

MINUTE ITEM

42. PROPOSED RULES AND REGULATIONS FOR PUBLIC LANDS ADMINISTRATION PROGRAM (OTHER THAN SOVEREIGN, TIDE AND SUBMERGED LANDS) - W.O. 5238.

After consideration of Calendar Item 47 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO INITIATE PROCEDURES UNDER THE PROVISIONS OF SECTION 11420, ET SEQ., OF THE GOVERNMENT CODE, FOR CONSIDERATION OF AMENDMENTS AND/OR REVISIONS OF ARTICLES 1, 2, 5 AND 6 OF TITLE 2, DIVISION 3 OF THE CALIFORNIA ADMINISTRATIVE CODE, RULES AND REGULATIONS OF THE STATE LANDS COMMISSION AS PROPOSED IN EXHIBITS "A", "B", "C" AND "D" ATTACHED HERETO.

Attachment

Calendar Item 47 (14 pages)

CALENDAR ITEM

47.

PROPOSED RULES AND REGULATIONS FOR PUBLIC LANDS ADMINISTRATION PROGRAM  
(OTHER THAN SOVEREIGN, TIDE AND SUBMERGED LANDS) - W.O. 5230.

The Commission, at its meeting of September 16, 1963, adopted specific policies and procedures relative to the administration of public lands under its jurisdiction other than sovereign, tide and submerged lands. These policies require certain revisions of existing regulations of the Commission set forth under Title 2, Division 3 of the California Administrative Code. Specifically, Article 5 of Title 2, Division 3, relating to the sale of school and swamp and overflowed lands, is required to be completely revised while minor changes are required to be made in Articles 1, 2 and 6.

Attached hereto as Exhibits "A", "B", "C" and "D" are Articles 1, 2, 5 and 6, respectively, as revised, in keeping with the policies adopted on September 16, 1963.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO INITIATE PROCEDURES UNDER THE PROVISIONS OF SECTION 11420, ET SEQ., OF THE GOVERNMENT CODE, FOR CONSIDERATION OF AMENDMENTS AND/OR REVISIONS OF ARTICLES 1, 2, 5 AND 6 OF TITLE 2, DIVISION 3 OF THE CALIFORNIA ADMINISTRATIVE CODE, RULES AND REGULATIONS OF THE STATE LANDS COMMISSION AS PROPOSED IN EXHIBITS "A", "B", "C" AND "D" ATTACHED HERETO.

Attachments

Exhibits "A", "B", "C" and "D"

EXHIBIT "A"

Amend Article 1. As Follows:

GENERAL PROVISIONS

1901. DEFINITIONS.

As used in this chapter unless the context otherwise requires:

- (a) The term "commission" means the State Lands Commission.
- (b) The term "applicant" includes any person who files an application under these rules.
- (c) The term "person" includes any individual, firm, co-partnership, company, business trust, association, private corporation, municipal corporation, public or quasi-public corporation, county, city and county, district, political subdivision, department or other instrumentality of government.
- (d) The term "inspector" means any employee of the Division of State Lands duly authorized to act in that capacity.
- (e) The term "lease" includes a permit, easement or license.
- (f) The term "structure" means any construction works, including, but not limited to derricks, pipe lines, lines for the transmission and distribution of electricity, telephone lines, wharves, piers, slips, and warehouses; also units designed to act as groins, jetties, seawalls, breakwaters, or bulkheads.
- (g) The term "submerged lands" means the area lying below the elevation of low water in the beds of all tidal and of nontidal navigable waters.
- (h) The term "tidelands" means the area lying between the elevation of low water and high water.
- (i) The term "uplands" includes all other classes of land which are neither submerged lands nor tidelands.

1902. APPLICATION REQUIREMENTS.

(a) Among other requirements the following may must be met by any applicant or bidder for the purchase of state school lands, swamp and overflowed lands, or vacant United States lands: Applicants must be:

- (1) Persons or associations of persons who are citizens of the United States or who have declared filed a declaration of their intention of becoming such; or

EXHIBIT "A" (CONTD.)

(2) Any corporation 90 per cent or more of the shares of which are owned by persons eligible to purchase lands or to hold a lease or permit under subdivision (1) of this subsection (a); or any corporation 90 per cent of the shares of which are owned either by a corporation eligible to purchase lands or to hold a lease or permit hereunder, or by any combination of such eligible persons or corporations, or both.

