

MINUTE ITEM

18. ADOPTION OF RULES AND REGULATIONS FOR PUBLIC LANDS ADMINISTRATION PROGRAM (OTHER THAN SOVEREIGN, TIDE AND SUBMERGED LANDS) - S.W.O. 5238.

During consideration of Calendar Item 9 attached, Chairman Anderson called attention to a letter he had received from former Assemblyman Jack Massion, who suggested that the State when considering applications for land sales should give preference to persons having adjacent property. The Executive Officer pointed out that this specific problem of preferences had been reviewed by the State Lands Commission at public hearings, and that the specific problem of granting preferences was disposed of as a matter of policy on vote of the Commission and also at the suggestion of the Senate Natural Resources Committee in that the original theory for preference was to provide for active applications to purchase State lands, and such necessity no longer exists.

UPON MOTION DULY MADE, SECONDED, AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE COMMISSION:

1. ADOPTS THE FINAL RULES AND REGULATIONS OF THE COMMISSION AS SET FORTH IN EXHIBITS "B", "C", "D" AND "E", ATTACHED HERETO AND MADE A PART HEREOF, TO BE INCORPORATED UNDER ARTICLES 1, 2, 5 AND 6, RESPECTIVELY, OF TITLE 2, DIVISION 3 OF THE CALIFORNIA ADMINISTRATIVE CODE.
2. RESOLVES THAT \$5 PER ACRE SHALL BE THE MINIMUM ACCEPTABLE OFFER TO QUALIFY APPLICATIONS FOR THE PURCHASE OF SCHOOL AND SWAMP AND OVERFLOWED LANDS AND VACANT UNITED STATES LANDS AUTHORIZED TO BE SOLD UNDER ARTICLES 5 AND 6 (EXHIBITS "D" AND "E" ATTACHED).
3. REVOKES THE GENERAL WITHDRAWAL ORDER ADOPTED BY RESOLUTION AT THE MEETING OF MAY 24, 1960 (MINUTE ITEM 22, PAGE 5995), AND DIRECT THAT APPLICATIONS TO PURCHASE SHALL NOT BE RECEIVED OR ACCEPTED FOR FILING UNTIL 8:00 A.M. ON THE 46TH DAY AFTER ADOPTION OF THE REGULATIONS SET FORTH IN EXHIBITS "B", "C", "D" AND "E". IN THE EVENT SUCH 46TH DAY FALLS ON A SATURDAY, SUNDAY OR OTHER LEGAL HOLIDAY, THE EFFECTIVE TIME SHALL BE 8:00 A.M. ON THE FIRST FOLLOWING WORK DAY.

The Chairman commended the staff of the State Lands Commission for the work that it had done in bringing the public lands program up to date.

Attachment

Calendar Item 9 (21 pages)

CALENDAR ITEM

9.

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

The Commission, at its meeting of July 28, 1964, authorized publication of proposed regulations governing the administration and sale of school lands for receipt of comments and/or protests as required by existing statutes for ultimate incorporation of such regulations into the California Administrative Code. In excess of 100 individuals, corporations and public entities, including all State agencies having land acquisition programs, were circularized with copies of the proposed rules. During the thirty-day publication period commencing August 21, 1964, three responses were received as follows:

COMMENT

1. State Department of Conservation Approves draft as submitted with no further recommendations or modifications.
2. Department of Water Resources Meets department approval. No further recommendations.
3. Mr. Jack Massion Proposes preferential purchase right be accorded to adjacent land owner (See Exhibit "A" attached hereto).

With respect to the comments submitted by Mr. Jack Massion, suggesting that a preferential purchase right be accorded to adjacent land owners, it is true that federal regulations relating to the disposal of certain public domain accord a preferential right to purchase by adjacent land owners. The right, however, is not extended to adjoining land owners under all applicable laws or regulations. This feature was considered by the staff in the review and development of the regulations during the past three years, and it is believed also to have been considered by the Senate Fact Finding Committee on Natural Resources, which reviewed the entire proposed program. No favorable recommendation on this item resulted from these reviews.

The lands which remain under the Commission's jurisdiction have been, for the most part, available for sale to the general public for many years. Most of the land was acquired prior to 1930, the greater portion having been acquired well before 1900. The adjoining owner has always had the right, in common with the general public, to submit applications for the purchase of these lands. Pursuant to the sales procedures and regulations in effect for about the past 30 years, a preferential purchase right has been accorded to the applicant who first filed for the land. Thus, the adjoining owner had the opportunity to establish his preferential right to purchase. It has been the experience of the staff that as long as someone else had not applied for the land, the adjoining owner was usually satisfied to allow it to remain idle. Only when another party filed an application did the adjoining owners

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indicate any real desire to purchase. During the period when the land was idle, it was often utilized by the adjoining owner, primarily for grazing purposes, without compensation to the State, except in situations where such trespasses were discovered.

