is now known as the U. S. Naval Station and was formerly designated as the U. S. Destroyer Base. He also testified that the mission of the installation has been the same since its inception which, in general, is to support locally assigned vessels and to render limited support including drydocking the vessels of the reserve fleet as well as active ships of the Navy. In addition it provides logistic support to other commands which may be located from time to time in the vicinity. It is therefore believed that the acquisition was made and is being maintained for the "erection of forts, magazines, arsenals, dockyards, and other needful buildings within the purview of clause 17, Section 8, Article I of the Constitution of the United States".

The second condition requires that a finding must be made that "the acquisition must be pursuant to and in compliance with the laws of the United States". The property was acquired by the United States by deed from the City of San Diego dated May 18, 1949, and recorded October 7, 1949, in Book 3344, Page 309, Official Records of the City of San Diego. This property consists of reclaimed tide and submerged lands which were granted by the State of California to the City of San Diego under the provisions of the Statutes of 1911, Chapter 700. Conveyance to the Department of the Navy was made under the Statutes of 1929, Chapter 808, the provisions of which had been complied with by all parties concerned. Certificate of title has been filed with the Commission. Evidence was presented by Mr. R. G. Muench, Director of Property Administration, Eleventh Naval District, that the land described in the application had been acquired pursuant to and in compliance with the laws of the United States and that the latter is now possessed of good and sufficient fee title.

The third condition upon which a finding is required is to the effect that "the United States must in writing have assented to acceptance of jurisdiction over the lands upon and subject to each and all of the conditions and reservations in this section prescribed". Under the provisions of an Act of Congress of October 9, 1940, Public Law 825 "the head or other authorized officer of any department of the Government" may accept jurisdiction from the State. A letter from the Department of the Navy dated May 1, 1950, accepting jurisdiction over the subject installation on behalf of the United States and signed by Mr. Francis P. Matthews, Secretary of the Navy, was received by the Division of State Lands on May 8, 1950. This acceptance is made subject to each and all of the conditions and reservations prescribed in Section 126, Government Code, State of California and is, therefore, in accordance with law and with the rules of the Commission.

The fourth requirement is that the Commission must have found and declared that the acquisition is in the interest of the State. The Commandant of the U. S. Naval Station testified as to the substantial amount of material and supplies obtained from civilian sources in San Diego and Southern California counties for the support and operation of the station. As many as 1400 civilians, most of whom reside in the San Diego area, are employed at the station and there is a considerable military payroll disbursed there. The station is a part of the general national defense program.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE STATE LANDS COMMISSION DETERMINES, WITH RESPECT TO THOSE CERTAIN LANDS ACQUIRED AND NOW USED BY THE DEPARTMENT OF THE NAVY OF THE UNITED STATES FOR THE NAVAL DESTROYER BASE (NAVAL STATION) SAN DIEGO COUNTY, CALIFORNIA, SAID LANDS BEING DESCRIBED AS FOLLOWS:

Beginning at a point on the U. S. Bulkhead Line, as said Bulkhead Line is now established for the Bay of San Diego, distant 899.38 feet southeasterly from Government Station No. 300; thence south  $40^{\circ} 38' 36''$  east following along the said Bulkhead Line a distance of 3024.02 feet, more or less, to Government Station No. 301; thence south  $26^{\circ} 56' 01''$  east along said Bulkhead Line a distance of 275.98 feet, more or less, to an intersection with the boundary line between The City of San Diego, California, and National City, California; thence south  $71^{\circ} 43' 05''$  west along the southwesterly prolongation of said boundaryline a distance of 1011.52 feet, more or less, to an intersection with the U. S. Pierhead Line, as said U. S. Pierhead Line is now established for the Bay of San Diego; thence northwesterly following along the said U. S. Pierhead Line to a point which is 756.96 feet southeasterly from Government Pierhead

Station No. 207; thence at right angles north  $49^{\circ} 21' 24''$  east a distance of 1000 feet, more or less, to the point or place of beginning; containing 71.2 acres of submerged land, of U. S. Naval Station (Destroyer Base), San Diego, California.

Also, beginning at Government Station No. 300 on the U. S. Bulkhead Line, as said Bulkhead Line is now established for the Bay of San Diego; thence south  $40^{\circ} 38' 36''$  east along the said Bulkhead Line a distance of 899.38 feet to a point; thence at right angles south  $49^{\circ} 21' 24''$  west a distance of 1000 feet, more or less, to an intersection with the U. S. Pierhead Line, as said Pierhead Line is now established for the Bay of San Diego; thence north  $40^{\circ} 38' 36''$  west along the said U. S. Pierhead Line a distance of 756.96 feet, more or less, to Government Station No. 207; thence north  $41^{\circ} 15' 04''$  east a distance of 1010.07 feet, more or less, to the point or place of beginning; containing 19.0 acres of submerged land, being a part of the U. S. Naval Station (Destroyer Base), San Diego, California.

The lands hereinabove described are more particularly delineated upon Harbor Department Drawing No. PL 891-B-13 dated March 11, 1949, a copy of which is attached hereto marked Exhibit "A" and by this reference made a part hereof.

THAT THE CONDITIONS PRESCRIBED IN SUBDIVISION (a), (b) AND (c) OF SECTION 126 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA HAVE BEEN FOUND TO HAVE OCCURRED AND TO EXIST AND THAT SUCH ACQUISITION IS IN THE INTEREST OF THE STATE; ALSO THAT THE EXECUTIVE OFFICER BE DIRECTED TO FILE A CERTIFIED COPY OF THIS FINDING IN THE OFFICE OF THE SECRETARY OF STATE AND HAVE ONE RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF SAN DIEGO.

15. (AUDIT REPORT, STATE LANDS COMMISSION, JULY 1947 TO JULY 1949, RENTAL FOR PURPRESTURES TIDE AND SUBMERGED LANDS - W.O. 738) The Commission was informed as follows: On page 10, item 2, in the Summary of Recommendation, Division of Audits states "An Attorney General's Opinion should be requested on Leases P.R.C. 139, 153, 187, 218 and 220, regarding occupancy of the premises prior to the lease payment without payment of rental".

This recommendation appears to involve a matter of policy. Discussions have been held with the Attorney General's office who has confirmed that it is a matter of policy. As the Commission is aware, there are many places within the State where there are purprestures but even at this date no lease arrangements have been made with the occupants. This condition is the result of lack of legislation giving authority to any sub-divisions of the State to lease such lands, which authority was conferred upon the State Lands Commission by the State Lands Act of 1938. The other condition that with the limited staff of the Commission, these situations are being cleared up just as rapidly as possible. One condition that has influenced this problem is the earlier lack of policy of the Commission as to effective date of leases and the changes in this policy as that have developed since the passage of the State Lands Act.

The fundamental policy followed in the issuance of leases is that the lease takes the date of the Commission action unless there are qualifications considered at the time of the Commission action. A modification of this first policy was the action of the Commission of April 14, 1948, item No. 15 thereof.