(b) Applications or bids to purchase lands by corporations must be made in the name of the purchaser, subscribed and sworn to by the authorized officer thereof, whose authorization must accompany the application. The seal of the purchaser, applicant or bidder, if any, must be affixed.

(c) Applications for the purchase or lease of state lands by the United States or any agency thereof, by the State of California or any agency thereof, or by local agencies of the state including county, city and county, city, district, or other public agency of the state, are excepted from compliance with subsections (a) and (d) of this section.

(d) Applications for a geological or geophysical survey permit, including core-drilling permits, or a request under the provisions of Section 5871.3 of the Public Resources Code that lands be offered for bidding for an oil and gas lease, or applications for permits to prospect for minerals other than oil or gas, or for the leasing, or use, or occupancy under a permit or easement, of any lands under the jurisdiction of the commission, may be made only by the following:

(1) Persons or associations of persons who are citizens of the United States or who have declared their intention of becoming such, or who are citizens of any country, dependency, colony, or province, the laws, customs, and regulations of which permit the grant of similar or like privileges to the citizens of the United States.

(2) Any corporation or corporations organized and existing under and by virtue of the laws of the United States or of any state or territory thereof; or any corporation or corporations 90 per cent or more of the shares of which are owned by persons eligible to hold a lease, or permit under subdivision (1) or (3) of this subsection (d); or any corporation or corporations 90 per cent or more of the shares of which are owned either by a corporation eligible to hold a lease or permit hereunder, or by any combination of such eligible persons or corporations, or both.

(3) Any alien person entitled thereto by virtue of any treaty between the United States and the nation or country of which the alien person is a citizen or subject.

(e) Applications may not be received for oil and gas leases or non-preferential leases for other minerals. Such leases may be issued only pursuant to proceedings initiated by the commission. (See Section 2100 hereof.)

EXHIBIT "A" (CONTD.)

(f) In every case of joint bidding, the names of all persons, firms, or corporations interested in a particular joint bid shall be specified.

(g) Other requirements for applications are specified in the separate articles hereof.

1903. FEES AND EXPENSE DEPOSITS.

(a) Each application shall be accompanied by a filing fee of \$5 (except in the case of a political subdivision or governmental agency from which no filing fee is required). This fee shall not be refunded if the application is accepted and filed.

(b) In addition to this filing fee an expense deposit shall be made in an amount sufficient to cover the costs of the commission in processing the application. This deposit shall be in the amounts specified in the separate articles hereof. Should such initial expense deposit be insufficient to cover said costs, the applicant shall deposit with the commission within 20 days following receipt of written notice such additional sum as may be specified. Failure to so deposit shall be considered cause for cancellation of the application. Failure to so deposit shall be considered cause for cancellation of the application.

(c) Any unexpended balance of the expense deposit shall be refunded to the applicant.

(d) Costs of processing the application shall be borne by the successful applicant. The entire expense deposit of the original all other applicants or bidders shall be refunded whenever he is not the one awarded is made to a successful applicant or bidder. Costs of processing the application shall be borne by the successful applicant.

(e) Fees for the following services performed by the commission shall be:

- |  |         |
|--|---------|
| (1) Certificates of Purchase or duplicates thereof   | \$ 6.00 |
| (2) Patents and certified copies of records thereof  | \$10.00 |
| (3) For certifying a contested case to superior court  | \$20.00 |
| (4) For certifying copies of papers  | \$ 1.00 |
| (5) For other services performed, fees shall be charged based on the costs of the services rendered. |         |

1908. BIDDING PROCEDURES.

(a) In cases where the law or these rules require that an award be made to the highest bidder, the commission shall cause notice of intention to receive bids to be published.

EXHIBIT "A" (CONTD.)

(b) The notice shall describe the lands offered, state the time for receiving and opening bids and indicate that forms for bidding may be obtained at an office of the commission. Such notice shall be published at least once in a newspaper of general circulation in the county in which the lands are situated and may be published at least once in a newspaper of general circulation in the City of Los Angeles, or San Francisco, or Sacramento.

