

MINUTE ITEM

26. A. REQUEST OF STATE DEPARTMENT OF FISH AND GAME TO PURCHASE LAND IN SAN BERNARDINO COUNTY - S.W.O. 8024.
and
B. INTENTION OF STATE DEPARTMENT OF FISH AND GAME TO PURCHASE OR LEASE LAND IN SAN BERNARDINO COUNTY THAT WAS APPLIED FOR BY GEORGE D. LaMOREE; ACTION DEFERRED FROM MEETINGS OF APRIL 29 AND MAY 29, 1964 - S.W.O. 8018. (Application No. 11588, S.W.O. 7564.)

Due to the interest of the State Department of Fish and Game in Calendar Items 15 and 37, attached, they were reviewed as a unit.

The Department of Fish and Game reported a specific public interest in the subject lands as a component of a land-management program through mutually beneficial exchanges of lands between the United States and California. The Department of Fish and Game indicated its willingness to withdraw its objections, subject to a guarantee of public access on both parcels, and the use, by wildlife, of water located on the lands covered in the Merriam application.

The respective applicants agreed to the stipulations, and the conveyances to be drawn by the Commission staff will so indicate.

Attachments

- Calendar Item 15 (3 pages)
Calendar Item 37 (7 pages)

CALENDAR ITEM

15.

REQUEST OF STATE DEPARTMENT OF FISH AND GAME TO PURCHASE LAND IN SAN BERNARDINO COUNTY - S.W.O. 8024.

On December 11, 1961, Mr. Richard H. Merriam filed an application to purchase State school land described as all of Section 16, T. 17 N., R. 13 E., S.B.M., containing 640 acres in San Bernardino County. On January 10, 1962, an application to purchase the same land was filed by Gildred Building Company, a California corporation. Each applicant offered \$2 per acre, or a total of \$1,280, plus the expense deposit and filing fee of \$105 required under the Commission's regulations. These two applications were the continuation of a series of applications that were on record for the parcel at the time the Commission's moratorium on land sales became effective May 24, 1960. An earlier application, which was filed May 10, 1960, was withdrawn by the applicant on July 15, 1963.

While appraising the land under the earliest application, it was discovered that a mining operation for extraction of fluorite ore was being conducted, indicating a possible trespass and unauthorized removal of minerals from State land. Accordingly, the Commission, at its meeting held September 14, 1961, directed the Executive Officer to request the Attorney General to proceed with such legal action as might be necessary to clear the trespass. All applicants were notified and given information as to the probable length of time that would be required to resolve the trespass problem. A quiet title action is presently pending in the Superior Court of San Bernardino County, and it is estimated that this will not be resolved in less than two to three years. The two remaining purchase applicants have indicated a desire to have their applications continue in good standing pending outcome of the litigation.

As a result of a listing of State school lands furnished to the Department of Fish and Game in 1961, that Department, by letter dated January 10, 1962, advised that the subject parcel, situated in the Clark Mountains, was within an area considered valuable for retention in public ownership by the Bureau of Land Management, under Section 7 classification (wild life and game management purposes), to facilitate "blocking out" the public domain lands; the Department therefore requested that this parcel be held in public ownership.

The Commission, at its meeting of September 16, 1963, after several public hearings and due consideration, adopted policies relative to the future administration of lands under its jurisdiction, including the following quoted policy relating to conflicts between pending private applications and public-agency requests:

DIRECTS THE REJECTION OF ANY APPLICATION BY PRIVATE PARTIES TO PURCHASE STATE LANDS PRESENTLY AUTHORIZED TO BE SOLD PURSUANT TO SECTIONS 2300 TO 2302, INCLUSIVE, OF TITLE 2, DIVISION 3, OF THE CALIFORNIA ADMINISTRATIVE CODE, IN INSTANCES WHERE ANY STATE OR LOCAL AGENCY HAS OBJECTED TO SUCH SALE INTO PRIVATE OWNERSHIP AND OFFERS TO PURCHASE OR LEASE THE LAND WITHIN TWO YEARS FROM THE DATE SUCH OBJECTION IS RECEIVED BY THE STATE LANDS COMMISSION.