It may also be said that if any adjoining land owner is seriously interested in acquiring any of the vacant State land, he will continue to have the opportunity of applying for and bidding on such land under the proposed new regulations. The fact that State land is adjacent to his holdings would, under normal circumstances, cause it to be worth more to him than to a person having no other land holdings in the area. Therefore, if the adjoining owner is sincerely desirous of acquiring the land, he should be in a position to submit the highest bid and thereby receive the award.

The opinion expressed in paragraph 2 of Mr. Massion's letter, indicating that a preferential purchase right by a contiguous land owner will eliminate the sale of the land to promoters who merely intend to hold it for speculative purposes, is not necessarily in accordance with the situations experienced by the Division to date. Regardless of whether any purchaser intends to acquire the land for speculative purposes, the State will receive full market value at the time of sale. As above noted, past experience has indicated that the adjoining land owner is not always anxious to purchase the land so long as his free use thereof continues undisturbed. In most cases wherein any adjoining land owner has expressed an opinion that he should be entitled to a preferential right, such objection has been made only after another party has filed a purchase application. Such few objections as have been made to date have not been carried to the point of posing any administrative problem.

Mr. Massion's proposal is not administratively feasible as a Commission regulation because of existing statutes. It would be in direct conflict with Section 6223 of the Public Resources Code, which already grants preferential purchase rights to cities, counties and officers of the State. Adoption of such a regulation would create legal complications involving the preferential purchase rights of private applicants pursuant to such regulation vs. the same rights of the above-named public entities pursuant to statute.

On September 16, 1963, the Commission adopted, by resolution, policies with respect to administration of state school lands, among which was the provision for establishing by resolution rather than by regulation the minimum acceptable offer for the purchase of any lands under the Commission's jurisdiction. Heretofore the minimum acceptable offer for any land under the Commission's jurisdiction has been \$2 per acre pending appraisal, established by regulation within the California Administrative code. In recent years, no land has been appraised for or sold at less than \$5 per acre. It is the opinion of the staff that the real estate market in California is such that none of the lands under the jurisdiction of the Commission has a value of less than \$5 per acre. Accordingly, it is felt that \$5 per acre, in lieu of the \$2 minimum heretofore recited, should be set as the minimum acceptable offer required to qualify an application to purchase.

Following adoption of the formal regulations of the Commission, a period of time will be required by the Division to amend the application forms and information circulars which are to be made available to the public. These

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forms cannot be completed prior to the formal adoption of the regulations because of the possibility that the regulations, as submitted, might again be amended up to the time of Commission adoption. Some additional time will be required for printing by the State Printer. It is doubtful that the amendment and the printing of forms to comply with the new regulations can be accomplished in less than 45 days from the date of adoption of the final regulations.

Attached hereto, as Exhibits "B", "C", "D", and "E", are Articles 1, 2, 5 and 6, respectively, of Title 2, Division 3 of the California Administrative Code, as amended and recommended for adoption. It will be noted that the recommended form of the regulations in Exhibits "B", "C", "D" and "E" submitted herewith contain minor modifications of wording from the wording used in the heretofore published version for purposes of completeness and clarity. These minor changes are permissible in that they do not effect any substantive change from the published version.

IT IS RECOMMENDED THAT THE COMMISSION:

1. ADOPT THE FINAL RULES AND REGULATIONS OF THE COMMISSION AS SET FORTH IN EXHIBITS "B", "C", "D" AND "E", ATTACHED HERETO AND MADE A PART HEREOF, TO BE INCORPORATED UNDER ARTICLES 1, 2, 5 AND 6, RESPECTIVELY, OF TITLE 2, DIVISION 3 OF THE CALIFORNIA ADMINISTRATIVE CODE.
2. RESOLVE THAT \$5 PER ACRE SHALL BE THE MINIMUM ACCEPTABLE OFFER TO QUALIFY APPLICATIONS FOR THE PURCHASE OF SCHOOL AND SWAMP AND OVERFLOWED LANDS AND VACANT UNITED STATES LANDS AUTHORIZED TO BE SOLD UNDER ARTICLES 5 AND 6 (EXHIBITS "D" AND "E" ATTACHED).
3. REVOKE THE GENERAL WITHDRAWAL ORDER ADOPTED BY RESOLUTION AT THE MEETING OF MAY 24, 1960, (MINUTE ITEM 22, PAGE 5995) AND DIRECT THAT APPLICATIONS TO PURCHASE SHALL NOT BE RECEIVED OR ACCEPTED FOR FILING UNTIL 8:00 A.M. ON THE 46TH DAY AFTER ADOPTION OF THE REGULATIONS SET FORTH IN EXHIBITS "B", "C", "D" AND "E". IN THE EVENT SUCH 46TH DAY FALLS ON A SATURDAY, SUNDAY OR OTHER LEGAL HOLIDAY, THE EFFECTIVE TIME SHALL BE 8:00 A.M. ON THE FIRST FOLLOWING WORK DAY.

