

MINUTE ITEM

5/27/65

26. REVIEW OF PRIOR DIRECTIVES RELATING TO PENDING APPEAL BEFORE THE SECRETARY OF THE INTERIOR; STATE EXCHANGE APPLICATION NO. 74, TRINITY COUNTY (WARREN GILZEAN) - S.W.O. 6242.

During consideration of Calendar Item 16 attached, it was noted for the record that neither Mr. Warren Gilzean nor anyone representing him was present.

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

THE COMMISSION, AS A RESULT OF REVIEW OF DIRECTIVES ADOPTED DURING THE MEETINGS OF OCTOBER 26, 1961, AND OF APRIL 26, 1962, AND IN THE LIGHT OF THE NEW EVIDENCE SET FORTH IN EXHIBIT "A" AND THE INFORMATION SET FORTH IN THIS CALENDAR ITEM:

1. DIRECTS THE EXECUTIVE OFFICER TO WITHDRAW THE APPEAL NOW PENDING BEFORE THE SECRETARY OF INTERIOR UNDER STATE EXCHANGE APPLICATION NUMBER 74 (S.W.O. 6242), SERIAL NUMBER 051653, SACRAMENTO LAND DISTRICT;
2. REJECTS THE APPLICATION OF WARREN GILZEAN, FILED WITH THE COMMISSION ON AUGUST 15, 1955; AND
3. DIRECTS THE EXECUTIVE OFFICER TO RETURN ALL DEPOSITS MADE UNDER SAID APPLICATION EXCEPT THE \$5 FILING FEE.

Attachment

Calendar Item 16 (5 pages)

CALENDAR ITEM

16.

REVIEW OF PRIOR DIRECTIVES RELATING TO PENDING APPEAL BEFORE THE SECRETARY OF THE INTERIOR - STATE EXCHANGE APPLICATION NO. 74, S.W.O. 6242, TRINITY COUNTY.

The Commission presently has an appeal under consideration by the Secretary of Interior resulting from decisions by the local land office of the United States Bureau of Land Management and the Director of the Bureau in Washington, both of which rejected State Exchange Application No. 74 on the principal ground that the selected federal land, comprising 57.99 acres on the Trinity River, contains unique site characteristics and is desired for retention in Federal ownership for recreational uses such as camping, picnicking, roadside-rest purposes, and fishing access to the Trinity River.

During the meeting of the Commission held October 26, 1961, at which time consideration was being given as to whether an appeal should be taken to the adverse decision of the Land Office, appearances were made before the Commission by public officials and persons associated with sportsmen and recreation groups who urged that the Commission not appeal the adverse decision. At that meeting, the following resolution was adopted:

"THE COMMISSION:

1. AUTHORIZES THE EXECUTIVE OFFICER TO PROCEED WITH THE FILING OF AN APPEAL WITH THE DIRECTOR OF THE UNITED STATES BUREAU OF LAND MANAGEMENT ON THE REJECTION OF STATE EXCHANGE APPLICATION NUMBER 74, TRINITY COUNTY;
2. DIRECTS THE EXECUTIVE OFFICER TO INCLUDE IN THE MINUTE RECORD OF THE SUBJECT ACTION TAKEN THE CONCLUSION THAT BY AUTHORIZATION OF THE APPEAL (A) THE COMMISSION IS IN NO MANNER DETERMINING THE PUBLIC INTEREST IN HOLDING THE LAND FOR PUBLIC RECREATION PURPOSES, (B) ANY PUBLIC INTEREST IN HOLDING THE LAND FOR PUBLIC RECREATIONAL PURPOSES WILL BE EVALUATED BY THE COMMISSION IN THE LIGHT OF COMMISSION LAND-MANAGEMENT-AND-DISPOSITION POLICY AS AND WHEN THE SUBJECT LAND IS CONVEYED TO THE STATE BY THE UNITED STATES."

