

MINUTE ITEM

7/27/67

40. AUTHORIZATION TO FILE STIPULATIONS FOR ENTRY OF JUDGMENT AND TO REQUEST ENTRY OF JUDGMENT PURSUANT THERETO IN CASE OF PEOPLE V. PACIFIC FLUORITE CO. OF CALIFORNIA, ET AL., SAN BERNARDINO SUPERIOR COURT NO. 107490 - W.O. 2875.15.

After consideration of Calendar Item 38 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION (1) ACCEPTS THE TWO STIPULATIONS FOR ENTRY OF JUDGMENT EXECUTED ON BEHALF OF THE DEFENDANTS HEREIN AND (2) AUTHORIZES THE ATTORNEY GENERAL TO EXECUTE AND FILE SAID STIPULATIONS AND TO REQUEST ENTRY OF JUDGMENT PURSUANT THERETO.

Attachment

Calendar Item 38 (2 pages)

AUTHORIZATION TO FILE STIPULATIONS FOR ENTRY OF JUDGMENT AND TO REQUEST ENTRY OF JUDGMENT PURSUANT THERETO IN CASE OF PEOPLE V. PACIFIC FLUORITE CO. OF CALIFORNIA, ET AL., SAN BERNARDINO SUPERIOR COURT NO. 107490 - W.O. 2875.15.

This litigation concerns a 640-acre school land section located in eastern San Bernardino County, Section 16, Township 17 North, Range 13 East, San Bernardino Meridian (as shown on Exhibit "A").

A mineral trespass, consisting of the extraction and milling of fluorite ore, was found to be in existence on the subject section. At the request of the State Lands Commission, the Office of the Attorney General brought action to quiet title, for ejectment, for an accounting, and for damages.

After a three-week trial on the issue of title, the Court, in an interim ruling, quieted title to the subject section in the State of California and ordered that the Defendants be ejected therefrom. Trial on the issue of damages was deferred pending the ruling on title.

Before and after the Court's ruling, an exhaustive investigation was undertaken by the State Lands Division and the Office of the Attorney General in an attempt to ascertain the quantity of fluorite ore that had been extracted and sold by the Defendants. It was determined that the amount of damages for the extraction and sale of ore that could be proven was substantially less than had been anticipated when the action was filed. It was also well below the \$339,675.00 counterclaim that had been asserted against the State of California by the Defendants.

In light of these findings as to the amount of provable damages, the State Lands Division and the Office of the Attorney General conducted extensive negotiations with the Defendants to dispose of all of the outstanding questions involved in the litigation.

As a result of these negotiations, the State's settlement terms were accepted by the Defendants and two Stipulations for Entry of Judgment have been executed by the Defendants' attorneys (Exhibits "C" and "D"). In essence, these Stipulations provide that: Judgment shall be entered in accordance with the Court's interim ruling in favor of the State of California; the Defendants shall not directly or collaterally attack said Judgment; the Defendants shall dismiss their counterclaim and their claim filed with the State Board of Control; they shall not assert any future claim against the State, or any and all officers, agents, employees, commissions, boards, departments, divisions or other agencies thereof; they shall pay a sum which has been stipulated as the amount of royalties that would have been paid to the State had a mineral extraction lease been in effect during the trespass; they shall demolish the mill building and all other buildings, structures, and other structural improvements and remove them from the subject section; they shall fill or close certain mine shafts and a mine tunnel; and they shall leave the subject section in a safe and clean condition. It is further provided that the Defendants shall deliver to the Executive Officer of the State Lands Commission

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a \$15,000.00 surety bond to guarantee the performance of their site-clearance obligations (Exhibit "E").

The two Stipulations for Entry of Judgment which have been executed by the Defendants' attorneys are now on file with the Commission awaiting its approval.

IT IS RECOMMENDED THAT THE COMMISSION (1) ACCEPT THE TWO STIPULATIONS FOR ENTRY OF JUDGMENT EXECUCED ON BEHALF OF THE DEFENDANTS HEREIN AND (2) AUTHORIZE THE ATTORNEY GENERAL TO EXECUTE AND FILE SAID STIPULATIONS AND TO REQUEST ENTRY OF JUDGMENT PURSUANT THERETO.