CALENDAR ITEM 15. (CONTD.)

In accordance with the foregoing and other adopted policies applicable to school lands under the Commission's jurisdiction, cities, counties, school districts, and State agencies were circularized with a listing of such lands, including the subject parcel. The agencies circularized were allowed 60 days within which to indicate those parcels that were desired for immediate lease or purchase, or that were to be held for the two-year period for further review as permitted by the Commission's policy. Even though the Department of Fish and Game, by its letter of January 10, 1962, indicated a desire to have the land retained in public ownership, the parcel was not noted in the Resources Agency listing submitted to the State Lands Division as a result of the above-mentioned public-agency circularization. Accordingly, the State Department of Fish and Game was advised of the Commission's policy affecting lands embraced in pending private purchase applications that also were desired by public agencies. This notice was given in view of the Department's expressed interest by letter dated January 10, 1962. Thirty days were allowed the Department to indicate whether it objected to the sale and, if so, to submit a statement that it would purchase or lease the land within two years from date of such objection. A letter dated May 6, 1964, from the Director of the Department of Fish and Game, is quoted in part as follows:

"This is to serve notice that the Department of Fish and Game objects to the sale of this land and of our intent to purchase or lease within two years from date of this objection.

"This parcel, a full section, lies within the proposed Kingston Mountains withdrawal. An access road, one of the very few in the area, crosses the middle of this section from west to east. Wildlife values are considered to be quite high in this area. The land has populations of burros, deer, and bighorn sheep."

Notwithstanding the fact that two valid applications to purchase by private applicants have been pending since December 1961 and January 1962, with the required minimum cash deposits made in the amounts of \$1,380 each, it is clear from advice of the Attorney General that the Commission may cancel an application of this type at any time prior to award to an applicant or bidder. In the instant cases, only the minimum deposits have been made. A formal appraisal to determine the market value of the land has not been made to date, due to the pendency of litigation that would prohibit a sale until the legal title is clarified as to that portion thereof occupied by the mining operations.

Both purchase applicants have been furnished with copies of this calendar item and informed of the date of the Commission meeting at which the item will be considered. The Department of Fish and Game likewise has been so informed, with the request that a representative be present to offer such justification as the Commission may require for the Department's need for the land.

CALENDAR ITEM 15. (CONTD.)

IT IS RECOMMENDED:

1. IF THE COMMISSION FINDS THE DEPARTMENT OF FISH AND GAME ADEQUATELY SUPPORTS THE OBJECTIONS THAT DEPARTMENT MADE TO THE SALE OF SECTION 16, T. 17 N., R. 13 E., S.B.M., CONTAINING 640 ACRES IN SAN BERNARDINO COUNTY UNDER THE PENDING PURCHASE APPLICATIONS, BY SHOWING SUBSTANTIAL PUBLIC NEED AND GREATER BENEFIT TO THE STATE (A) THAT APPLICATIONS NOS. 11676, S.W.O. 7885 AND 11677, S.W.O. 7891, LOS ANGELES LAND DISTRICT, BE REJECTED AND ALL FUNDS SUBMITTED BY THE APPLICANTS EXCEPT THE \$5 FILING FEE BE REFUNDED; (B) SAID LAND BE HELD FOR THE TWO-YEAR PERIOD FROM MAY 14, 1964, OR FOR SUCH FURTHER PERIOD AS IS REQUIRED TO RESOLVE THE MATTER OF TITLE, FOR PURCHASE OR LEASE BY THE STATE DEPARTMENT OF FISH AND GAME.
2. IF THE COMMISSION FINDS OTHERWISE:
 - A. THAT THE PENDING PURCHASE APPLICATIONS BE CONTINUED IN GOOD STANDING FOR SO LONG AS THE APPLICANTS DESIRE, PENDING CLARIFICATION OF TITLE UNDER THE PENDING LITIGATION, WHEREUPON THE APPLICATIONS ARE TO BE PROCESSED UNDER THE SALE PROCEDURES SET FORTH IN SECTIONS 2300 TO 2302, INCLUSIVE, OF TITLE 2, DIVISION 3, OF THE CALIFORNIA ADMINISTRATIVE CODE.

