

14. (REDLOCK CORPORATION, SCRIP APPLICATIONS, S.W.O.s 5592 AND 5604 - W.O. 1709.) Mr. Kenneth C. Smith read letters of protest from Congressman Harlan Hagen to Governor Goodwin J. Knight dated May 19, 1954 and Assemblywoman D. M. Donahoe, dated May 24, 1954. A copy of each letter is attached hereto as Exhibits "A" and "B" respectively.

With reference to statement made in Exhibit "A" as to the price at which the State proposed to sell the land, the Executive Officer explained that the matter of the sales price of the land was not determined until after the selection had been approved by the United States, the practice being to appraise the land shortly after such approval. Pending such determination, the applicant is required to make a minimum deposit of \$5 per acre. The report of the Executive Officer (Miscellaneous Calendar Item No. 7) was then partially read and discussed. It is attached hereto as Exhibit "C".

In answer to Mr. Peirce's query as to the type and location of the land, the Executive Officer described it as land in the public domain, lying about three miles west of the town of Mojave. Mr. Peirce further asked whether there was other land of the same type available in the same locality. Mr. Watson indicated that this is probably all the land in that vicinity which is available, that most remaining land had passed into private ownership or was owned by railroads.

Mr. Robert X. James identified himself as spokesman for a group of small-tract applicants, and Mr. Wm. R. Walsh, of the complainants, asked that further testimony be taken as to the use which Redlock Corporation intends to make of the land applied for, affirming that he had been advised that the land was not suitable for general agricultural purposes; later he withdrew this request. Mr. Walsh stated that "there should be some evidence as to the amount of holdings" of the Redlock Corporation in the area.

Chairman Kirkwood indicated that the Commission would hear first from the representative for Redlock Corporation and then from the representatives of the small-tract applicants. He added that the State Lands Commission, acting through its Staff, in accordance with State law, has followed certain specified procedures in good faith, and having secured an opinion from the Attorney General on the case, is now required under the Rules and Regulations to proceed in the matter. He stated that his chief interest is in hearing why that should not be done.

Mr. Wallace K. Downey, General Counsel of Redlock Corporation, stated that he felt that the law in the case was summarized in the calendar item presented by the Executive Officer and that the facts given in the applications of the Redlock Corporation and subsequent hearing were true. He told of the plans of the California Portland Cement Company (of which Redlock Corporation was a wholly owned subsidiary) to develop a cement mill in the locality of the land applied for and that the subject land might be used for several purposes if water were developed, either leased or sold to employees of the Company, "or it may be given to them".

Mr. Peirce inquired as to whether the establishment of a cement mill would provide substantial employment for that locality which would add to the prosperity of the community. Mr. Downey indicated that construction was expected

to begin in September, 1954, and that when completed the first unit would soon be producing 24,000 barrels a day and would employ around 150 men. By comparison with the Company's existing mill at Colton, the new mill might be expected eventually to employ as many as 350 to 600 employees.

Relative to ownership of lands by the Redlock Corporation in the area, Mr. Downey replied that, in addition to the 1,400 acres presently owned by the Corporation, negotiations were being conducted to obtain other holdings in the area adjacent to limestone deposits, such acreage being desirable because of a "good-neighbor policy" due to the type of plant involved, although it would be as dust-free as possible.

In presenting his case as spokesman for certain small-tract applicants, Mr. Robert X. James was asked by Chairman Kirkwood for letters authorizing such representation. Copy of the entire text of Mr. James' statement was ordered placed on file in the office of the Commission for the record. (See Exhibit "D" to these Minutes.) In his brief, Mr. James protested against the proposed sale of the subject lands to the Redlock Corporation in favor of the small-tract applicants, contending that the public hearing held January 12, 1954 was unfair in that "the defendant, the Executive Officer, was also the Hearing Officer and presided", adding that although one hundred "complainants" were present, only a limited number were heard, and that no testimony was received from the parent company of the Redlock Corporation, the California-Portland Cement Company. Mr. James declared that the Redlock Corporation was derelict by omission in making application without disclosing its connection with its parent company, the California-Portland Cement Company, and further refuted certain statements of the Calendar, concluding that, aside from legal aspects, the importance of the public interest should be considered by the Commission.

Mr. Wm. R. Walsh requested permission to file with the State a brief as to procedures and merits of the case to be considered by the Commission at a later meeting.

Chairman Kirkwood ordered postponement of the matter of considering the Redlock Corporation scrip applications upon Mr. Downey's agreement to Mr. Walsh's suggestion and stated that bases for such briefs should be as to question of law rather than factual aspects. Counsel for the complainants are to be given fifteen days within which to file statement; Counsel for applicant to answer such brief within ten days after receipt of same.

EXHIBIT "A"

Harlan Hagen
14th District, California
Member, House Veterans' Affairs Committee

CONGRESS OF THE UNITED STATES
House of Representatives
Washington, D. C.

