

10. (ACQUISITION OF FOREST LANDS IN HUMBOLDT COUNTY BY THE UNITED STATES - W.O. 801) The Commission was informed as follows: At its meeting on November 20, 1950, the Commission approved the proposed acquisition by the Department of Agriculture of the United States of certain lands in Humboldt County, California, for the purpose of incorporating them into a unit of the Six Rivers National Forest. The Commission's action was taken as the result of a public hearing held in Eureka, California, and the findings of the Executive Officer as the result of the presentations made at that hearing. The Commission directed the Executive Officer to file a certified copy of the Commission's action in the office of the Secretary of State and have one recorded in the office of the County Recorder of Humboldt County, and further directed that the effective date of the Commission's finding would be the date of its filing with the Secretary of State.

Shortly thereafter an injunction suit was brought against the Blue Creek Redwood Company, Inc., the owner of the property proposed to be acquired by the U. S. Department of Agriculture, and damages were sought in the event the Blue Creek Redwood Company completed its negotiations with the U. S. Department of Agriculture. As a result, the Executive Officer was requested by the Attorney for the applicant to withhold the filing of the action of the Commission with the Secretary of State in the hope that matters could be properly adjusted before November 30, 1950, the deadline against which the U. S. had to work. Negotiations were unsuccessful with the result that the Executive Officer was requested to continue to withhold filing until a letter could be received from the Department of Agriculture withdrawing its application for assent by the State to the acquisition. Such letter of withdrawal was received by the Executive Officer on December 8, 1950.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED RESCINDING THE ACTION TAKEN BY THE COMMISSION AT ITS MEETING ON NOVEMBER 20, 1950, MINUTE ITEM NO. 27, AND WITHDRAWING ITS APPROVAL OF THE ACQUISITION BY THE UNITED STATES OF THE FOLLOWING LANDS:

NW $\frac{1}{4}$ OF SECTION 17 AND FRACTIONAL N $\frac{1}{2}$ OF SECTION 18, T. 12 N., R. 2 E., H.M., SOMETIMES KNOWN AS THE "AH FAH TRACT" OR PARCEL "A" OF THE BLUE CREEK REDWOOD COMPANY LANDS.

11. (ACQUISITION BY THE UNITED STATES OF LANDS OCCUPIED BY THE U. S. NAVAL FUEL DEPOT, RICHMOND, CONTRA COSTA COUNTY, CALIFORNIA, UNDER THE PROVISIONS OF SECTION 126 GOVERNMENT CODE - W.O. 482) The Commission was informed as follows: On July 26, 1949, 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 Naval Fuel Depot at Point Molate, Richmond, California. On April 17, 1950, an application for acceptance of jurisdiction by the United States of the lands pertaining to this installation was executed by the Honorable Francis P. Matthews, Secretary of the Navy. On October 23, 1950, the Commission authorized the Assistant Executive Officer to conduct the hearing in this case.

Pursuant to said application, arrangements were made to conduct the requisite public hearing at Alameda, California, in connection with other similar hearings scheduled for the same day and place. The notice of such public hearing

was published in the Richmond Independent, Richmond, California, on October 6, 1950, and service on the Clerk of the Board of Supervisors of Contra Costa County was made on October 5, 1950. Notices were thus published and served in compliance with Section 2702, California Administrative Code, Title 2.

The hearing was held by the Assistant Executive Officer at Headquarters, U. S. Naval Air Station, Alameda, California, beginning at 9 A.M., October 21, 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 Herbert E. Wenig, Esq., Deputy Attorney General.

Appearances were made on behalf of the applicant by Captain Thomas L. Becknell, Jr., Executive Officer of the Naval Supply Center, Oakland, California, to which the Fuel Depot at Point Molate is an annex; also by Mr. Charles A. Baker and Mr. James L. McNally representing the 12th 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:

Evidence was presented at the hearing to the effect that the acquisition was made 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"; this evidence was in the form of opinion testimony by Captain Becknell, also a statement by him as to the facilities available at the installation from which the conclusion may be drawn that the purpose of the acquisition meets the limitations in the quoted portion of the Constitution.

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 condemnation, in Proceeding No. 22215-S filed in the U.S.D.C., Northern District of California, Southern Division. The land was acquired pursuant to the authority of the Acts of Congress approved April 28, 1942 (Public Laws 528 and 531, 77th Congress) and under the Condemnation Act of February 26, 1931 (46 Sta. 1421, 40, U. S. Code Section 258-A). Certificates of title to all of the lands covered by the application have been filed with the Commission. Evidence was presented by Mr. James L. McNally, a land acquisition attorney, to the effect that, in his opinion, all statutory requirements had been fully complied with and the United States is vested with a good and sufficient title in fee simple to the subject lands.

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 provision 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 April 17, 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 April 20, 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. Captain Becknell testified to the effect that the Naval Fuel Depot employs a considerable number of personnel, a large portion renting or owning homes in the immediate vicinity and making purchases and paying taxes locally. He further testified that the Fuel Depot was an integral part of the National Defense System.

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 UNITED STATES NAVAL FUEL DEPOT, CONTRA COSTA COUNTY, CALIFORNIA, SAID LANDS BEING DESCRIBED AS FOLLOWS:

All of those certain parcels described in judgment on Declaration of Taking No. 1 in Civil Action No. 22215-S. District Court of the United States, in and for the Northern District of California, Southern Division, as recorded March 28, 1945, in Liber 816, at page 14, Official Records, Contra Costa County, California, being in all 402.583 acres, more or less.

THAT THE CONDITIONS PRESCRIBED IN SUB-DIVISION 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 CONTRA COSTA.

12. (LESLIE SALT COMPANY, APPLICATION FOR RIGHT-OF-WAY EASEMENT, ALAMEDA AND SAN MATEO COUNTIES, W.O. 806, P.R.C. 574) The Commission was informed as follows: Leslie Salt Company has applied for a right-of-way easement 300 feet in width across the lower end of South San Francisco Bay adjacent to the Dumbarton Bridge right-of-way for the installation, maintenance and use of a pipeline. The requested right-of-way extends from the mean low water mark in Alameda County to the mean low water mark in San Mateo County, a distance of approximately 3,500 feet. Rental at the regulatory rate amounts to \$110.00 annually. Fee title at the Alameda County end of the requested easement is in the Leslie Salt Company, that at the San Mateo County end is in the Pacific Portland Cement Company which has granted permission for the proposed pipe line crossing their land. Filing fee and expense deposit have been paid.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE EXECUTIVE OFFICER TO ISSUE TO LESLIE SALT COMPANY A RIGHT-OF-WAY EASEMENT APPROXIMATELY 3,500 FEET IN LENGTH BY 100 FEET IN WIDTH ACROSS SOUTH SAN FRANCISCO BAY IN ALAMEDA COUNTY AND SAN MATEO COUNTY ADJACENT TO THE DUMBARTON BRIDGE RIGHT-OF-WAY FOR A PERIOD OF FIFTEEN YEARS AT AN ANNUAL RENTAL OF \$110.00 WITH RIGHT OF RENEWAL FOR TWO PERIODS OF TEN YEARS EACH AT SUCH RENTAL AS MAY BE DETERMINED PRIOR TO EACH RENEWAL PERIOD, APPLICANT TO FURNISH PERFORMANCE BOND IN THE AMOUNT OF \$2,000.00.