CALENDAR ITEM

37.

INTENTION OF STATE DEPARTMENT OF FISH AND GAME TO PURCHASE OR LEASE LAND IN SAN BERNARDINO COUNTY THAT WAS APPLIED FOR BY GEORGE D. LA MOREE; ACTION DEFERRED FROM MEETINGS OF APRIL 29 AND MAY 28, 1964 - S.W.O. 8018 (Application No. 11588, S.W.O. 7564)

The Commission, at its meetings of April 29 and May 28, 1964, considered the two calendar items attached hereto as Exhibits "A" and "B". During the meeting of May 28, both Mrs. La Moree, wife of the applicant to purchase Section 36, T. 7 N., R. 1 W., S.B.M., in San Bernardino County, and Mr. John Janssen, representing the State Department of Fish and Game, appeared to present their respective views.

During the review, the suggestion was made that the Commission might have other lands in San Bernardino County suitable for purchase by the La Morees in lieu of the parcel in question. As a result, a listing of lands for sale or lease in San Bernardino County which are under the Commission's jurisdiction was forwarded to Mrs. La Moree, with a suggestion that it be reviewed in light of the discussion.

While no formal response had been received from the La Morees as of the time of preparation of this calendar item, a preliminary discussion by telephone indicated the La Morees feel that the proposed procedure is impractical, particularly since it would be difficult to locate another parcel of comparable acreage that would not cost in excess of the \$26,287 they have on deposit. The parcels that might appear of interest to them have been the subject of prior appraisals that establish values in excess of this amount. At this point the La Morees have been unable to identify a parcel satisfactory to their needs that might conceivably be valued at a price equal to or less than the amount they now have on deposit. Furthermore, any parcel so identified in the belief that the value is less than the amount now on deposit would be subject to a current appraisal under any new application; such appraisal might very well establish a value in excess of the amount now on deposit. Accordingly, Mrs. La Moree has expressed the opinion that, from their standpoint, the risk of choosing another parcel is too great.

This item is now rescheduled in keeping with the decision of the Commission at its meeting of May 28, 1964, that the matter be taken under submission for one month.

IT IS RECOMMENDED THAT, AFTER CONSIDERATION OF ALL PRESENTATIONS AND ARGUMENTS BY THE APPLICANT, GEORGE D. LA MOREE, AND BY THE DEPARTMENT OF FISH AND GAME:

1. IF THE COMMISSION FINDS THAT THE DEPARTMENT OF FISH AND GAME HAS ADEQUATELY SUPPORTED ITS OBJECTIONS TO THE SALE TO THE APPLICANT OF FRACTIONAL SECTION 36, T. 7 N., R. 1 W., S.B.M., BY SHOWING SUBSTANTIAL PUBLIC NEED AND GREATER BENEFIT TO THE STATE, THE APPLICATION OF GEORGE D. LA MOREE BE REJECTED AND ALL FUNDS SUBMITTED BY HIM EXCEPT THE \$5 FILING FEE BE RETURNED,

CALENDAR ITEM 37. (CONTD.)

AND SAID LAND BE HELD FOR A TWO-YEAR PERIOD FROM APRIL 3, 1964, FOR PURCHASE OR LEASE BY THE DEPARTMENT OF FISH AND GAME IN KEEPING WITH THE COMMISSION'S POLICY COVERING CONFLICTS OF THIS TYPE, ADOPTED SEPTEMBER 16, 1963; OR

2. IF THE COMMISSION FINDS OTHERWISE,
 - A. DETERMINE THAT THE LAND IS UNSUITABLE FOR CULTIVATION WITHOUT ARTIFICIAL IRRIGATION; AND
 - B. AUTHORIZE THE SALE OF FRACTIONAL SECTION 36, T. 7 N., R. 1 W., S.B.M., TO GEORGE D. La MOREE AT THE OCTOBER 3, 1961, STAFF APPRAISAL OF \$26,287.10, BEING THE AMOUNT DEPOSITED BY THE APPLICANT, AND THE AMOUNT HE WOULD HAVE BEEN REQUIRED TO PAY FOR THE LAND AT THAT TIME HAD THERE BEEN NO OBJECTIONS BY THE DEPARTMENT OF FISH AND GAME; THE SALE TO BE SUBJECT TO ALL CONSTITUTIONAL AND STATUTORY RESERVATIONS INCLUDING MINERALS.