May 19, 1954

The Hon. Goodwin J. Knight
Governor of the State of California
State Capitol
Sacramento, California

Re: W. O. 1709 - Mojave Lands
Redlock Corporation

Dear Governor Knight:

I have interested myself in the proper disposition of a tract of land in the area of Mojave, California, which is presently a part of the public domain of the United States.

I have previously written to you with respect to the lands in question and their proper disposition and I am now appealing to you as Governor to take action to prevent their acquisition by the State and/or disposition by negotiated sale to the Redlock Corporation of Pasadena, California.

Some 300 or 400 persons have made application of the Federal Government for the grant of 5-acre tracts in the parcel to them under the Small Tract Statute, in order that they might build homes in the Mojave area. These applications are in danger of being defeated by the action of the State of California, acting through its State Lands Commission, in seeking to acquire these lands under the Federal Statute, familiarly referred to as the School Lands Act. It is the plan of the State to sell the tract to the Redlock Corporation for a price much smaller than that which would be received by the Federal Government; moreover, a broader public interest would be served by protecting the interests of numerous potential farm owners than by protecting the interests of a corporation, which is apparently a paper corporation. The only method by which this competition can be adequately resolved in favor of the numerous small applicants is for the State to relinquish its claim to this particular parcel, a relinquishment which should - in my opinion - occur. To the best of my knowledge, no one has been able to secure an exact definition of the purpose of the corporation in acquiring this property. If it is for re-sale to small home owners, they will secure a price which is unnecessary and undesirable for the home owner. If they are securing the property for someone else for an undisclosed purpose, they are violating the spirit of the Federal law and the letter of the State Law.

EXHIBIT "A"

(CONTD.)

I would therefore urge that you intercede with the Lands Commission to secure a relinquishment of the California application.

I would also comment that you should urge the Legislature to enact laws which would improve the administration of State lands. In my opinion, there is no justification for a law which permits sale of large tracts of State land on a negotiated sale basis and without public notice. It is my further understanding that California has no comparable procedure to that of the small tract procedure, which governs some Federal lands. Such a program should be instituted in the State of California to assure the public of receiving the maximum participation in the disposal of State property.

By way of conclusion, I would again urgently request your intercession to prevent an injustice which apparently will occur in the absence of your intercession. In the event the State refuses to change its position on acquisition, a minimum requirement should be State re-sale at public auction or by sealed competitive bid.

Very truly yours,

/s/ Harlan Hagen

HARLAN HAGEN
Member of Congress

HH/js

EXHIBIT "B"

Assembly
CALIFORNIA LEGISLATURE

Dorothy M. Donahoe
Member of Assembly, Thirty-eighth District

Vice Chairman
Committee on Social Welfare

May 24, 1954

Col. Rufus W. Putnam, Executive Officer
State Lands Division
302 State Bldg.
Los Angeles 12, Calif.

Dear Col. Putnam:

Thank you for sending me notice of the State Lands Commission meeting on May 26 "regarding the scrip applications on behalf of the Redlock Corporation". Inasmuch as I understand only one oral hearing may be presented on behalf of the five-acre tract applicants, I will not be present at the hearing, but will submit this letter which I hope will be accepted as part of the brief.

I am deeply concerned about this situation, not only because the land involved is situated in the 38th District of which I am the Assemblyman in the California Legislature, but because a moral obligation is at stake. I am thoroughly familiar with the facts of this case; with the locale which is suitable only for these small homesteads, and the necessity for the advancement of the town of Mojave to the West. In my judgment, favorable consideration should be given to the applicants for the 5 acre tracts in lieu of permitting the Redlock Corporation to acquire this land, both from the legal and Public Interest standpoints. The town of Mojave must expand, due to increased agricultural activity in the near vicinity and proximity of Defense Bases. Due to prevailing winds, the re-activated Marine Base and other military installations, it can expand only West. I certainly join the applicants for the 5 acre tracts in question in respectfully requesting a relinquishment of the California application.

How this problem is resolved will be closely watched by those of us in the legislature that are working toward the best interests of people. Some 300 or 400 persons are directly involved in this

EXHIBIT "B"

(CONTD.)

application, hoping to build homes in the Mojave area. If The State of California, acting through its State Lands Commission, acquires these lands under the Federal Statute, it would be presumably for one of two reasons--either for re-sale to small home owners, for which they will secure a price which is unnecessary and undesirable for the home owner, or to secure it for someone else for an undisclosed purpose. In either case, it seems to me, the State would be violating the spirit of the Federal Law and the letter of the State law. I therefore urge you to give every thought and affirmative decision to the people who have complied with all the requirements of filing under the Act of June 1, 1938.

Respectfully yours,

/s/ Dorothy M. Donahoe

Assemblyman, 38th District

EXHIBIT "C"

MISCELLANEOUS

7.