Attachments

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

EXHIBIT "A"

September 2, 1964

State of California
State Lands Commission
305 California State Bldg.
217 West First Street
Los Angeles, California

Re: Proposed change in the regulations of the
State Lands Commission

Gentlemen:

In connection with the notice of proposed change in the regulations of the State Lands Commission which is presently scheduled for final hearing in Los Angeles, California at 11:00 a.m. on September 21, 1964, the undersigned would like to suggest that the regulations be amended to provide in connection with the sale of school, swamp and overflowed lands covered by Article 5, that a preference right of purchase be given to the owners of contiguous lands. This would be similar to such preference right as provided in Title 43, Section 250.11 of the USCA.

It is my belief that in providing for this preferential right of purchase by a contiguous land owner, you are eliminating the sale of this land to promoters who do not intend to develop this land but merely to hold it for speculative purposes. This provision would permit these lands to be placed on the county tax rolls. The contiguous land owner would be more likely to develop this land sooner than a speculative purchaser. Also, it would make for more uniform land development programs since the contiguous land owner would incorporate the newly acquired land in his own development program.

It is suggested that Article 5, Section 2302 include a new subparagraph (c) to read as follows:

(c) Preference right of purchase; declaration of purchaser. The owners of contiguous lands have a preference right, for a period of 30 days after the highest bid has been received, to purchase the land offered for sale at the highest bid price or at three times the appraised price if three times such appraised price is less than the highest bid price. Such preference right may also be asserted at any time prior to the commencement of such period.

Very truly yours,

/s/ Jack Massion

Jack Massion

EXHIBIT "B"

California Administrative Code
Title 2
Division 3. State Property Operations
Register 59, No. 15 - 9/12/59

ARTICLE 1.

GENERAL PROVISIONS

1900. OPERATING AND ADMINISTRATIVE AGENCY.

The Division of State Lands Division of the Department of Finance is the operating and administrative agency of the State Lands Commission and shall perform such duties and functions as may be directed by the Commission.

NOTE: Authority cited for Articles 1 through 6: Division VI (Sections 6103, 6104, 6105, 6106, 6108, 6216, 6218, 6301, 6321, 6321.2, 6322, 6501, 6501.1, 6501.2, 6502, 6503, 6504, 6812, 6815, 6828, 6829, 6830, 6831, 6873, 6891, 6897, 6900, 6963, 6992, 7307, 7356, 7361, 7410, 7413, 7416, 7417, 7501, 7601, 7701, 7702, 7703, 7704, 7705, and 7706), Public Resources Code.

Authority cited for Article 7: Section 126, Government Code.

History: 1. Chapter 1 originally published 1-22-45 (Title 22).
2. Repealer of Chapter 1 and new Chapter 1 filed 9-15-51; effective thirtieth day thereafter (Register 25, No. 5).

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 Division 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

(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 6871.3 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.)

(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.

History: 1. Amendment filed 8-17-55 as an emergency; designated effective 9-7-55 (Register 55, No. 12).

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. cause the application to be cancelled without notice.

(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, pursuant to advertising. 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 \$2 .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.

1904. GUARANTY DEPOSITS.

The commission may require deposits of either bond or cash to insure compliance with terms and conditions of bids, leases, or any other agreements.

1905. OFFICE OF COMMISSION.

The principal office of the commission of the Division of State Lands Division is California State Building, 217 West First Street, Los Angeles 12, California. 90012. Except as otherwise specified hereinafter, all applications shall be addressed to the principal office.

1906. MEETINGS AND APPEARANCES BEFORE COMMISSION.

(a) The commission shall meet at its principal office on the last Thursday of each month unless the date and place of meeting are, upon due notice, otherwise designated by at least two members.

