

STANDARD B & P "NOISEAR"

<u>Application No.</u>	<u>Applicant</u>	<u>County</u>	<u>Form of Action</u>
W.O. 1692 P.R.C. 1377.1	Leslie Salt Co.	Solano	Right-of-way easement
W.O. 1782 P.R.C. 1367.1	United Fish Company	Mendocino	Right-of-way easement
W.O. ---- P.R.C. 1240.2	Vern V. Cyr	San Bernar- dino	Assignment of lease
S.W.O. 5735 P.R.C. 1358.2	Ed. Filipelli and Loren H. Wright	Lassen	Grazing lease
W.O. 1466 P.R.C. 868.1	United States of America	Solano	Lease
W.O. 1636 P.R.C. 1388.1	James A. Arnott	Placer	Minor-structure permit
W.O. 1740 P.R.C. 1378.1	Pacific Gas and Electric Company	Marin	Right-of-way easement
W.O. 1665 P.R.C. 1348.1	Blair B. Dobbas	El Dorado	Minor-structure permit
W.O. 1861 P.R.C. 483.1	Ernest W. Davis and Oscar E. Erickson	Contra Costa	Assignment of lease

33. (LOCATION OF BOUNDARY LINE BETWEEN ALPINE COUNTY AND AMADOR, CALAVERAS, AND TUOLUMNE COUNTIES - W.O. 710.) The Executive Officer presented the following Calendar Item:

"By resolutions dated June 16, 1950, July 21, 1950, and July 6, 1953, The Board of Supervisors of Alpine County petitioned the State Lands Commission to investigate and survey the problem of the location of the boundary between Alpine and Tuolumne Counties. The Commission's duty in such matters is covered in Government Code Sections 23170 to 23178, inclusive, and in Section 6204 of the Public Resources Code. In pursuance of these requests the Division of State Lands conducted investigations and submitted a preliminary report to the Commission which was considered at the meeting of June 30, 1952 (Item 29, pp. 1579-1581). The following action was then taken:

'UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE EXECUTIVE OFFICER, UPON DUE NOTICE TO INTERESTED PARTIES AND THROUGH ADVERTISING, TO CONDUCT A PUBLIC HEARING ON THE MATTER OF THE LOCATION OF THE COMMON BOUNDARY LINE OF ALPINE AND TUOLUMNE COUNTIES; THE PURPOSE OF THE HEARING BEING TO OBTAIN EXPRESSIONS OF VIEWS ON THE PRELIMINARY CONCLUSIONS AND SUCH ADDITIONAL INFORMATION BEARING UPON THE SUBJECT AS MAY BE FURNISHED. UPON COMPLETION OF THE HEARING, REPORT SHALL BE MADE TO THE COMMISSION FOR FINAL ACTION.'

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"Hearings were conducted by the Executive Officer at Markleeville, California, on October 21, 1952, and at Sonora, California, on October 23 and 24 and November 20 and 21, 1952. During the hearings Alpine County presented testimony as to the location of the northwesterly portion of its boundary which bordered on the two counties of Calaveras and Amador. Investigation of this particular phase was deferred until those two counties had been consulted.

"On January 11, 1953, the Executive Officer asked for an opinion from the Attorney General on the following:

1. 'May the commission make conclusive determination of a county boundary?'
2. 'Where the commission has been requested to determine and locate the boundary of the County of Alpine and the boundary has been declared and described by statute, what is enjoined upon the commission by sections 23170 and 23177 of the Government Code?'

"The answers were contained in Opinion No. 53-44 of April 3, 1953, and were as follows:

1. 'When the commission has surveyed or adopted a survey of a county boundary, that determination is administratively conclusive.'
2. 'The commission on request to survey and mark the boundary of the County of Alpine must first administratively determine under sections 23170 and 23177 of the Government Code whether a boundary has been mutually recognized and used for assessment and collection of taxes for the appropriate period. If so, it must survey and mark under one of those sections. If not, it must survey under section 23102 of the Government Code, subject to collation with so much of the boundary descriptions of adjacent counties as may affect the line in dispute.'