(SCRIP APPLICATIONS BY REDLOCK CORPORATION - S.W.O. NO. 5592 AND S.W.O. NO. 5604.) At its meeting on December 17, 1953, the State Lands Commission adopted the following resolution:

"UPON ACTION DULY MADE AND UNANIMOUSLY CARRIED, IT WAS RESOLVED AS FOLLOWS:

"The Executive Officer is authorized to conduct a Public Hearing on the matter of the State applications for lands located in Kern County in Sections 14, 22, 24, 26, 28, and 34, in Township 11 North, Range 13 West, S.B.M.; in Section 18, Township 11 North, Range 12 West, S.B.M.; and other lands in the immediate vicinity over which, in the opinion of the Executive Officer a controversy appears to exist; and thereafter make a full report to the State Lands Commission for such action as may be appropriate."

This action was the result of protests filed with each member of the Commission by Congressman Harlan Hagen, on the basis that the lands applied for by the State were also being applied for by a number of residents of Los Angeles and Kern Counties under the Small Tract Act of 1938. Objections were also filed with the Bureau of Land Management, not only by Congressman Hagen, but also by representatives of the applicants for small tracts, and more recently objections were filed with the Governor of the State of California. Investigation has shown that some of the objections filed were based upon what appears to have been incorrect information. Also, allegations were made that the State applicant, the Redlock Corporation, did not intend to use the applied-for lands for the purposes set forth in its application.

Pursuant to the directive contained in the above-quoted resolution, a Notice of Hearing was published in the Mojave Desert News in its issue of December 31, 1953, and the hearing took place at 10 a.m. January 12, 1954, at the Forestry Building, Mojave, California.

Formal appearances were:

For the State Lands Commission:

Rufus W. Putnam, Executive Officer
Frank W. Porter, Administrative Assistant

For the Applicant:

Wallace K. Downey, General Counsel
California Portland Cement Co.
Messrs. Lonergan & Jordan
By: John G. Lonergan, Esq.
506 Andreson Building
San Bernardino, California

MISCELLANEOUS 7. (CONTD.)

For the Complainants:

R. X. James,
514 "J" Street, Box 632
Mojave, California
Richard E. Erwin, Esq.
4225 Eagle Rock Boulevard
Los Angeles 65, California

In addition, nearly one hundred others were in attendance, of which over seventy-five were reported as being in opposition to granting the application of the Redlock Corporation on the same grounds as those presented by spokesmen for the complainants and by a number of individual witnesses.

At the outset the Executive Officer defined the issues about which presentations would be received as:

- (a) Whether the State of California had been or was proposing to proceed improperly in processing the case before it;
- (b) Whether the application by the Redlock Corporation had been made in good faith and the facts stated in its application were true.

Limitations were placed because of the fact that these issues formed the basis of most of the allegations and complaints previously made and were the only matters over which it was felt the State Lands Commission had jurisdiction.

ANALYSIS

Based upon the testimony presented at the hearing, certain definite facts pertaining to the points at issue were determined:

1. Redlock Corporation Applications

The first application by the Redlock Corporation was dated and subscribed and sworn to on the 5th day of March, 1953. It was received in the Sacramento Office of the Division of State Lands on March 10, 1953. This application was to purchase the S $\frac{1}{2}$ of Section 26 and N $\frac{1}{2}$ of Section 22, and the SE $\frac{1}{4}$ of Section 24 and N $\frac{1}{2}$ of Section 34, all in T. 11 N., R. 13 W., S.B.M., containing 1,120 acres. The application was accompanied by the necessary affidavits and other papers required by the Bureau of Land Management to accompany the State's application to select the land in behalf of the corporation.

The second application by the Redlock Corporation was sworn to on April 2, 1953, and was received in the Sacramento Office April 6, 1953. It applied to the NW $\frac{1}{4}$ of Section 18, T. 11 N., R. 12 W., S.B.M.; SW $\frac{1}{4}$ of Section 28, T. 11 N., R. 13 W., S.B.M., containing 960 acres, and all of Section 14, T. 11 N., R. 13 W., S.B.M., but 40 acres of that had been selected in a previous application of another applicant. The second application by Redlock conformed to the requirements of the United States as to affidavits and other documents.

MISCELLANEOUS 7. (CONTD.)

In the applications filed by the Redlock Corporation appears the following sworn statement by its Vice-President, Vernon E. Lohr:

"I desire to purchase the same for my own use and benefit, and for the use or benefit of no other person or persons whomsoever, and that I have made no contract or agreement to sell the same."

No evidence was presented at the hearing or otherwise to the effect that the Redlock Corporation has contracted for or agreed to the resale of the lands it has applied for, although unsubstantiated claims had been made to that effect. Evidence as to intended use was stated to be as follows:

"Redlock Corporation, if it can develop water for the lands it now owns in the Mojave area and for those that may be acquired as a result of the above-numbered application, will likely use the lands for agricultural purposes. It may, at some time in the distant future, use them for housing for employees of the cement mill."