(b) Business to be presented to the commission shall be filed with the Division of State Lands Division.

(c) Persons desiring to appear before the commission should give notice of such intent at least 10 days before the next regular meeting date.

1907. RESERVATIONS.

(a) Whenever it appears that such action is in the public interest, the commission may reject any application or bid or refuse to approve any work or to execute any lease or other instrument.

(b) The commission reserves the right to deviate from the rules in this chapter whenever it determines that such deviation is in the public interest.

(c) The commission may reject any application or bid if satisfactory evidence of ability to furnish all necessary sites and rights of way for all operations contemplated is not furnished or if the experience, equipment, or financial status of the applicant or bidder is not considered adequate by the commission.

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.

(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(a) 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.

1909. EXECUTION AND DELIVERY OF DOCUMENTS.

(a) The commission may execute, seal and deliver, any instrument in such manner and form as it deems appropriate to accomplish the desired purposes but no such instrument in whatever form shall be construed as conveying a fee title to tide or submerged lands owned by the State.

(b) Such instrument shall be signed by the applicant and attested or witnessed prior to its execution and delivery by or at the direction of the commission.

1910. INSPECTIONS.

Inspection of books, records, and accounts pertaining to leases, and of areas under lease and facilities thereon, may be made by inspectors of the Division of State Lands, Division. Lessees shall provide means of access and other safe and reasonable facilities enabling the inspector to make inspections, but such inspections shall not relieve the lessees of full responsibility to discharge their lease obligations.

1911. LIABILITY.

Each lessee shall be liable for and shall agree to indemnify the State against any loss, damage, claim, demand or action, caused by, arising out of, or connected with the construction or maintenance of structures upon the leased premises, or other use by the lessee and/or agents thereof.

1912. REMITTANCES.

Remittances to cover fees, rentals, or other payments shall be by cash, cashier's or certified check, postal money order, or personal check subject to collection.

1913. JOINT BIDDING.

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

If a general or limited partnership shall join in the making of a joint bid, in addition to the specification of the name of such partnership, the names and addresses of the general partners responsible for the terms of the lease shall accompany the bid.

In the case of a corporation joining in a bid, the names of the president, vice-president, secretary, assistant secretary, other officer, attorney-in-fact or agent authorized to enter into contracts for the corporation, the location of the corporation's principal office, and the state of incorporation of the corporation shall accompany the bid.

All persons, firms, or corporation who will participate in management, operation or control under the joint bid shall be specified in the bid. Others need not be specified.

Nothing herein contained shall be construed to permit a prospecting permit or lease, or any interest therein, to be held by any person not qualified under Public Resources Code Section 6801(a), (b) and (c).

~~1915-~~ 1914. 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 "C"

California Administrative Code
Title 2
Division 3. State Property Operations
Register 55, No. 12 - 8/20/55

ARTICLE 2.

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.

History: 1. Amendment filed 8-17-55 as an emergency; effective upon filing (Register 55, No. 12).

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 a littoral owner or licensee of such littoral owner.

(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. LISSEES.

(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.

(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 of 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.

(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 Division may deem applicable.

History: 1. Amendment filed 8-17-55 as an emergency, designated effective 9-7-55 (Register 55, No. 12).

2004. DURATION OF LEASES.

(a) The term for which any lease may be issued under this article shall not be less than one year.

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

(c) The term for which any residential, recreational or campsite lease for lots may be issued shall not exceed 10 years.

(d) The initial term of any other lease under this article shall not exceed 15 years, except that in the case of easements for rights of way the term may be for so long as the lands are used for the specified purpose but shall not exceed 49 years.

2005. PAYMENT OF RENTALS.

(a) Rentals for rights of way easements issued for so long as the leased lands are used for the specified purpose shall be paid in advance in full.

(b) Where the annual rental under any lease issued pursuant to this article is less than \$25, the rental for the full term of the lease shall be paid in advance.

(c) In all other cases within the purview of this article, the first and last years' rentals shall be paid in advance; rentals for intervening years shall be paid not later than 15 days after the beginning of each such intervening year.

2006. TERMINATION.

Leases for grazing or agricultural purposes may be terminated by the Division of State Lands Division 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.

2007. REPAIR OF DAMAGED STRUCTURES.

Nothing in this article shall be construed to hinder or prevent the immediate repair or replacement of portions of damaged structures for which authorizations have been issued, provided such repair or replacement does not deviate materially from the approved plans of the structure. Prompt notice of intention to repair or replace portions of damaged structures shall be given the Division of State Lands-Division.