Attachments

Exhibits "A" and "B"

EXHIBIT "A"

CALENDAR ITEM 23 (MEETING OF 5/28/64)

INTENTION OF STATE DEPARTMENT OF FISH AND GAME TO PURCHASE OR LEASE LAND IN SAN BERNARDINO COUNTY APPLIED FOR BY GEORGE D. La MOREE; ACTION DEFERRED FROM MEETING OF APRIL 29, 1964 - S.W.O. 7564 AND S.W.O. 8018.

The Commission, at its meeting of April 29, 1964, considered Calendar Item 20, copy of which is attached hereto as Exhibit "B". At the time of presentation of the item, Mrs. George D. La Moree appeared in person to object to the recommended rejection of the application. Upon hearing Mrs. La Moree's statements to the effect that the objections by the Department of Fish and Game were not well founded, that there was no validity to their implication that the scenic desert lands of California have been spoiled by unplanned development, and that the Department's action in offering to purchase or lease within two years was capricious, the Commission deferred action to its next regular meeting. It is expected that both the applicant and a representative of the Department of Fish and Game will be present at this meeting to present their respective views.

Should the Commission find that the Department of Fish and Game has not supported its objections to the sale, the question then arises as to whether the land should be reappraised and the October 3, 1961, valuation updated; this has been discussed informally with a representative of the office of the Attorney General. Advice received indicates this is not a legal matter, but strictly a matter of policy as to whether the Commission wishes to sell the land to Mr. La Moree at the appraised value as of October 3, 1961, or to revise the value to reflect the current-day price. In view of the fact that the land probably would have been sold to the applicant by action of the Commission at its meeting of February 27, 1962, except for the objection to the sale expressed by the Department of Fish and Game which caused the sale deferral, and the fact that the total appraised value of \$26,287.10, plus expenses, has been on deposit since prior to February 27, 1962, with publication of notice to receive competitive bids having occurred for the required thirty-day period with no bids received, it would appear inequitable to the applicant to reappraise the property and to republish for the purpose of calling for new bids. Therefore, it is felt that the applicant is entitled to purchase the land for the price he was willing to pay and had expected to pay as of February 27, 1962, having at that time complied with all regulations and requirements of law and completed all acts required on his part to be performed.

IT IS RECOMMENDED THAT, AFTER HEARING PRESENTATION OF ARGUMENTS BY THE APPLICANT, GEORGE D. LaMOREE, AND BY THE DEPARTMENT OF FISH AND GAME:

1. IF THE COMMISSION FINDS THAT THE DEPARTMENT OF FISH AND GAME HAS ADEQUATELY SUPPORTED ITS OBJECTIONS TO THE SALE TO THE APPLICANT OF FRACTIONAL SECTION 36, T. 7 N., R. 1 W., S.B.M., BY SHOWING SUBSTANTIAL PUBLIC NEED AND GREATER BENEFIT TO THE STATE, THE APPLICATION OF GEORGE D. La MOREE BE REJECTED AND ALL FUNDS SUBMITTED BY HIM EXCEPT THE \$5.00 FILING FEE BE RETURNED, AND SAID LAND BE HELD FOR A TWO-YEAR PERIOD FROM APRIL 3, 1964, FOR PURCHASE OR LEASE BY THE DEPARTMENT OF FISH AND GAME; OR

EXHIBIT "A" (CONTD.)