This statement conforms with statements made in the original application and has not been controverted.

2. Applications by State of California

On March 11, 1953, the Sacramento Office of the Division of State Lands filed with the Office of the Los Angeles Land District, U. S. Bureau of Land Management, for the allowance of an exchange of lands listed on Indemnity Selection Lists Nos. 10583 and 10583-A. These applications involved the ultimate sale to Redlock of the lands it applied for on March 5, 1953.

On April 7, 1953, additional applications were filed by the Sacramento Office of the Division of State Lands covering all of the lands in Redlock's second application except the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 14, T. 11 N., R. 13 W., S.B.M.

3. Procedural Requirements

Pertinent provisions of the Rules and Regulations of the State Lands Commission are quoted below:

"2400. Qualification of Applicant. Vacant United States Government lands, which have been surveyed and are nonmineral, unappropriated and unreserved, may be purchased by any person who is a citizen of the United States or has filed his intention to become a citizen of the United States. Such lands may be purchased by other qualified applicants as provided by law." (Underscoring added.)

MISCELLANEOUS 7. (CONTD.)

Remarks: The applicant in this case is a California corporation and a wholly owned subsidiary of the California Portland Cement Company. Under the provisions of Section 1901 (c) of the Rules and Regulations of the Commission, the term "person" includes a corporation. The applicant has filed with the Commission an affidavit as to citizenship. Furthermore, a brief prepared by the applicant and an informal opinion by the Attorney General appear to confirm the statement in the affidavit.

"2401. Applications. (a) Applications under this article shall be submitted to the Division of State Lands, 1020 N Street, Sacramento 14, California.

"(b) An applicant desiring to purchase such lands shall accompany his application, which shall include a legal description of the land, with all papers and documents on forms prescribed by the Division of State Lands and the Department of the Interior. He shall furnish a certified check or money order, payable to the Treasurer of the United States, in the amount of \$2 for each 160 acres or fraction thereof applied for. In addition, the application must be accompanied by a filing fee and an expense deposit of \$100 (see Section 1903), and the amount of the minimum initial offer of \$5 per acre for the lands applied for.

"(c) Where lands to be applied for lie in more than one county or one United States land district, separate applications to purchase such lands shall be filed for each county or land district involved."

Remarks: There were two applications filed by the Redlock Corporation. With that of March 10, 1953 (S.W.O. 5592), involving 1,120 acres, the minimum purchase price of \$5 per acre was deposited with the State, plus an expense deposit of \$95 and filing fee of \$5, plus the required \$2 per 160 acres for the United States. With the second application, the minimum purchase price was deposited with the State, plus the filing fee of \$5 and an expense deposit of \$98.05; also, the \$2 per 160 acres for the United States. While the expense deposits were not in the amount required by Section 1903 of the Rules and Regulations of the State Lands Commission (\$100 for each application), there was an overpayment of the minimum purchase price in a sufficient amount to cover the deficit.

"2402. Procedure. (a) Upon compliance by the applicant with the provisions of this article and of law, the Division of State Lands shall forward to the District Office of the United States Bureau of Land Management a state application that the land applied for be listed to the State in lieu of the bases surrendered."

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Remarks: As above stated, the Division of State Lands forwarded its own applications to the Los Angeles Land Office, U. S. Bureau of Land Management, for the listing of the desired lands to the State in lieu of bases surrendered. The base lands were unsurveyed school sections in the Death Valley National Monument. The applications were in order, and were accompanied by the requisite U. S. filing fees and necessary affidavits.

As of the present, the State's applications have been the subject of field examinations and reports by the Regional Office of the U. S. Bureau of Land Management, and are now awaiting action by the Director of that Bureau in Washington, D. C. This action has been suspended awaiting the results of the hearing.

"2402. (b) Upon notification by the local office of the Bureau of Land Management that the State's application for lands applied for has been allowed, the land will be appraised by the State. After appraisal the price will be fixed at \$5 per acre or at the appraised value, whichever is the greater. The price so fixed shall be the price the prospective purchaser shall be required to pay.

"(c) In the event the price fixed exceeds the applicant's original offer and he fails to increase said offer to the price set within 20 days after issuance of written notice, his application shall be canceled and the application of the State to select the land shall be withdrawn if the commission so elects. The applicant shall be entitled to a refund of the deposits placed by him less costs incurred by the Division of State Lands in processing the application.

"(d) If the offer is increased sufficiently within the prescribed period to meet the price established, and all other requirements of the law and this article have been met, publication of notice of sale will ensue. After the required period following such publication the application will be presented to the commission for approval. Upon approval by the commission a certificate of purchase for the land will be issued in the name of the applicant.

"(e) Upon listing of the land to the State by the United States, and surrender by the applicant of certificate of purchase, a patent to the land will be issued to the applicant, and any remaining balance of his expense deposit will be refunded."