(c) At the time and place specified in the notice, the sealed bids shall be opened publicly and, except as provided in Article 5, Section 2303(d) hereof, an award shall be made to the highest qualified bidder unless, in the opinion of the commission, the acceptance of the highest qualified bid is not for the best interests of the State, in which event the commission may reject all bids. Thereupon, new bids may be called for or the commission may refuse to call for new bids until a new application is made and a new deposit to cover the costs of advertising is deposited with the commission.

(d) Not later than 15 days after receipt of written notice of the award, except as otherwise provided in Article 5, Section 2302(e), a successful bidder shall pay the first annual rental or other consideration as required and execute and deliver any required documents to the commission.

1915. BIDDING BY PARTNERSHIP.

In the event of submittal of a bid by a partnership, either jointly or individually, except for the purpose of purchasing school land, swamp and overflowed land, and vacant United States land, the bidder or bidders shall submit a sworn statement with the bid, in the form of an affidavit, or certified statement, that each and every limited partner is duly qualified under Section 6801 of the Public Resources Code.

EXHIBIT "B"

Amend Article 2. As Follows

LEASING OR OTHER USE OF LANDS

2000. GENERAL.

(a) This article applies to leases of lands for commercial, residential, recreational, agricultural (including grazing), and all other uses except for the prospecting for or extraction of minerals, including oil and gas. Rules for operations under leases for the extraction of oil and gas or other hydrocarbons are to be found in Article 3 and those for mineral extraction leases are set forth in Article 4. All authorizations for use granted pursuant to this article are subject to the right of the State to grant separate leases for the extraction of minerals including oil or gas from the lands involved or for other uses not incompatible with the original lease.

(b) Applications for grazing and agricultural leases shall be addressed to the Division of State Lands, Division, 1403 Twelfth Street, Sacramento, California, 95814. Applications for other leases under this article shall be addressed to the principal office at 217 West First Street, Los Angeles 12, California, 90012.

(c) Applications relating to the same parcel of land shall take precedence in the order of their receipt at the designated office of the commission, except that applications filed by cities, counties and officers of the State shall have priority over applications of other persons.

(d) The initial minimum expense deposits required under the provisions of Section 1903 (b) as applied to leases under this article shall be:

(1) For leases for residential use, and for recreational use where the cost of proposed installations or the preliminary appraised value of the lands does not exceed \$1,000; no initial deposit is required.

(2) For grazing and agricultural leases, and for leases for recreational use where the cost of proposed installations or the preliminary appraised value of the lands exceeds \$1,000: ~~\$25~~ \$50.

(3) For all other leases within the purview of this article: \$100.

2001. GROINS, JETTIES, ETC.

(a) Authority to construct or maintain groins, jetties, seawalls, breakwaters or bulkheads may be granted to political subdivisions public bodies of the State, or to private persons if applicant is a littoral owner or licensee of such littoral owner.

EXHIBIT "B" (CONTD.)

(b) The commission reserves the right to revoke any authorization issued under this section, when in its judgment, it is to the best interest of the public so to do.

2002. LESSEES.

(a) Leases to occupy tide and submerged lands or to construct or maintain thereon, wharves, docks, piers, water terminals, pipe lines, lines for the transmission and distribution of electricity, telephone lines, bridges, and all other structures within the purview of this article, may be granted to the littoral owner or to the owner of licenses or easements from such littoral owners for the proposed work, or to ~~political subdivisions~~ public bodies of the State.

(b) Leases of other state lands for uses permitted under this article may be issued to qualified applicants.

2003. APPLICATION REQUIREMENTS.

(a) Forms for grazing and agricultural leases may be obtained from the Sacramento office of the ~~Division of State Lands~~ Division.

(b) No special forms are required for applications for other uses within the purview of this article.

(c) Applications for authority to construct or maintain structures enumerated in Section 2001 hereof, and to construct and maintain commercial structures covered by Section 2002 hereof shall include:

(1) Name, address, and status of citizenship of applicant; if applicant is a corporation, the corporate name and the name of the president, secretary, and officer authorized to execute contracts and leases.

(2) A description of the state lands involved.

(3) A statement of the use proposed.

(4) A plat of the area desired, showing:

(A) Boundaries of parcel applied for, connected to a record survey by courses and distances.

