

15. (REDLOCK CORPORATION, APPLICATIONS TO PURCHASE FEDERAL LAND, S.W.O.'s 5592 AND 5604 - W.O. 1709.) At the meeting of the State Lands Commission of May 26, 1954, consideration was given to the purchase of Federal lands by the Redlock Corporation, through the State, said lands being located near Mojave, in Kern County, in Sections 14, 22, 24, 26, 28 and 34, in Township 11 North, Range 13 West, S.B.M., and in Section 18, Township 11 North, Range 12 West, S.B.M. (Minute Item 14, pp. 2082-2100). Oral arguments were presented to the Commission for and against the State's proceeding with its own applications to the United States Bureau of Land Management for the exchange of the State's base lands (located in Death Valley National Monument) for the lands applied for by the Redlock Corporation. Also were presented letters from U. S. Congressman Harlan Hagen, State Assemblyman D. M. Donahoe, a statement by Mr. R. X. James in protest to the proceeding, and a report and recommendation by the Executive Officer of the State Lands Commission.

Postponement of action was ordered pending submission of a brief by Mr. William R. Walsh, attorney for the protestants, and a reply brief by Mr. Wallace K. Downey, counsel for the Redlock Corporation. These briefs were received by the Division of State Lands and referred to the Attorney General for examination and informal opinion. Said opinion has been received and reads as follows:

"Subject: Redlock Corporation Scrip Application
for Purchase of Federal Lands

"Pursuant to your request (your file W.O. 1709), we have examined the briefs which you have furnished us, being those submitted to you in connection with the above subject by William R. Walsh, Esq., as attorney for certain applicants for five-acre tracts, and Wallace K. Downey, Esq., as attorney for the applicant Redlock Corporation.

"It is our belief that the State Lands Commission is invested with adequate authority to proceed in this matter in accordance and upon compliance with the provisions of Sections 7301, 7405.1 and 7406 of the Public Resources Code of the State of California, as we understand is purposed by said Commission. This contemplates the sale for cash of in lieu or indemnity lands to be obtained by selection and acquisition from the United States. It is to be noted that said Section 7406 recognizes and authorizes such a selection and sale as one of three alternative methods provided."

Section 7301 of the Public Resources Code reads:

"Lands authorized to be sold: Payment. The unsold portions of the sixteenth and thirty-sixth sections of school lands, the unsold portions of the 500,000 acres granted to the State for school purposes, and the unsold portions of the listed lands selected of the United States in lieu of the sixteenth and thirty-sixth sections and losses to the school grant, which are not suitable for cultivation may be sold by the commission under rules and regulations prescribed by it and at a price fixed by it. Payment shall be made in cash to the commission at Sacramento."

Counsel for the protestants argues that no determination has been made by the Commission that the lands in question are not suitable for cultivation. This is correct at this time. However, as a matter of procedure, the Commission makes such determination at the time of the appraisal of the selected lands, and such appraisal is not made until after advice has been had from the Bureau of Land Management to the effect that the State's application has been allowed. The lands are not sold by the State until some time after the appraisal has been made.

Section 7405.1 of the Public Resources Code states:

"Selection of lieu lands: Sale. Whenever the Commission determines it to the advantage of the State so to do, it may pursuant to law select lands of the United States equal in area to the number of acres to which the State is entitled as indemnity, and the lands so acquired may be thereafter sold in the manner and for cash as provided in Article 1 of this chapter."

Protestants' counsel states that the requirements of a determination by the Commission that it is "to the advantage of the state" to make the selection of the lands has not been complied with. This is correct to the extent that no such determination has as yet been made by the Commission.

Heretofore the practice has been not to make an appraisal of the Federal lands involved until after the Bureau of Land Management has advised the State that the State's application has been allowed. It has not been felt possible to make a determination as to whether or not the selection is "to the advantage of the state" without the benefit of such appraisal. In the instant case it was intended to follow the same procedure.

The appraisal is made at the expense of the applicant, and it would be an idle act to appraise prior to notification by the Federal Government for the reason that the State's application might be disallowed.

If the proposed sequence of actions in this case is adhered to, it appears that the time has not arrived for a determination as to whether or not the Federal lands involved are "suitable for cultivation" (Public Resources Code Section 7301), and for a finding that it is "to the advantage of the state" (Public Resources Code Section 7405.1) to make the selection. These should be considered by the Commission after the Bureau of Land Management decides to approve the State's application (and the latter has certain rights as to disapproval). Thus it is believed that protests in these respects at this time are premature.

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

THE EXECUTIVE OFFICER IS 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.

PRIOR TO SUBMISSION TO THE COMMISSION OF A FINAL RECOMMENDATION IN THIS CASE, THE EXECUTIVE OFFICER SHALL CONSULT WITH THE ATTORNEY GENERAL AS TO COMPLIANCE WITH THE PROVISIONS OF SECTIONS 7301, 7405.1, AND 7406 OF THE PUBLIC RESOURCES CODE.

16. UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING ACTIONS OF THE EXECUTIVE OFFICER, PURSUANT TO AUTHORITY GRANTED BY THE COMMISSION, ARE HEREBY CONFIRMED:

<u>Application No.</u>	<u>Applicant</u>	<u>County</u>	<u>Form of Action</u>
W.O. 1623 P.R.C. 951.1	Panola Lombardi	Placer	Minor-structure permit
W.O. 1635 P.R.C. 1411.9	City of San Leandro	Alameda	Right-of-way easement
W.O. 1808 P.R.C. 1384.1	Russell Mills	Placer	Minor-structure permit
W.O. 1833 P.R.C. 685.1	Paul J. and Augusta P. Bourdon	Marin	Amendment to lease
W.O. 1865 P.R.C. 1408.1	Pacific Gas and Electric Company	Solano and Sonoma	Right-of-way easement
W.O. 1866 P.R.C. 1401.1	Pacific Gas and Electric Company	Marin	Right-of-way easement
W.O. 1867 P.R.C. 1402.1	Pacific Gas and Electric Company	Sacramento and San Joaquin	Right-of-way easement
W.O. 1869 P.R.C. 160.9	County of Solano	Solano	Right-of-way easement
W.O. 1876 P.R.C. 1421.1	R. A. Haight	Placer	Minor-structure permit
W.O. 1903 P.R.C. 1419.1	Leslie Salt Co.	Napa	Right-of-way easement