Remarks: The foregoing procedures would be complied with unless for some of the reasons set forth in the Conclusions which appear later the State withdraws its application. Thus far none of steps (b), (c), (d), and (e), above, have been taken.

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4. Five-Acre Tract Applications

Beginning with May 12, 1953, and continuing thereafter for several months, over 200 applications for five-acre tracts were filed in the Los Angeles Office, U. S. Bureau of Land Management. As of September 22, 1953, filings had been made in the following locations:

- A. NW $\frac{1}{4}$ of Section 18, T. 11 N., R. 12 W., S.B.B.M.
- B. All of Section 14, T. 11 N., R. 13 W., S.B.B.M.
- C. N $\frac{1}{2}$ of Section 22, T. 11 N., R. 13 W., S.B.B.M.
- D. N $\frac{1}{2}$ of Section 34, T. 11 N., R. 13 W., S.B.B.M.
- E. All of Section 10, T. 11 N., R. 13 W., S.B.B.M.

Of the foregoing lands the State has made no application for Section 10, T. 11 N., R. 13 E., but it had filed on all of the others from one to three months prior to the filing of the five-acre tract applications.

CONCLUSIONS

Section 7416 of the Public Resources Code provides in part:

"Procedure. (Preparation of papers and surrender of indemnity certificate or scrip: Communication with United States land offices: Payment of location fees, etc.) If any applicant desires to purchase any of the lands mentioned in Section 7406, he shall, before filing his application with the commission, properly prepare all papers and documents on the forms prescribed by the commission and the Department of the Interior, and shall also surrender the indemnity certificate or scrip which he desires the commission to use as bases for indemnity. The commission shall, if the applicant complies with the provisions of this article and of law, thereupon communicate with the United States land offices and ask that the lands sought to be purchased be listed to the State in lieu of the bases named in the surrender certificate. The applicant shall also pay to the commission at the time of the presentation of the application all fees required by the United States land offices for the location, shall furnish all county recorders' or other certificates required, and shall pay for publication of all notices required by the United States land offices." (Underscoring added.)

Section 7703 of the Public Resources Code provides:

"7703. Approval or disapproval of application. If it appears to the commission that the application is made in good faith, and that all the facts stated in the application are true, and that the land applied for is subject to sale, it shall approve the application, otherwise it shall disapprove the application."

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It is thus mandatory that the State proceed with the transaction and that the application be approved and the sale to the applicant consummated if:

- a. The applicant has complied with the provisions of Article 3, Chapter 1, Part 3 of Division 6, of the Public Resources Code, and with the Rules and Regulations of the State Lands Commission.
- b. The application was made in good faith.
- c. The facts stated in the application are true.
- d. The lands applied for are subject to sale.

That the State Lands Commission must proceed in a valid transaction of this nature was affirmed by the Attorney General in a written opinion dated January 21, 1947.

- a. The applicant has complied with the provisions of Article 3, Chapter 1, Part 3 of Division 6, of the Public Resources Code, and with the Rules and Regulations of the State Lands Commission.

Section 7410 is a part of said Article 3, and requires that the applicant be qualified to purchase State lands as provided by law. Section 7301 relates to requirements to be fulfilled in order to purchase State school lands "under rules and regulations prescribed by" the State Lands Commission. Section 2400 of the Rules and Regulations of the State Lands Commission requires that an applicant for the purchase of vacant United States land be a "person who is a citizen of the United States" or one who has filed his intention to become such. The affidavit and brief submitted by the applicant and an informal opinion by the Attorney General indicate compliance with the law in this respect.

- b. The application was made in good faith.

No evidence was presented at the hearing, or otherwise, that the Redlock Corporation has contracted for or agreed to the resale of the lands applied for despite unsubstantiated claims to that effect. Testimony presented at the hearing confirmed that the proposed use was, in fact, that set forth in Redlock's application.

- c. The facts stated in the application are true.

No evidence has been presented to the effect that the facts set forth in the application were untrue.

- d. The lands applied for are subject to sale.

Since determination of this matter depends upon action by the U. S. Bureau of Land Management, no final statement can be made at this time. Should the selection of the lands be approved by the United

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States and no valid objections are made pursuant to the advertising following such approval, the land would be subject to sale by the State after formal listing by the United States.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE DIRECTED TO PROCEED WITH THE APPLICATIONS FILED ON MARCH 11, 1953, AND ON APRIL 7, 1953, BY THE DIVISION OF STATE LANDS WITH THE UNITED STATES BUREAU OF LAND MANAGEMENT FOR THE ACQUISITION BY THE STATE OF VACANT UNITED STATES LANDS AS FOLLOWS:

THE S $\frac{1}{2}$ OF SECTION 26, THE N $\frac{1}{2}$ OF SECTION 34, THE N $\frac{1}{2}$ OF SECTION 22, AND THE SE $\frac{1}{4}$ OF SECTION 24, ALL IN T. 11 N., R. 13 W., S.B.M., AND COMPRISING 1,120 ACRES IN KERN COUNTY.