(B) The outline of each existing structure on the property, each appropriately identified.

(5) Name and address of each record owner of adjoining property, with a statement of the character and use of such property.



EXHIBIT "B" (CONTD.)

(6) Plans and cross sections of the proposed structure or copies of drawings which may have been submitted to the Corps of Engineers, Department of the Army.

(d) The applicant may be required to furnish such additional information and supporting data as the Division of State Lands may deem applicable.

2004. DURATION OF LEASES.

(b) The term for which any grazing, recreational or agricultural lease for acreage may be issued shall not exceed five ten years.

2006. TERMINATION.

Leases for grazing or agricultural purposes may be terminated by the Division of State Lands under the following conditions:

(a) Upon the sale of the leased premises: Under these conditions the lease shall terminate on the date that a patent is issued; of approval of sale by the Commission, except that when an application is filed by an actual settler to purchase land suitable for cultivation, the lease shall terminate on the date such application is filed.

(b) Upon the exchange of the leased premises for federal lands: In such a case the lease shall terminate on the date the State designates the lands as bases for indemnity selections.

(c) Upon the surrender of a lease thus terminated the lessee shall receive a refund of the unearned rental, or, at the option of the lessee, a new lease shall be issued for the balance of the unexpired term covering any land described in the surrendered lease not disposed of by the State.

EXHIBIT "C"

Amend Article 5 As Follows:  
Delete Entire Present Wording and Substitute:

SALE OF SCHOOL AND SWAMP AND OVERFLOWED LANDS

2300. GENERAL.

(a) Lists of public lands which may be sold by the State Lands Commission can be obtained from the office of the State Lands Division at Sacramento, California.

(b) No application to purchase lands shall be filed for lands not contained in the afore-mentioned list. The separate listing of descriptions or combinations thereof within each section on such list establishes the availability, for separate sale, of each such listed parcel.

(c) Lands suitable for cultivation without artificial irrigation may be sold only to actual settlers and in quantities not exceeding 320 acres to each settler. (See Art. XVII, Sec. 3, Const.)

(d) Applications to purchase lands shall embrace lands in one county only and in no more than one United States land district. Where desired lands lie in more than one county or one United States land district, separate applications to purchase such lands shall be filed for each county or land district involved.

(e) Lands within the exterior boundaries of a military or Indian reservation shall not be sold.

(f) In accordance with law, every occupant of a sixteenth or thirty-sixth section is protected in his occupancy for three months after the township has been sectionized.

(g) The State makes no guarantee of ingress or egress through lands adjoining those applied for.

(h) Cities, counties, school districts and officers of the State may have any lands withdrawn from sale, for their use under purchase or lease, for a maximum period of two years from date of receipt of written request, until the termination of the 45-day notification period referred to in Section 2302(a). During such 45-day period any such entity or officer must indicate that, subject to availability of funds, it will purchase or lease such lands within said two years. At the close of such 45-day period, such privilege shall terminate. Thereafter, any public entity enumerated in Section 6223, Public Resources Code, may obtain the preferential purchase or lease right afforded by said Section 6223 by filing an appropriate application.

(i) Upon receipt of an application from any public entity enumerated in sub-section (h) above to purchase or lease any land on the "sales list" and there being no other purchase application on file, the lands so applied for shall be immediately deleted from the sales list and added to the "lease list."

EXHIBIT "C" (CONTD.)

(j) The provisions of this article are not applicable to those applications which were on file as of May 24, 1960 or to such competitive and supplemental applications for the same lands as were authorized to be filed by the May 24, 1960 resolution of the Commission. (Minute Item No. 22, Minute page No. 5995). The regulations of the Commission in effect on May 24, 1960 shall govern action with respect to such applications.

EXHIBIT "C" (CONTD.)

2301. APPLICATIONS

To qualify as a bona fide applicant prior to advertising, a person shall tender to the Sacramento office of the Commission his complete application in the form prescribed, accompanied by a non-refundable filing fee of \$5.00, plus a minimum expense deposit of \$350.00 (see Section 1903 supra). The minimum written offer required to qualify an application for filing shall be as determined by blanket resolution of the Commission in force at the time of the filing of the application. A cash deposit on account of the offer shall not be required prior to advertised call for sealed bids. In the case of bids submitted pursuant to advertised call for sealed bids, there shall be submitted, with the bid form, the filing fee plus the amount of the expense deposit stated in the advertised call for sealed bids plus the following applicable minimum cash (check or money order) deposits on account of the offer.