2008. MARKER.

Where required by the terms of any lease or authorization, there shall be installed on each structure, a substantial brass marker not less than $2\frac{1}{2}$ inches in diameter inscribed "State Lands Commission (application file number), (structure letter), (type of structure)."

The marker will be installed under the direction of the Division of State Lands-Division; all cost involved shall be defrayed from the expense deposit.

2009. WARNING SIGN.

Where required by the terms of any lease or authorization, warning signs and appropriate markers shall be installed and maintained to show the location of partially or wholly submerged structures. Such signs and markers shall conform to the requirements of the United States Coast Guard or other bodies having jurisdiction over navigation and safety.

2010. APPROVAL OF PLANS.

The commission may approve or disapprove any plans submitted or authorize such action. Approval of plans shall be by endorsement thereon.

2011. CONSUMMATION OF LEASE.

(a) The commission shall determine the term of occupancy, amount of rental and other consideration, and the amount of bond, if required; the commission may then authorize the execution and delivery of the appropriate instrument permitting occupancy of the land for the approved purposes, subject to the payment and delivery of all fees, costs, bonds, rent or other consideration required by these rules.

(b) The effective date of the beginning of any lease shall be that or the date of authorization by the commission unless specifically designated otherwise.

EXHIBIT "D"

California Administrative Code
Title 2
Division 3. State Property Operations
Register 55, No. 12 - 8/20/55

ARTICLE 5.

SALE OF SCHOOL AND SWAMP AND OVERFLOWED LANDS

2300. GENERAL.

(a) Lists of the public lands within those counties where such lands are situated which may be sold by the State Lands Commission can be obtained from the office of the State Lands Division at Sacramento, California and shall be known as the "sales list". Public lands not available for general public sale will be retained on a list which shall be known as the "lease list". All lands on the "sales list" will also be available for leasing while certain lands on the "lease list" will be available for various types of leases.

The separate listing of a legal subdivision or combinations of legal subdivisions of any section on the "sales list" shall establish the units which are available for separate sale and the basis for advertising for receipt of sealed bids for each such listed unit.

(b) Applications to purchase lands not contained in the aforementioned "sales list" shall not be accepted for filing, except that applications to purchase by any public entity enumerated in subsection (h) hereinbelow may be filed for any lands not appearing on such list by reason of any request to have the same withheld from sale for a period of two years, provided there is no other basis for such lands not appearing on the "sales list".

(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 and placed upon the "lease list" 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 preferent 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 subsection (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".

(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.

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 applica-

tions 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 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 and 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, subject also to the reservation of the right to reject any or all bids.

(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.
2. In the event no sale occurs: is consummated:
 - (a)(1) 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)(2) by the sole applicant or bidder, if there be no other application or bid on file at the time cancellation or withdrawal occurs.
 - (c)(3) 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.
 - (d)(4) by the person to whom the award is made by the Commission in the event such person fails to pay the balance of his offer or bid within the period provided in Section 2302(e).

(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 "E"

California Administrative Code
Title 2
Division 3. State Property Operations
Register 55, No. 12 - 8/20/55

ARTICLE 6.

SALE OF VACANT UNITED STATES LAND

2400. QUALIFICATION OF APPLICANT.

Vacant United States Government lands which have been surveyed and are nonmineral, unappropriated and unreserved may be purchased from the State by qualified applicants.

(Note: By resolution of the State Lands Commission adopted September 19, 1963, the September 13, 1957 moratorium on the filing of indemnity selection applications was revoked in part so as to allow filings only by State agencies, City and County governments and school districts.)

History: 1. Amendment filed 8-17-55 as an emergency; designated effective 9-7-55 (Register 55, No. 12).

2401. APPLICATIONS.

(a) Applications under this article shall be submitted to the Division of State Lands, Division, 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 Division and the United States Department of Interior. He shall furnish a certified check or money order, payable to the Treasurer of the United States, United States Bureau of Land Management, in the amount of \$2 \$5 for each 160 640 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.

History: 1. Amendment to subsection (a) filed 8-17-55 as an emergency; effective upon filing. Amendment to subsection (b) filed 8-17-55; effective thirtieth day thereafter. (Register 55, No. 12.)

2402. PROCEDURE.

(a) Upon compliance by the applicant with the provisions of this article and of law, the Division of State Lands Division 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 withdrawn 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 Division in processing the application.

(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 Certificate of Indemnity, or scrip, filed pursuant to Section 7413, et seq. of the Public Resources Code.