

22. (SALE OF VACANT FEDERAL LAND, OBTAINED THROUGH USE OF BASE, LIEU LAND APPLICATION NO. 10364, LOS ANGELES LAND DISTRICT, LOS ANGELES COUNTY, WILMAR THOMAS KAHLER - S.W.O. 5280.)

UPON RECOMMENDATION OF THE STAFF, ACTION WAS DEFERRED ON CALENDAR ITEM NO. 16 ATTACHED, IT HAVING BEEN EXPLAINED THAT MR. AND MRS. FREEMAN, WHO ARE PROTESTING THE SALE, COULD NOT BE PRESENT BECAUSE OF SERIOUS ILLNESS IN THEIR FAMILY.

Attachment

Calendar Item 16 (3 pages)

STANDARD B & P "NOISEAR"

"NOISEAR"

SALE OF VACANT FEDERAL LAND

16.

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An offer has been received from Wilmar Thomas Kahler of Lancaster, California, to purchase the SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 19, T. 7 N., R. 14 W., S.B.M., containing 40 acres in Los Angeles County. This land may be obtained by the State from the Federal Government through use of base. The applicant made an offer of \$200, or \$5 per acre, subject to future appraisal.

The matter of the sale of the above described land to Wilmar Thomas Kahler was referred to the State Lands Commission for consideration at its meeting held in Sacramento on August 15, 1956. Mr. Joseph Freeman, who is protesting the sale thereof to Wilmar Kahler, appeared personally before the Commission to express his views, and the Commission action on that date was as follows:

"UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE COMMISSION DEFERRED ACTION ON THE APPLICATION OF WILMAR THOMAS KAHLER TO PURCHASE VACANT FEDERAL LAND IN THE SE $\frac{1}{4}$  OF THE SE $\frac{1}{4}$  OF SECTION 19, T. 7 N., R. 4 W., S.B.M., CONTAINING 40 ACRES IN LOS ANGELES COUNTY, PENDING A FURTHER INVESTIGATION WHICH IS TO BE MADE OF ANY RIGHTS WHICH JOSEPH L. FREEMAN MAY HAVE WITH RESPECT TO THIS PARTICULAR PARCEL OF LAND; THE COMMISSION'S REPRESENTATIVE IS TO CONTACT MR. FREEMAN."

The pertinent facts relative to the transaction are as follows:

Under the procedure in effect at the time of receipt of the subject application in April 1947, the land embraced therein was appraised by a member of the Commission's staff, whereupon acceptance and approval of the filing of the application was referred to the Commission. Accordingly, the Commission at its meeting on March 24, 1947 (Minute Item 16) adopted a resolution approving the filing of an indemnity selection for the subject land and authorized the sale thereof to Mr. Wilmar T. Kahler, the applicant, at the appraised cash price of \$200, or \$5 per acre, subject to all statutory reservations including minerals. Mr. Kahler's application was officially filed on April 28, 1947 and the State in turn filed an indemnity selection application with the United States Bureau of Land Management to select said land on May 8, 1947.

The records of the United States Land Office indicate that the subject parcel and adjoining land was included in an original homestead application filed with the Bureau of Land Management on February 8, 1938 by Mr. Joseph Luther Freeman, Sr.

The Commissioner of the General Land Office rendered a decision rejecting the homestead application in its entirety. However, by decision of the Secretary of Interior, rendered September 24, 1940, the aforesaid decision was modified by allowing Mr. Freeman to amend his application to include certain subdivisions. The subject land, SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of said Section 19, was excluded because

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it was held to be unfit for the production of agricultural crops. Mr. Freeman amended his entry in accordance with the September 24, 1940 decision, which was allowed by the Federal Government in December of 1941. Approximately one year following the filing of the State application, Mr. Freeman filed an application with the United States Bureau of Land Management to amend his entry to include the subject parcel. Said application to amend was rejected by the Director of the Bureau of Land Management, who held that the land "is totally unsuitable for cultivation". Mr. Freeman appealed this decision and another field report was ordered which indicated approximately 8 acres of the subject land was suitable for dry land cultivation. Accordingly, the homestead entry for the subject land was allowed and the State indemnity selection application rejected by decision of the Director of the Bureau of Land Management, dated December 12, 1950.

Based upon the aforesaid rejection decision, the State applicant, with the concurrence of the State, appealed to the Secretary of Interior, alleging principally that the subject land was entirely unfit for cultivation.