CALENDAR ITEM 23 (MEETING OF 5/28/64)

2. IF THE COMMISSION FINDS OTHERWISE,
 - A. DETERMINE THAT THE LAND IS UNSUITABLE FOR CULTIVATION WITHOUT ARTIFICIAL IRRIGATION; AND
 - B. AUTHORIZE THE SALE OF FRACTIONAL SECTION 36, T. 7 N., R. 1 W., S.B.M. TO GEORGE D. La MOREE AT THE OCTOBER 3, 1961, STAFF APPRAISAL OF \$26,287.10, BEING THE AMOUNT DEPOSITED BY THE APPLICANT, AND THE AMOUNT HE WOULD HAVE BEEN REQUIRED TO PAY FOR THE LAND AT THAT TIME HAD THERE BEEN NO OBJECTIONS BY THE DEPARTMENT OF FISH AND GAME; THE SALE TO BE SUBJECT TO ALL CONSTITUTIONAL AND STATUTORY RESERVATIONS INCLUDING MINERALS.

Attachment

Exhibit "B" (Calendar Item 20, meeting of 4/29/64)

EXHIBIT "B"

CALENDAR ITEM 20 (MEETING OF 4/29/64)

REQUEST OF STATE DEPARTMENT OF FISH AND GAME TO PURCHASE LAND IN SAN BERNARDINO COUNTY; REJECTION OF APPLICATION, GEORGE D. La MOREE - S.W.O. 8018.

On February 4, 1960, Mr. George D. La Moree filed an application to purchase State school land described as all of fractional Section 36, T. 7 N., R. 1 W., S.B.M., containing 618.52 acres in San Bernardino County. The applicant offered \$20.05 per acre, for a total of \$12,401.33, being the minimum offer required under the Commission's regulations as a result of a prior appraisal of the land.

A reappraisal of the land under date of October 3, 1961, set the value at \$42.50 per acre, for a total of \$26,287.10. On October 23, 1961, the applicant deposited the required amount to meet this value; the money has been on deposit with the Division since that date. Immediately thereafter, during November and December, publication of notice of intention to receive sealed bids occurred; no bids were received.

On February 27, 1962, the matter of sale of the land to George D. La Moree was referred to the State Lands Commission for consideration, and, at the same time, the Commission was informed of the request of the Department of Fish and Game, under date of February 1, 1962, that all of said Section 36 be retained in public ownership. This request was supported by a statement that the land is situated within a block of public domain lands in the Ord Mountains of San Bernardino County for which the Department anticipates processing a request to the United States Bureau of Land Management to establish a national cooperative land and wildlife management area. In view of this request from the Department of Fish and Game, the following resolution was adopted by the Commission:

UPON MOTION DULY MADE AND CARRIED UNANIMOUSLY, A RESOLUTION WAS ADOPTED DEFERRING ACTION ON APPLICATION NO. 11588 OF GEORGE D. La MOREE TO PURCHASE VACANT STATE SCHOOL LAND IN SAN BERNARDINO COUNTY (FRACTIONAL SECTION 36, T. 7 N., R. 1 W., S.B.M.), WITH FINAL DETERMINATION AS TO WHETHER THIS LAND SHOULD BE RETAINED IN PUBLIC OWNERSHIP, FOR THE BENEFIT OF THE DEPARTMENT OF FISH AND GAME, OR SOLD TO GEORGE D. La MOREE TO BE MADE IN CONSONANCE WITH THE LAND MANAGEMENT AND DISPOSITION POLICY TO BE ESTABLISHED BY THE COMMISSION, A REPORT ON WHICH IS TO BE GIVEN TO THE COMMISSION BY THE STAFF NOT LATER THAN THE APRIL 1962 MEETING. MR. La MOREE IS TO BE GIVEN THE OPTION EITHER OF CANCELLING HIS APPLICATION AND RECEIVING A REFUND OF THE MONEYS WHICH HE HAS ON DEPOSIT, OR OF LEAVING HIS MONEYS ON DEPOSIT SO THAT HIS APPLICATION WILL REMAIN IN FULL FORCE AND EFFECT IF IT SHOULD BE DETERMINED FINALLY THAT THE LANDS FOR WHICH HE HAS APPLIED SHOULD BE SOLD INTO PRIVATE OWNERSHIP.