The aforesaid resolution made it clear that the Commission at that time was not determining the public interest or the need for retention of the land by the United States for public use and also clarified for the record that the public-interest feature would be properly considered and evaluated by the Commission at the appropriate time in the future if title to the land passed to the State. Accordingly, an appeal was filed with the Director of the Bureau of Land Management in Washington, D.C., which resulted in a decision upholding the Land Office rejection. The matter of appealing the adverse decision of the Director was considered by the Commission at its meeting of April 26, 1962, and the following resolution was adopted:

"THE EXECUTIVE OFFICER IS AUTHORIZED TO PROCEED WITH THE FILING OF AN APPEAL WITH THE SECRETARY OF INTERIOR TO THE DECISION OF THE OFFICE OF

CALENDAR ITEM 16. (CONTD.)

THE DIRECTOR OF THE UNITED STATES BUREAU OF LAND MANAGEMENT DATED MARCH 15, 1961, WHICH AFFIRMED THE DECISION OF THE MANAGER OF THE SACRAMENTO LAND OFFICE REJECTING STATE EXCHANGE APPLICATION NUMBER 74, TRINITY COUNTY, SERIAL NUMBER 051653, SACRAMENTO, AND THAT FOR THE PURPOSE OF THE RECORD THE COMMISSION REAFFIRM THE DETERMINATION SET FORTH UNDER ITEM 2 OF THE RESOLUTION ADOPTED OCTOBER 26, 1961."

The appeal authorized by the Commission resolution of April 26, 1962, was timely filed and is pending before the Secretary of Interior at the present time.

Throughout the various hearings on this matter before the Commission, it was emphasized by the staff that adverse decisions, such as have been issued in the instant case, should not be allowed to go uncontested. It was believed that to do so would establish a precedent which would operate adversely to the State's interest on future exchange transactions with the Department of Interior, of which there undoubtedly will be several in the future, for the purpose of assisting in satisfaction of the School Land Grant. The paramount problem involved is completely separate from and entirely unrelated to the public-interest considerations expressed by various State-agency representatives, and individuals representing conservation groups. It was for this reason that the Commission made it clear in its resolution of October 26, 1961, that the public-interest feature was not a consideration in its determination to proceed with an appeal. Since title to the land is still vested in the United States, it was not considered appropriate that the Commission make a determination of the public interest at that time, and, instead, it was indicated such determination would be made at the appropriate time in the future, if and when the land involved was conveyed to the State by the United States.

By letter dated April 12, 1965, from Mr. Neal D. Nelson, State Director of the Bureau of Land Management, to Mr. Hale Champion, Director of Finance (copy of which is attached hereto as Exhibit "A"), it is indicated that the Bureau of Land Management desires to retain the subject area in Federal ownership to develop its recreational potential, and that construction funds have been made available for the start of development for the last quarter of the 1965 fiscal year. The letter further indicates that the Bureau is prepared to commence construction immediately if the State of California withdraws its appeal now pending before the Secretary.

The information that funds are immediately available to the Bureau for development of this area for recreational purposes, is the first that has come to the attention of the Commission. In prior appearances before the Commission of representatives of the Department of Fish and Game, of the Wildlife Conservation Board, of the United States Bureau of Land Management, and of recreational groups, no information was submitted indicating that development of the parcel would be accomplished immediately or that funds were available for such development.

In view of the new information furnished by the Bureau, the Commission may wish at this time to consider whether the pending appeal before the Secretary

CALENDAR ITEM 16. (CONTD.)

of Interior is to continue and be processed to a final decision, or whether the appeal should be withdrawn. Furthermore, in the light of all of the evidence emphasizing the need for retention of the land in public ownership for public use, it would appear in the final analysis that if the land should be conveyed to the State by the United States, the Commission at that time will be faced with the decision as to whether the land will be sold into private ownership or utilized by the State or a public entity for public purposes.