The Secretary of Interior, by decision dated July 25, 1952, reversed the decision of the Director of the Bureau of Land Management, dated December 12, 1950, allowed the State indemnity selection application, and rejected the homestead application in so far as it affected the subject land. This latter decision held that where a school indemnity selection conflicts with a homestead entry, preference is automatically given the State's application.

Mr. Freeman, by letter dated January 22, 1955, submitted a protest to the State Lands Division, alleging a preferential right to acquire the subject land under his homestead entry, and alleging also that the State is not entitled to file for lands which are agricultural.

An inspection and appraisal by a member of the Commission's staff on February 13, 1955 establishes the value of the subject land at \$20 per acre. The applicant posted the necessary amount to meet this value. Said appraisal also indicates that said land is not suitable for cultivation without artificial irrigation and, furthermore, neither buildings nor crops were identified as being on any portion of said land, nor was evidence apparent that crops had been produced in the past.

In view of Mr. Freeman's protest, the subject land was again inspected by a member of the Commission's staff on July 5 and July 9, 1955. In accordance with the action of the Commission, adopted at its meeting of August 15, 1956, the subject land has again been inspected on two different occasions by an appraiser and engineer of the Commission's staff, with Mr. Freeman being present. Based upon these latter inspections, the subject land has been identified on the ground by the engineer through location and identification of survey stakes, established by the Los Angeles County Surveyor in 1936. Based upon these identified survey points, our engineer advises that the house claimed by Mr. Freeman as located on the subject land, is actually located in Section 30, T. 7 N., R. 14 W., S.B.M., approximately 700 feet south of the south line of the land in question. Furthermore, while on the ground, it was pointed out to Mr. Freeman that the area was not suitable for cultivation without very heavy contour farming and there was no evidence of the fact that it had been farmed, nor do aerial photos disclose that it has been farmed in the past.

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Sections 7351 and 7353 of the Public Resources Code state that for lands suitable for cultivation without artificial irrigation, no application to purchase shall be approved until the applicant has resided in good faith on the land for a period of not less than one year to the exclusion of any other residence or fixed place of habitation during such time.

On January 25, 1955, Mr. Freeman again filed a protest to the State selection application with the Bureau of Land Management, which was rejected by decisions on March 27 and October 2, 1956, on the basis that no new evidence which would warrant a change in the classification for disposal under the State selection was submitted by the protestant.

The selection of the subject land is considered to be to the advantage of the State in that the selection thereof will assist the State in satisfying the requirements of the School Land Grant and in addition will place said land on the tax rolls of the county in which it is situated. As indicated above, the State's application to select the land has been accepted by the Bureau of Land Management.

Mr. Freeman has been notified in writing that the matter of the sale of this land is being submitted to the Commission for consideration at its meeting of December 5, 1956.

IT IS RECOMMENDED THAT THE COMMISSION DETERMINE THAT IT IS TO THE ADVANTAGE OF THE STATE TO SELECT THE FEDERAL LAND COMPRISED IN THE SE $\frac{1}{4}$  OF SE $\frac{1}{4}$  OF SECTION 36 T. 7 N., R. 14 W., S.B.M., CONTAINING 40 ACRES IN LOS ANGELES COUNTY; THAT THE COMMISSION FIND THAT SAID FEDERAL LAND IS NOT SUITABLE FOR CULTIVATION UNDER THE MEANING OF SECTION 7357 OF THE PUBLIC RESOURCES CODE; THAT THE COMMISSION FIND THAT JOSEPH L. FREEMAN, SR. IS NOT AN ACTUAL SETTLER UPON THE LAND IN OBEDIENCE WITH SECTION 7353 OF THE PUBLIC RESOURCES CODE; THAT THE COMMISSION RESCIND THAT PORTION OF THE RESOLUTION ADOPTED AT ITS MEETING OF MARCH 24, 1956 (MINUTE ITEM 16) WHICH ESTABLISHED THE SALE PRICE OF \$200; THAT THE COMMISSION APPROVE THE SELECTION AND AUTHORIZE THE SALE OF SAID LAND, FOR CASH, TO WALTER THOMAS KAHLER, AT THE APPRAISED CASE PRICE OF \$800, SUBJECT TO ALL MINERAL RESERVATIONS INCLUDING MINERALS, UPON THE LISTING (CONVEYANCE) OF SAID LAND TO THE STATE BY THE FEDERAL GOVERNMENT.