THE NW $\frac{1}{4}$ OF SECTION 18, T. 11 N., R. 12 W., THE SW $\frac{1}{4}$ OF SECTION 28, T. 11 N., R. 13 W., AND ALL OF SECTION 14, T. 11 N., R. 13 W., EXCEPT THE SW $\frac{1}{4}$ OF THE SW $\frac{1}{4}$, ALL S.B.M., CONTAINING 919.39 ACRES IN KERN COUNTY.

EXHIBIT "D"

ORAL BRIEF IN CONNECTION WITH APPLICATIONS
FOR GOVERNMENT 5-ACRE TRACTS UNDER ACT OF 1938.

May 26, 1954.

TO MEMBERS, STATE LANDS COMMISSION:

The spokesman for the Government 5 acre tract applicants understands that this meeting of the members of the State Lands Commission is for the purpose of determining whether the Redlock Corporation's scrip applications for Federal lands to the West of the town of Mojave shall be honored or approved, and whether to proceed with negotiations with the Department of the Interior for the acquisition of these lands by the State for resale to the Redlock Corporation, which has been divulged as a wholly owned subsidiary of the California Portland Cement Company, which in turn owns 31% interest in the Blue Diamond Corporation.

I have before me a brief or recommendation entitled Miscellaneous 7, embodying eight pages, apparently prepared by the Executive Officer of the State Lands Commission, as a result of a Public Hearing conducted by him on January 12, 1954. I received a copy of this by mail, and it was apparently distributed to certain political subdivisions of the U.S. and State of California, and has appeared in newspapers.

In this brief myself and the 5 acre tract applicants' attorney were listed as Complainants; the defendants, though not named as such but listed as present were: the Executive Officer and his administrative Assistant (The defendant the Executive Officer was also the Hearing Officer and presided), and the General Counsel for the California Portland Cement Co. and Attorney John G. Lonergan of San Bernardino.

Approximately 100 of the 5 acre tract applicants, the complainants in this matter, were present at the hearing to testify, but only a limited number were permitted to take the stand. It was noted that no member, stockholder or director of the Redlock Corporation, the California Portland Cement Company, nor the Blue Diamond Corporation, took the stand to testify and be subject to cross-examination regarding this entire matter.

In view of the fact that the document entitled Miscellaneous 7, which is a recommendation to the Members of the State Lands Commission, and states therein to the effect that the complainants presented no evidence at the hearing, against the acquisition by the State of these lands and that they were subject to sale; and that this recommendation was prematurely published in the press thus causing confusion and possibly hurting the cause of the people, I wish to reiterate that it will be noted that the defendant, the Executive Officer of the State Lands Commission, was also the Hearing Officer and presided at the Public Hearing held on this matter on January 12, 1954, and whose recommendations were entirely in favor of his office and the Redlock Corporation, and adverse to the interests of the 5 acre tract applicants.

In now going over the recommendations of the Hearing Officer in this case, I shall rely upon my notes and brief orally submitted under oath at the Hearing, and assume that the transcript which is available to the Members is a true and complete record of the proceedings, of which I was not furnished a copy; but from copies of letters between the office of the Land Commission and the Corporation counsel, a copy was supplied to the latter.

Page 3 of Miscellaneous states "In the applications by the Redlock Corporation appears the following sworn statement by its Vice-President Vernon E Lohr: "I desire to purchase the same for my own use and benefit, and for the use or benefit of no other person or persons whomsoever, and that I have made no contract or agreement to sell the same". The Hearing Officer states "No evidence was presented at the hearing or otherwise to the effect that the Redlock Corp. has contracted for or agreed to the resale of the lands it has applied for, although unsubstantiated claims had been made to that effect".

These statements are refuted. The transcript will show that the applications by the Redlock Corporation does not show the name of the California Portland Cement Company; but subsequent to the filing of these applications it has been divulged that said corporation is a subsidiary only. Copy of a letter from Wallace K Downey, General Counsel for the California Portland Cement Company, dated August 10, 1953, addressed to the Regional Office, Bureau of Land Management, San Francisco, was submitted in evidence, which counsel admits that The Redlock Corporation is and was a wholly owned subsidiary of the California Portland Cement Co. We consider that the Redlock Corporation, and evidence at the hearing substantiated this, that they violated the affidavit oath in their applications when they swore that "I desire to purchase the same for my own use and benefit, etc.; when they well knew at the time that the land was contracted for and intended for use of other persons or persons, namely the California Portland Cement Co.

Page 3 of Miscellaneous 7 further states: "Evidence as to intended use was stated to be as follows: "Redlock Corp, if it can develop water for the lands it now owns in the Mojave area and for those that may be acquired as a result of the above numbered applications, will likely use the lands for agricultural purposes. It may, at some time in the distant future, use them for housing for employees of the cement mill". The Hearing Officer states "this statement conforms with statements made in the original application and has not been controverted".