In the hearing before the Commission on September 14, 1961, a representative of the Wildlife Conservation Board specifically stated that the Board is interested in acquiring the land involved, by lease or in fee, for development for public purposes. Section 6223 of the Public Resources Code provides that applications for purchase or lease of State lands shall be given the priority of time of filing, except that applications filed by any county, city or officer of the State shall have priority over all other applications regardless of time of filing. This Section establishes a preferential purchase or lease right in cities, counties, and agencies of State government. The mere filing of a purchase or lease application by any of these entities would require the Commission to honor such application to the exclusion of the pending private application or any other private application for the same purpose.

With the expressed indication that the Wildlife Conservation Board is interested in filing either a purchase or lease application with the Commission following any transfer of title to the State, it would appear that any request or desire of the private applicant to have the Commission consider a sale into private ownership, pursuant to his application which initiated the transaction between the State and the United States, would be nullified by the preference rights accorded under Section 6223 of the Public Resources Code, in the event of such filing by the Wildlife Conservation Board.

The fact that the United States Bureau of Land Management has now submitted written evidence that public development is ready to proceed and that funds are immediately available for such development, is cause for re-referral of this matter to the Commission for further consideration of the prior decisions to prosecute the appeal to completion.

IT IS RECOMMENDED THAT:

THE COMMISSION REVIEW THE AFOREMENTIONED DIRECTIVES ADOPTED DURING THE MEETINGS OF OCTOBER 26, 1961, AND OF APRIL 26, 1962, IN THE LIGHT OF THE NEW EVIDENCE SET FORTH IN EXHIBIT "A" AND THE INFORMATION SET FORTH IN THIS CALENDAR ITEM AND

1. DIRECT THE EXECUTIVE OFFICER TO WITHDRAW THE APPEAL NOW PENDING BEFORE THE SECRETARY OF INTERIOR UNDER STATE EXCHANGE APPLICATION NUMBER 74 (S.W.O. 6242), SERIAL NUMBER 051653, SACRAMENTO LAND DISTRICT;

CALENDAR ITEM 16. (CONTD.)

2. REJECT THE APPLICATION OF WARREN CILZEAN, FILED WITH THE COMMISSION ON AUGUST 15, 1955; AND
3. DIRECT THE EXECUTIVE OFFICER TO RETURN ALL DEPOSITS MADE UNDER SAID APPLICATION EXCEPT THE \$5.00 FILING FEE.

Attachment
Exhibit "A"

C O P Y

EXHIBIT "A"

In Reply Refer To:

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

C.04
Sac 051653 (7.0)
Junction City Site

STATE OFFICE
Room 4017 U. S. Courthouse and Federal Bldg.
650 Capitol Mall
Sacramento, California
95814

April 12, 1965

Mr. Hale Champion
Director, State Department of Finance
Room 1145 State Capitol Building
Sacramento, California 95814

Dear Mr. Champion:

This refers to your conversation with Mr. John Reginato, Bureau of Land Management Advisory Board Member, which was held in your offices on April 6, 1965, regarding California State selection application Serial No. Sac 051653. The selected lands are described as the NE $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, lot 12 of Sec. 1, T. 33 N., R. 11 W., M.D.M. (Calif.), 57.99 acres. This parcel is known locally as the Junction City Site. The California State Lands Commission has appealed to the Secretary of the Interior the Bureau of Land Management decision rejecting the application.

The site has been subject to excessive camper use during the past few years and the sanitation problem is expected to be acute during the coming months. The Bureau of Land Management desires to retain this site in Federal ownership and to develop its recreation potential. Construction monies have been made available for the start of development for the last quarter of FY 1965. We also have the use of labor provided by the Trinity Job Corps Camp.

The Bureau is prepared to commence construction at once, provided that the State of California formally withdraws its appeal which is now pending before the Secretary.

Sincerely yours,

/s/ Neal D. Nelson
State Director

cc: Mr. John Reginato
California State Lands Commission