- (a) The full amount of the appraised value, for parcels appraised at \$500.00 or less;
- (b) \$500.00, for parcels appraised at more than \$500.00 but not more than \$2,500.00;
- (c) 20% of the appraised value, for parcels appraised at more than \$2,500.00.

2302. UNOCCUPIED LANDS NOT SUITABLE FOR CULTIVATION

(a) PROCESSING APPLICATIONS

Upon the receipt of a bona fide application, except applications filed by school districts and those falling within the purview of Section 6223, Public Resources Code, the State Lands Division shall notify all State agencies having a land-acquisition program, soliciting a response to be received within 45 days from date of the receipt of such application as to whether such agencies wish to have the land withdrawn from sale for the purpose of leasing or purchasing such lands within two years, subject to the availability of funds. If any entity referred to in Section 2300 (h) indicates in writing that it will purchase or lease the applied-for land within two years, subject to the availability of funds, all private applications shall be cancelled and the lands withdrawn from sale, except in instances where any application indicates that the land may fall within the purview of Sections 2300(c) or 2303, in which event the private application(s) shall continue in force, at the option of the applicant, pending classification of the land by formal action of the Commission. In the event no such entity indicates in writing within the afore-mentioned 45-day period that it will purchase or lease the land applied for within two years, or if the applicant is a county, city or officer of the State subject to the provisions of Section 6223, Public Resources Code, or is a school district, the State Lands Division shall prepare an estimate of the total expenses required to complete processing of the application(s). If such estimate exceeds the amount of expense funds deposited by any applicant(s), such applicant(s) shall be notified to comply with the requirement of Section 1903(b) relating to deposit of additional expense funds. Upon receipt of such additional estimated expense funds, the State Lands Division shall

EXHIBIT "C" (CONTD.)

proceed to appraise the land at its fair market value.

In the event the written offer of all of the bona fide applicants is less than the appraised value, such applicants shall be given 20 days from receipt of written notice to amend their original offers, in writing, to an amount not less than the appraised value. Failure of any applicant to so amend shall cause his application to be cancelled.

In the event the original or any amended written offer of any bona fide applicant is at least equal to the appraised value, the land shall be advertised for sale, except that the land may be sold to a county, city, or officer of the State or a school district at the appraised value without advertising.

The advertisement shall state a minimum price which the Commission will consider. Such price shall be the minimum required offer specified by Commission resolution for all such lands under its jurisdiction or the appraised value, whichever is greater.

During the period up to 4:00 p.m. of the 30th day following the date of first publication of notice of sale, any qualified person may submit a bid to purchase said lands. Any such person may make as many different bids as he may desire. Bids must be in the form prescribed by the Commission, sealed and delivered to the State Lands Division at Sacramento, accompanied with deposits on account of the offer as set forth in Section 2301 except that in the case of persons having applications on file prior to the date of first publication of notice of sale, such persons may amend their applications by letter, but must comply with provisions of the published notice not already complied with.

(b) ESTABLISHING SALE PRICE

All offers received pursuant to such advertising shall be reviewed by the State Lands Division which shall then fix the price at which the land shall be recommended to be sold. Such price shall be exclusive of all processing costs, including, but not limited to appraisal advertising, patent and filing fees and shall not be less than the appraised value, nor less than the highest qualified offer or bid received.

(c) AWARD

The Commission shall then review the recommendations of the State Lands Division and make final award to the person making the highest qualified offer or bid or take such other action as public interest indicates.

(d) PAYMENT OF EXPENSES:

Expenses accrued to date of completion of sale or to date of cancellation or withdrawal which include, but are not limited to appraisal, advertising, patent and filing fees, shall be borne by applicants or bidders in accordance with the following:

1. In the event of completion of a sale: by the purchaser of the land.

EXHIBIT "C" (CONTD.)