These statements are refuted. Corporation counsel has publicly stated that his company will not build company housing, but will leave it to private individuals. In connection with agricultural purposes, testimony was given under oath that the Bureau of Land Management, Department of the Interior, had many times rejected applications from individuals for this same land for the reason it was unsuitable for agricultural purposes, and suitable for small tracts; and even as late as December 14, 1953, for land in this same area.

Page 5 of Miscellaneous 7 states: "As of the present, the State's applications have been the subject of field examinations and reports of the Regional Office of the U.S. Bureau of Land Management, and are now awaiting action by the Director of that Bureau in Washington, D.C. This action has been suspended awaiting the results of the hearing".

The Hearing Officer apparently does not choose to take into consideration the fact that testimony was given, and the transcript will reveal in a letter of November 11, 1953, from the Congressman of the 14th Congressional District in which this land lies, to the Director of the Bureau of Land Management, Washington, D.C., the report of the regional office of the BLM in San Francisco, which normally makes all decisions in conflicts of this nature, recommended a compromise, whereby of the 2080 acres filed upon by the Redlock Corporation, 1120 acres be granted to the applicants for 5 acre tracts.

Page 7 of Miscellaneous 7, states: "It is thus mandatory that the State proceed with the transaction and that the application be approved and the sale to the applicant consummated if: b. the application was made in good faith; c. the facts stated in the application are true; d. the lands applied for are subject to sale". That the State Lands Commission must proceed in a valid transaction of this nature was affirmed by the Attorney General in a written opinion dated January 21, 1947."

These statements are refuted. It is contended the application was not made in good faith because the State was lead to believe that the land was solely for the Redlock Corporation, when in fact it was for the California Portland Cement Co; the facts stated in the application were untrue because it failed to show that it was actually in fact a subsidiary and had the interest of its parent company in mind; and that the lands are not subject to sale by the State due to the violation of the use and benefit clause, and the fact that the Federal Government has still a Federal interest in this land; also that it has been established on the books of the Land Office that this land's highest use is for small tracts, and not for agricultural purposes.

In connection with the written opinion of the Attorney General dated January 21, 1947, it cannot conceivable be seen how a 1947 opinion would effect this case, unless it was an exact parallel. In this connection a delay in the presentation of this case to the Members of the Commission was occasioned by the Executive Officer statement to me, when he was asked about when the next meeting would be held, to the effect that he had submitted the legal angle to the Attorney General and was awaiting a reply. No mention of a recent opinion from the Attorney General appears in his recommendations.

Page 7 of Miscellaneous 7 states: in part: b. the application was made in good faith; no evidence was presented at the hearing, or otherwise, that the Redlock Corporation has contracted for or agreed to the resale of the lands applied for despite unsubstantiated claims to that effect. Testimony presented at the hearing confirmed that the proposed use was, in fact, that set forth in Redlock's application. c. The facts stated in the application are true; no evidence has been presented to the effect that the facts set forth in the application were untrue. d. The lands applied for are subject to sale. Since determination of this matter depends upon action by the U.S. Bureau of Land Management, no final statement can be made at this time. Should the selection of the lands be approved by the United States and no valid objections are made pursuant to the advertising following such approval, the land would be subject to sale by the State after formal listing by the U.S. The Executive Officer recommended that he be directed to proceed with the applications comprising 1120 acres in one application, and 919.39 acres in another.

These statements are refuted. Testimony was presented at the hearing that the Redlock Corporation did in fact fail to reveal that it was acting as an agent for the California Portland Cement Company, when it filed its applications; that it did not act in good faith, either to the general public or the State Lands Commission, by concealing the fact that it was a subsidiary, which was only disclosed subsequent to the filing and exposed when the Regional Office of the Bureau of Land Management held its investigation to determine whether the 5 acre tract applicants should get the land.

The fact set forth in the application were untrue by omitting to mention that it was in fact working for the interest of its parent company.

So much for the recommendations of the Hearing Officer.

Without going too much into the transcript of the Hearing, of which I'm sure the Members are now familiar, I would like to bring out the following points in our behalf:

We do not accuse the Redlock Corporation and/or the California Portland Cement Company of intended fraud in this case, but we do think it was derelict by omission; withholding from the State pertinent facts by not divulging its close association; the same way a Real Estate broker violates his fiduciary relationship when not disclosing to his client the seller, the fact of his marital status when his wife is the buyer.

The office of the State Land Commission was derelict in not properly first checking the Land Office records of the Bureau of Land Management to ascertain whether the land applied for was actually suitable for agricultural purposes and available for resale; it would have found that it was not, but suitable only for small tracts, and that it had been turned down many times, after inspection many times by Federal inspectors, to individuals applying for the same under the Homestead and Desert Land Acts. The contention of the Office of the State Lands Commission that the State had paramount rights over individuals in selecting lands in the Public Domain for purposes of lieu selections or exchange has no basis in fact, and was exploded when the Executive Officer witness Mr. Ireland, after qualifying as an expert witness, testified that he knew of and could quote no law to the effect that the State ever had these so called paramount rights, and that the Federal Government was compelled to honor each and every lieu selection submitted by the State.

