

MINUTE ITEM

17. AUTHORIZATION FOR APPROVAL OF LESSEES' CLAIM FOR REFUND TO BOARD OF CONTROL, P.R.C. 792.1 - W.O. 4561.

After consideration of Calendar Item 13 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE STATE LANDS COMMISSION APPROVES PAYMENT OF THE CLAIM OF LEE O. PEACHEY, DAN P. HAIGHT AND LYNDIA M. HAIGHT IN THE SUM OF \$1,055, REPRESENTING RENTAL PAID BY THE CLAIMANTS TO THE STATE FOR WHICH NO POSSESSION OF THE PREMISES WAS EVER OBTAINED BY THE CLAIMANTS; FURTHER, THE EXECUTIVE OFFICER IS AUTHORIZED TO PRESENT SAID CLAIM TO THE BOARD OF CONTROL WITH A RECOMMENDATION THAT IT BE APPROVED FOR PAYMENT.

Attachment

Calendar Item 13 (1 page)

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## AUTHORIZATION FOR APPROVAL OF LESSEES' CLAIM FOR REFUND TO BOARD OF CONTROL, P.R.C. 792.1 - W.O. 4561.

Claimants, Lee O. Peachey et al., applied for and were granted a lease, P.R.C. 792.1, for a term of 15 years commencing March 24, 1953, covering tide and submerged lands on the southerly bank of the Klamath River, Del Norte County, in the area known as Taylor Island. On August 11, 1953, the claimants deposited the sum of \$422, representing the rental for the first and last year of the lease term; thereafter, in order to preserve and maintain rights in lease, claimants paid rental of \$211 on March 26, 1954, March 24, 1955, and on March 26, 1957, making a total of \$1,055. However, the claimants were not at any time in possession of the subject property nor was the State able to put claimants in peaceable possession, for the reason that the lands were in possession of and being occupied by "squatters" or trespassers. At the time claimants ceased to deposit further rental sums, the State had commenced legal action against the trespassers but the action had not come to trial, nor was there any reasonable anticipation of a prompt resolution of the issues.

The claimants hoped that the State would be able to conclude the legal action favorably and put them in possession during the term of the aforesaid lease, and that it would then be possible to apply the rentals previously deposited to the period during which they would be in possession. Claimants are informed that the Court action has resulted in a judgment, this year, 1962, favorable to the State. However, it is anticipated that the defendants will take an appeal. The Commission has already taken action terminating the aforesaid lease and has filed a Notice of Termination with the County Recorder of Del Norte. Claimants have had no possession, and can anticipate no possession of the leasehold, not through any fault of theirs but because of the State's inability to deliver possession.

There is a legal question as to whether or not this claim might be barred by the Statute of Limitations. In connection therewith, the office of the Attorney General has expressed the opinion that retention by the State of the claimants' funds would be "unconscionable" because we were completely unable to assert our rights as a landlord or to protect his rights as a tenant."

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION APPROVE PAYMENT OF THE CLAIM OF LEE O. PEACHEY, DAN P. HAIGHT AND LYNDIA M. HAIGHT IN THE SUM OF \$1,055, REPRESENTING RENTAL PAID BY THE CLAIMANTS TO THE STATE FOR WHICH NO POSSESSION OF THE PREMISES WAS EVER OBTAINED BY THE CLAIMANTS; FURTHER THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO PRESENT SAID CLAIM TO THE BOARD OF CONTROL WITH A RECOMMENDATION THAT IT BE APPROVED FOR PAYMENT.