"In pursuance of this opinion the hearings were resumed at Markleeville on July 13, 1953, at Sonora on July 15, 1953, and at San Andreas on July 17, 1953. All four counties involved were represented and presented further information, largely directed to the applicability of Sections 23170 and 23177 of the Government Code as referred to in the above-quoted opinion.

"Under date of October 2, 1953, the Executive Officer issued a "Proposed Report to the State Lands Commission on Boundary Between Alpine County and Amador, Calaveras and Tuolumne Counties." Copies were furnished each county at interest, and each was given until December 1, 1953, by which to submit briefs. Alpine and Tuolumne submitted briefs containing exceptions; Amador and Calaveras filed no exceptions. Alpine proceeded further in filing a complaint in December, 1953, in the Superior Court of Alpine County, asking for

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a court determination of the location of the boundary. Neither the State nor any of its agents were named in this complaint. The Executive Officer then conferred with the Office of the Attorney General, and was advised to proceed to complete the determination of the boundary as previously planned.

"The report entitled 'REPORT TO THE STATE LANDS COMMISSION ON BOUNDARY BETWEEN ALPINE COUNTY AND AMADOR, CALAVERAS, AND TUOLUMNE COUNTIES', and dated February 24, 1954, is a revision of the report of October 2, 1953. Copies have been sent to each county at interest, and each has been advised that the report would be considered by the State Lands Commission at this meeting. This report has been submitted to the Office of the Attorney General for review, and the following questions were asked:

- (a) 'Has the procedure followed by me been in conformance with that set forth in Attorney General's Opinion 53/44 of April 2, 1953?'
- (b) 'If the State Lands Commission makes the boundary determination recommended in my report, will it be exceeding its administrative and ministerial functions, and, if so, in what respects?'

"The answers to these questions were contained in the following quotations from a letter from the Office of the Attorney General dated February 15, 1954:

'It is understood that here there was no conflicting information or evidence concerning the location of the Emigrant Road and other named points. If that is so and the named points are not subject to more than one interpretation, the commission is authorized to find those points and survey upon them.

'In view of the foregoing the first question in your communication of January 14, 1954, is answered in the affirmative and the second in the negative.'

"With reference to the understanding of the Attorney General, as expressed in the above quotation, the named points referred to in the portion of the boundary description involved are West Point, and Big Meadows. These points are not subject to more than one interpretation, and there was no conflicting information or evidence concerning their location. The information or evidence concerning the location of the Emigrant Road "leading from West Point, in Calaveras, to the Big Tree Road" is not conflicting.

"In his 'REPORT TO THE STATE LANDS COMMISSION ON BOUNDARY BETWEEN ALPINE COUNTY AND AMADOR, CALAVERAS, AND TUOLUMNE COUNTIES', the Executive Officer summarized his findings as follows:

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1. The boundary common to Amador and Alpine Counties begins on the north at 'a point on the Amador and Nevada turn-pike road' (presently State Highway 88) 'in front of Z. Kirkwood's house', in Section 22, Township 10 North, Range 17 East, Mount Diablo Base and Meridian;
2. Thence said common boundary proceeds due south in a straight line on a true meridian becoming the boundary common to Alpine and Calaveras Counties as it crosses the North Fork of the Mokelumne River;
3. Thence the boundary common to Calaveras and Alpine Counties continues on a straight line due south on a true meridian to the 'Emigrant Road', as designated on the United States Land Office Plat of Township 7 North, Range 17 East, Mount Diablo Meridian, as surveyed in 1874 and 1878;
4. Thence it continues easterly along said 'Emigrant Road' to its intersection with the 'Big Tree and Carson Valley Road', as designated on said Plat, said intersection being located in the SE $\frac{1}{4}$  of Section 13 on said Plat;
5. Thence it proceeds southeasterly in a direct line to the junction of the Clark Fork with the Middle Fork of the Stanislaus River; this line becomes the boundary common to Alpine and Tuolumne Counties as it crosses the North Fork of the Stanislaus River;
6. Thence up and along Clark Fork to the most southeasterly point on its headwaters;
7. Thence in a direct line to the summit of Sonora Pass in Section 35, Township 6 North, Range 21 East, M.D.B. & M. (as protracted).

"IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION DIRECT THE EXECUTIVE OFFICER TO INCORPORATE HIS REPORT ENTITLED 'REPORT TO THE STATE LANDS COMMISSION ON BOUNDARY BETWEEN ALPINE COUNTY AND AMADOR, CALAVERAS, AND TUOLUMNE COUNTIES', AND DATED FEBRUARY 24, 1954, IN THE MINUTES OF THE MEETING. IT IS FURTHER RECOMMENDED THAT THE STATE LANDS COMMISSION TAKE THIS MATTER UNDER ADVISEMENT FOR FUTURE DETERMINATION."

By direction of the Chairman, the report of the Executive Officer entitled "REPORT TO THE STATE LANDS COMMISSION ON BOUNDARY BETWEEN ALPINE COUNTY AND AMADOR, CALAVERAS, AND TUOLUMNE COUNTIES", and dated February 24, 1954, is to be made a part of these minutes by reference.

' document entitled "Objections to Final Report of Executive Officer Presented by Alpine County" was filed by Wade H. Coffill, Special Attorney for Alpine County, and accepted by the Commission.

Senator Stephen P. Teale from the 26th Senatorial District appeared briefly in support of a request of Calaveras County that it be given an opportunity to answer the objection of Alpine County.

Messrs. Joseph S. Huberty, District Attorney of Calaveras County; Ross Carkeet, Special Counsel for Tuolumne County; and Gard Chisholm, District Attorney for Amador County, all appeared and stated that they were satisfied with the "Report" dated February 24, 1954, and had no objections to it. However, Mr. Carkeet asked for an opportunity to review the objection now being filed; and Mr. Chisholm indicated that although he concurred with the "Report of February 24, 1954", in doing so he reserved the right to present additional evidence.

At the request of Mr. Powers, Senator Charles Brown of the 28th Senatorial District is to be informed of the action taken on this matter.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, IT WAS RESOLVED THAT THE STATE LANDS COMMISSION TAKE UNDER ADVISEMENT THE QUESTION OF THE BOUNDARY BETWEEN ALPINE COUNTY AND AMADOR, CALAVERAS, AND TUOLUMNE COUNTIES. MEANWHILE, ALPINE COUNTY IS TO FURNISH EACH OF THE OTHER COUNTIES AT INTEREST A COPY OF THE BRIEF ENTITLED "OBJECTIONS TO FINAL REPORT OF EXECUTIVE OFFICER PRESENTED BY ALPINE COUNTY", ANY ANSWERS TO THE BRIEF TO BE FILED WITH THE EXECUTIVE OFFICER WITHIN FIFTEEN DAYS AFTER RECEIPT OF ALPINE'S BRIEF; ALPINE TO BE ALLOWED THIRTY DAYS THEREAFTER IN WHICH TO FILE A REPLY TO SAID BRIEFS.

34. (MINOR STRUCTURE PERMITS ON LAKE TAHOE - W.O. 1124.) The Executive Officer presented a calendar item as follows:

"At a meeting of the State Lands Commission on March 26, 1954, a calendar item was presented relating to protests received from owners of piers and other structures extending into Lake Tahoe. These protests were in the nature of objections to being required to take out permits and pay the fees and rentals to the State requested by the Division of State Lands in letters dated December 1, 1953 that were mailed to all owners of record of such prestructures. The Commission directed the Staff to make a further study of the matter, and to report its recommendations at a future meeting.

"On May 14, 1954, a meeting was held at Lake Tahoe by prearrangement with the Lake Tahoe-Sierra Chamber of Commerce. Some 35 owners of piers, or their representatives, were in attendance. The Executive Officer described the surveys that were made by the Division of State Lands during the years 1950 to 1953, to determine the location, type, size and use of the structures, and the location of the water's edge at various elevations. He discussed the laws, the rules and regulations, and the rental policies of the Commission as applied to similar structures elsewhere, and furnished each one in attendance with a copy of a revised schedule of rates of rental proposed to be recommended.

"As to the proposed rental schedule, only one objection was raised, and that was to the point that the short duration of the season appeared to justify lower rates than those applied in other sections of the State where all-year use could be had.