2. In the event no sale occurs:

- (a) by all applicants, pro-rata, whose applications are on file on the date of the issuance of the notice to amend offers required under Section 2302(a), if all such applicants withdraw or fail to amend during such 20-day period.
- (b) by the sole applicant or bidder, if there be no other application or bid on file at the time cancellation or withdrawal occurs.
- (c) by the highest qualified bidder, if such bidder withdraws his bid, or offer, between the time of opening of all bids and formal bid acceptance by the Commission.

(e) NOTICE TO SUCCESSFUL PURCHASER

Following the award by the Commission, if additional monies are due, the State Lands Division shall give written notice to the person receiving the award to deposit in cash (check or money order) the balance of his offer or bid, within 15 days from receipt of such notice, except that if the award is made to a city, county, the State or a school district, 60 days may be allowed to deposit the purchase price.

2303. OCCUPIED LANDS

(a) Bona fide settlers occupying lands suitable for cultivation for which plats of survey have been approved shall have 60 days after date of settlement within which to file their applications.

(b) Such applicants must have resided on and occupied such lands in accordance with law for a period of at least one full year before the sale can be authorized by the Commission.

(c) In accordance with law, if such lands are determined by the Commission to be unsuitable for cultivation, the occupant shall be a preferred purchaser for a period of six months from the date of the decision.

(d) Sales of occupied lands shall be accomplished by negotiation by the State Lands Division and shall be subject to all of the provisions of this article except Section 2302, hereof. The Commission shall make the final award or take such other action as public interest indicates.

EXHIBIT "D"

Amend Article 6. As Follows:

SALE OF VACANT UNITED STATES LANDS

2401. APPLICATIONS.

(a) Applications under this article shall be submitted to the State Lands Division, of State Lands, 1403 Twelfth Street, Sacramento 14, California 95814.

(b) An applicant desiring to purchase such lands shall accompany his application, which shall include a legal description of the land, with all papers and documents on forms prescribed by the Division of State Lands and the United States Department of Interior. He shall furnish a certified check or money order, payable to the Treasurer of the United States, in the amount of ~~\$2~~ \$5 for each ~~160~~ 540 acres or fraction thereof applied for. In addition, the application must be accompanied by a nonrefundable filing fee of \$5 and an expense deposit of ~~\$100~~ \$350 (see Section 1903). and the amount of the initial offer of \$5 per acre for the lands applied for, or the appraised value, whichever is greater. The minimum written offer required to qualify an application for filing shall be as determined by blanket resolution of the commission in force at the time of the filing of the application.

(c) Where lands to be applied for lie in more than one county or one United States land district, separate applications to purchase such lands shall be filed for each county or land district involved.

2402. PROCEDURE.

(a) Upon compliance by the applicant with the provisions of this article and of law, the Division of State Lands shall forward to the District Office of the United States Bureau of Land Management a state application that the land applied for be listed to the State in lieu of the bases surrendered.

(b) Upon notification by the local office of the United States Bureau of Land Management that the State's application for lands applied for has been allowed, the land will be appraised by the State at its fair market value. After appraisal the price will be fixed at \$5 per acre or at the appraised value or at the amount determined by blanket resolution of the commission in force at the time of the filing of the application, whichever is the greater. The price so fixed shall be the price the prospective purchaser shall be required to pay.

(c) In the event the price fixed exceeds the applicant's original offer and he fails to increase said offer to the price set within 20 days after ~~issuance~~ receipt of written notice, his application shall be canceled and the application of the State to select the land shall be withdraw if the commission so elects. The applicant shall be entitled to a refund of the deposits placed by him less costs incurred by the Division of State Lands in processing the application.

EXHIBIT "D" (CONTD.)

(d) If the offer is increased sufficiently within the prescribed period to meet the price established, and all other requirements of the law and this article have been met, publication of notice of sale will ensue. After the required period following such publication the application will be presented to the commission for approval for consideration. If the commission finds that the public interest is served thereby, approval of the sale may be given. Upon approval by the commission a certificate of purchase for the land will be issued in the name of the applicant.

(e) Upon listing of the land to the State by the United States, and surrender by the applicant of certificate of purchase, a patent to the land will be issued to the applicant, and any remaining balance of his expense deposit will be refunded.

(f) The foregoing provisions of this article are not applicable to the processing of applications upon the surrender of Certificates of Indemnity, or scrip, filed pursuant to Section 7413, et seq. of the Public Resources Code.