

MINUTE ITEM

32. ACQUISITION OF VACANT FEDERAL LANDS THROUGH MEDIUM OF STATE EXCHANGE APPLICATIONS - GEN. DATA - LIEU LANDS.

After consideration of Calendar Item 23 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE EXCHANGE, ON AN EQUAL VALUE BASIS, OF STATE SCHOOL LAND IN TWO WITHDRAWN MILITARY INSTALLATIONS, NAMELY SIERRA ORDNANCE DEPOT IN LASSEN COUNTY AND CAMP IRWIN IN SAN BERNARDINO COUNTY, TOTALING 37,402.67 ACRES, PLUS ALL SCHOOL LANDS IN TOWNSHIPS ON WHICH PLATS HAVE BEEN, OR MAY BE, SUSPENDED BY THE UNITED STATES AND ALL LANDS DECLARED DANGEROUS DUE TO UNEXPLODED SHELLS AND BOMES, FOR UNITED STATES LANDS UNDER PENDING EXCHANGE APPLICATIONS, THE PURPOSE BEING TO CONCLUDE AS MANY OF THE PENDING LAND EXCHANGE APPLICATIONS AS AVAILABLE STATE LAND WILL PERMIT.

Attachment

Calendar Item 23 (3 pages)

CALENDAR ITEM

23.

ACQUISITION OF VACANT FEDERAL LANDS THROUGH MEDIUM OF STATE EXCHANGE APPLICATIONS - GEN. DATA - LIEU LANDS.

The State Lands Commission currently has pending with the United States Bureau of Land Management 22 individual exchange applications filed pursuant to the provisions of Section 8 of the Taylor Grazing Act (Public Law No. 482 approved June 28, 1934) as amended, and Section 8552 of the Public Resources Code. All of these applications have been filed by the State on behalf of individual applicants who desire to acquire federal lands, and they embrace a total of 40,696.15 acres of federal land throughout the State. Exchange applications of this type are required to be made on the basis of equal values in accordance with Part 147.2(b), Title 43, U. S. Code of Federal Regulations, and for this purpose the State initially has offered the Federal Government 47,914.98 acres of State land.

The United States Bureau of Land Management has completed appraisals of the land in 8 of the 22 exchange applications. State appraisals are complete on some of the lands, while appraisal work is in process on other lands. In many applications the value ratio between the State and federal lands is 4 to 1 in favor of the United States. In some instances the ratio is as high as 18 to 1. The differential in values is due primarily to the class of lands selected by the individual applicants. The lands in most cases are suitable for desert homesites and would be utilized as such by the purchasers, and the increase in value of such lands has been continuously on the upward trend since the filing of the applications. The nominal value of raw desert lands of the State in military installations has not increased in proportion to the increase attributable to the federal lands desired to be selected.

A precise estimate of how much State land will be necessary to complete the selection of all of the federal lands included in the 22 pending applications cannot be made at this time. The potentiality of a shortage of land for exchange purposes was recognized by the Commission at its meeting held September 13, 1957. At that time a resolution was adopted suspending the further acceptance of exchange applications. The Commission also directed that all pending exchange applications be considered in the order of processing by the Bureau of Land Management. Such order of consideration is necessary for the reason that, when a decision is rendered by the Bureau of Land Management rejecting a State exchange application because of the inequality of values, only 30 days are allowed within which the State may amend its application by adding additional lands to bring the values of the State lands in line with those established on the selected federal lands.

At the present time the State Lands Commission has a total of 82,172.77 acres of State school land in four major military installations under lease to the Federal Government. The majority of these leases were entered into under the threat of condemnation and, in one instance, a leasehold interest for a term of years was acquired by the Federal Government through proceedings in eminent domain. In all instances, however, an agreement was reached which would permit the State to exchange these lands with the United States for other unappropriated nonmineral federal lands of equal value.

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The Act of Congress approved on August 27, 1958 (Public Law 85-771, 85th Congress), terminated the right of the State to offer as base land, in an indemnity selection, land within a federal reservation, title to which vested in the State prior to the creation of the reservation by formal withdrawal. Had the statute not been enacted, 37,402.67 acres of State school land located in two military installations and embraced in formal federal withdrawal orders by the United States could have been used by the State to select under the indemnity selection procedure; i.e., on an equal acreage basis.

