

MINUTE ITEM

39. REQUEST FOR PATENT, LIEU LAND, LOS ANGELES COUNTY, EVA M. BARNHART - S.W.O. 7923.

After consideration of Calendar Item 29 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO ISSUE PATENT, PURSUANT TO THE AUTHORITY OF PUBLIC RESOURCES CODE SECTION 7729, IN THE NAME OF ELIJAH L. LYONS, TO THOSE LANDS DESCRIBED AS THE NE $\frac{1}{4}$ OF SECTION 28, T. 6 N., R. 10 W., S.B.M., INCLUDED WITHIN APPLICATION NO. 5848, LOS ANGELES LAND DISTRICT.

Attachment

Calendar Item 29 (1 page)

CALENDAR ITEM

29.

REQUEST FOR PATENT, LIEU LAND, LOS ANGELES COUNTY, EVA M. BARNHART - S.W.O. 7923.

A request has been received from Roick, Roick and Hefner, Attorneys at Law, on behalf of Eva M. Barnhart of Escondido, California, for issuance of a patent to certain lieu lands described as the NE $\frac{1}{4}$ of Section 28, T. 6 N., R. 10 W., S.B.M., Los Angeles County, identified as Location 5848, Los Angeles Land District, for which a certificate of purchase was issued on January 9, 1894. The facts are as follows:

1. Application was duly filed on May 20, 1893, by one Elijah L. Lyons to purchase the NE $\frac{1}{4}$ of Section 28, T. 6 N., R. 10 W., S.B.M. Said application was approved by the State Surveyor General on November 27, 1893, and, subsequently, on January 9, 1894, Certificate of Purchase No. 13018 was issued to the applicant upon the payment of 20 percent of the purchase price and interest at the rate of 7 percent on the unpaid balance for the remainder of 1893.
2. On January 26, 1895, January 4, 1896, and on January 2, 1897, interest due in the amount of \$11.20 was paid on each of said dates.
3. On September 10, 1897, the balance of the purchase price in the amount of \$160 and interest at the rate of 7 percent on the balance for the period January 1, 1897, to September 10, 1897, was paid, and full payment was properly noted on the official records of the State Surveyor General.
4. Subsequently, it was determined by the State Surveyor General's office that, pursuant to statutes then in effect, interest on the unpaid balance should have been computed for the entire year of 1897, rather than a pro rated interest payment up to September 10, 1897. Although the Surveyor General's office notified the certificate holder in 1915 of interest due, no subsequent action was taken. The office of the Attorney General in an informal opinion dated June 22, 1959, W.O. 396,107, on similar facts concluded that there was no forfeiture and that a patent should issue. It is not mandatory that the interest (if due) be collected; however, it could be accepted if tendered.

In view of the foregoing, the land does not appear to be in forfeit, nor does it appear reasonable to endeavor to collect interest of \$3.42 which might be due.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE PATENT, PURSUANT TO THE AUTHORITY OF PUBLIC RESOURCES CODE SECTION 7729, IN THE NAME OF ELIJAH L. LYONS, TO THOSE LANDS DESCRIBED AS THE NE $\frac{1}{4}$ OF SECTION 28, T. 6 N., R. 10 W., S.B.M., INCLUDED WITHIN APPLICATION NO. 5848, LOS ANGELES LAND DISTRICT.