Testimony at the Hearing showed that the applicants for the 5 acre tracts fulfilled all of the requirements of the Small Tract Act of June 1, 1938; that the Federal Land Office accepted the applications and proper filing fees; that the land was requested to be reclassified; that the Regional Office at San Francisco, which makes the decisions investigated all angles of the conflict with the State; that it recommended in favor of the 5 acre applicants.

The Hearing transcript will show that testimony from the Spokesman for the 5 acre tract: the officials at the Bureau of Land Management, Department of Interior at Washington, D.C. stated they did not scrutinize applications from the State of California. It now appears that neither does the office of the State Lands Commission scrutinize its own applications very closely prior to forwarding to Washington; nor does it properly investigate the source and status of land in the public domain from the books of the Federal Land Office.

The Department of the Interior now holds these applications awaiting word from the State; the State Lands Commission are holding this hearing to determine whether the Redlock Corporation and/or California Portland Cement Company applications should be reject or approved; the Redlock Corporation and/or California Portland Cement Company wants all of this land for purposes of their own; the people are in the middle, and want to start building before the summer is gone.

Aside from the legal aspects of the case, the public interest is vitally involved and important. The rights of the people are paramount. The Members of the State Lands Commission have the authority to reject the Redlock Corporations application either on the validity of its application or in the public interest, or both. Should the Commission find in favor of the 5 acre tract applicants, the Department of the Interior is standing by to approve the leases and the people can start building. Should the Commission find in favor of the Redlock Corporation, further appeals will necessarily have to be made to the courts and under the Revised Statutes: This would cause more delay detrimental to the interests of the people, and further expense and hardship on the 5 acre tract applicants.

It is respectfully requested and implored that the Members of this Commission give every consideration to the issues involved.

The transcript of the hearing will show that at the time of the hearing January 12, 1954, California Portland Cement Company owned in fee at least 4509 acres, and Redlock Corporation 1280 acres; making a total of 5789 acres; since that time the records of the County Tax Office in Bakersfield, Calif., indicates that they have bought considerable more.

Of the 2080 Government acres they have filed upon through the State at a minimum price of \$5.00 an acre, without competitive bidding, 1440 acres have filed upon by the small tract applicants. The applicants consists largely of veterans of the 1st and 2nd world wars, many now working at the military installations in the area.

As testified at the Hearing, the town of Mojave has a critical housing shortage, rents are high, and the town must move West, in the same area where this land has been filed upon by the small tract applicants. The Federal Government has a definite Federal Interest in this land, and should the State obtain this land for resale, it would be encroaching upon this interest and the interest of the general public.

Should the State have this land set aside by the Federal Government to the State Lands Commission for resale, it would be instrumental in having a large corporation crowding out small home owners and (a) would prevent the building of homes by people who legally and morally are entitled to a small parcel of land limited by law to only five acres to a man and wife and (b) encouraging large profits through speculation.

It should also be brought out that development of this land for the small home owners would materially assist in the evacuation of many thousands of persons from the Los Angeles Metropolitan District in case of National Disaster or Atomic war, as it is understood that present plans call for the evacuation of people to desert areas in case of emergency.

MAP TO ACCOMPANY EXHIBIT "D", MINUTE BOOK 14,
MINUTES OF MAY 26, 1954

Range No. 14 W.

Range No. 13 W.

Range No. 12 W.

MAY 26, 1954

Portland Cement Co. 4509 AC

Block Corp. 1280 AC

Total fee - 5789 AC

Township No. 11N

out. (1440 conflict) 2080 AC

Grand Total 7369 AC

RANGE 15W
Township No. 10N

6	5	4	3	2	1	6	5	4	3	2	1	6	5	4	3	2	1
7	8	9	10	11	12	7	8	9	10	11	12	7	8	9	10	11	12
18	17	16				18	17	16	15	X	13	18	17	16	15	14	13
19	20	21	22			19			X	23	24	19	20	21	22	23	24
30	29	28			25	30	29		27		25	30	29	28	27	26	25
31	32	33	34	35	36	31	32	33	X	35	36	31	32	33	34	35	36
6	5	4	3	2	1	6	5	4	3	2	1	6	5	4	3	2	1
7	8	9	10	11	12	7	8	9	10	11	12	7	8	9	10	11	12
18	17	16	15	14	13	18	17	16	15	14	13	18	17	16	15	14	13
19	20	21	22	23	24	19	20	21	22	23	24	19	20	21	22	23	24
30	29	28	27	26	25	30	29	28	27	26	25	30	29	28	27	26	25
31	32	33	34	35	36	31	32	33	34	35	36	31	32	33	34	35	36