There are also 44,710.10 acres of school lands in two additional military installations which are not embraced in formal withdrawal orders that have been available for offer to the United States in exchange transactions; i.e., on an equal value basis. Of these latter lands, approximately 37,000 acres have been offered to the Federal Government under pending exchange applications.

A consideration in connection with this matter is that the Indemnity Act (Act of 2/28/1891, 26 Statute, 796, as amended) might be further amended, thus permitting the State to use the 37,402.67 acres heretofore mentioned to select federal lands in lieu thereof under the indemnity selection procedure; i.e., for equal acreage. While this would undoubtedly work to the State's advantage (lands would be secured on an acre-for-acre basis), two factors appear to recommend against awaiting such result:

1. There can be no assurance of amendatory action to the Statute; and
2. The United States might initiate eminent domain procedures to acquire fee title to the land during any waiting period.

A point to be considered is that the State very probably would fare better from a monetary standpoint by concluding exchange applications with the Bureau of Land Management than by allowing the United States to acquire title to school lands under proceedings in eminent domain. Lands acquired by exchange will be sold ultimately through competitive bidding, thus affording the State the highest possible return. If condemned by the United States, the State would receive only what is considered to be the fair market value under court decree.

In addition to the foregoing, the State could also offer the following for exchange:

(1) Lands in Sections 16 and 36 of various townships embraced in areas on which the township surveys have been suspended by the United States Bureau of Land Management for various reasons, such as fraudulent surveys, errors in surveys, etc. . . . .	11,640 acres
(2) Lands in San Bernardino, Riverside and Imperial Counties previously used for bombing practice and long-range rifle firing and declared dangerous for occupancy by the U. S. Corps of Army Engineers . . . . .	21,833 acres

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The foregoing may be summarized as follows:

	<u>Acres</u>	
Federal lands under State application for purchase following exchange . . . . .		40,696.15
Initial offers of State lands to the Federal Government in exchange . . . . .		47,914.98
ADDITIONAL LANDS REQUIRED TO COMPLETE EXCHANGE APPLICATIONS:		
(to meet appraised value of Federal lands)		Plus (exact acreage unknown)
Additional lands which could be made available for exchange:		
In four military installations	82,172.77	
Less previously offered	<u>37,000.00</u>	
Additional lands available		45,172.77
Acreages embraced in Bureau of Land Management Township Survey Suspensions	11,640.00	
Non-dedudded (dangerous) lands	<u>21,833.00</u>	<u>33,473.00</u>
Total school lands available for offer to the United States in Exchange		78,645.77

On the basis of information available at the present time, it appears that the State may not be able to conclude all pending exchange applications with the Federal Government, principally because of the limited acreage of State land available and its relatively small value. By using all of the acreage referred to above, many applications could be processed to completion. It is not possible to estimate the number which could be completed for the reason that appraisals to determine the market value of all lands have not been made. Practically all of the pending exchange applications were filed during the years 1953, 1954 and 1955 by individual applicants, with the intervening time having been consumed by the Bureau of Land Management in field inspections and appraisals. Most applicants have minimum offers of \$5 per acre on deposit with the State, and it is felt that every effort should be made to conclude as many of these applications as available State land will permit.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXCHANGE, ON AN EQUAL VALUE BASIS, OF STATE SCHOOL LAND IN TWO WITHDRAWN MILITARY INSTALLATIONS, NAMELY SIERRA ORDNANCE DEPOT IN LASSEN COUNTY AND CAMP IRWIN IN SAN BERNARDINO COUNTY, TOTALING 37,402.67 ACRES, PLUS ALL SCHOOL LANDS IN TOWNSHIPS ON WHICH FLATS HAVE BEEN, OR MAY BE, SUSPENDED BY THE UNITED STATES AND ALL LANDS DECLARED DANGEROUS DUE TO UNEXPLODED SHELLS AND BOMBS, FOR UNITED STATES LANDS UNDER PENDING EXCHANGE APPLICATIONS, THE PURPOSE BEING TO CONCLUDE AS MANY OF THE PENDING LAND EXCHANGE APPLICATIONS AS AVAILABLE STATE LAND WILL PERMIT.