The State Lands Commission at its meeting of September 16, 1963, adopted, after several public hearings and due consideration, policies relative to the future administration of lands under its jurisdiction, including the following-quoted policy relating to conflicts between pending private applications and public agency requests for use of the same lands:

EXHIBIT "B" (CONTD.)

CALENDAR ITEM 20 (MEETING OF 4/29/64)

DIRECTS THE REJECTION OF ANY APPLICATION BY PRIVATE PARTIES TO PURCHASE STATE LANDS PRESENTLY AUTHORIZED TO BE SOLD PURSUANT TO SECTIONS 2300 TO 2302, INCLUSIVE, OF TITLE 2, DIVISION 3, OF THE CALIFORNIA ADMINISTRATIVE CODE, IN INSTANCES WHERE ANY STATE OR LOCAL AGENCY HAS OBJECTED TO SUCH SALE INTO PRIVATE OWNERSHIP AND OFFERS TO PURCHASE OR LEASE THE LAND WITHIN TWO YEARS FROM THE DATE SUCH OBJECTION IS RECEIVED BY THE STATE LANDS COMMISSION.

In accordance with the foregoing and other adopted policies applicable to school lands under the Commission's jurisdiction, cities, counties, school districts, and State agencies were circularized with a listing of such lands, including the subject parcel. The agencies circularized were allowed 60 days from the dates of such notices within which to indicate those parcels that were desired for immediate lease or purchase, or that were to be held for the two-year period for further review as permitted by the Commission's policy. By letter dated December 26, 1963, the City Administrator of the City of Victorville requested that the subject parcel be held by the Commission for the two-year period. Even though the Department of Fish and Game objected to the sale by the Commission in February of 1962, the parcel was not noted in the Resources Agency listing submitted to the Division as a result of the above-mentioned public agency circularization. Both the City of Victorville and the State Department of Fish and Game were advised of the Commission's policy affecting lands embraced in pending private purchase applications that also were desired by public agencies. Thirty days were allowed each agency to indicate whether it objected to the sale and, if so, to submit a statement that it would purchase the land within two years. The City of Victorville waived through failure to respond within the 30-day period. A letter dated April 1, 1964, from the Director of the Department of Fish and Game is quoted in part as follows:

"This parcel of land is within a 131,000 acre area proposed for wildlife management area and contains key wildlife and public access value. The Ord Mountain area is considered an exceptional wildlife and conservation site that should be preserved in public ownership.

"We feel that the above values are more important than seasonal cabin sites. We feel that too many of the scenic and important desert lands in California have already been spoiled by this type of unplanned development.

"This letter is to inform you of our objection to this sale and that the Department of Fish and Game intends to purchase or lease the subject land within two years from the date of this letter."

Notwithstanding the fact that the private applicant has had a valid application pending since February 4, 1960, to purchase, with all deposits made in the amount of \$26,287.10, it is clear from advice of the Attorney General that the Commission may cancel an application of this type at any time prior to award to an applicant or bidder. In keeping with the aforementioned policy of the Commission adopted at its meeting of September 16, 1963, rejection of the private application and a refund of all deposits except for the \$5 filing fee is in order.

EXHIBIT "B" (CONTD.)

CALENDAR ITEM 20 (MEETING OF 4/29/64)

IT IS RECOMMENDED THAT THE COMMISSION:

1. REJECT THE APPLICATION OF GEORGE D. La MOREE TO PURCHASE ALL OF FRACTIONAL SECTION 36, T. 7 N., R. 1 W., S.B.M., CONTAINING 618.52 ACRES IN SAN BERNARDINO COUNTY;
2. DIRECT THE RETURN OF ALL DEPOSITS TO THE APPLICANT EXCEPT FOR THE \$5 FILING FEE; AND
3. HOLD SAID LAND FOR THE TWO-YEAR PERIOD FROM APRIL 3, 1964, FOR PURCHASE OR LEASE BY THE STATE DEPARTMENT OF FISH AND GAME.