

20. REQUEST OF DEPARTMENT OF FISH AND GAME FOR WITHDRAWAL OF LAND IN SAN BERNARDINO COUNTY FROM PUBLIC SALE (APPLICATION NO. 116, RIVERSIDE LAND DISTRICT, S.W.O. 8289).

During consideration of Calendar Item 15 attached, appearances were made by the following:

Mr. Richard H. Davidson, Game Management Supervisor for the California Department of Fish and Game, who explained that the request for the withdrawal had been made for the benefit of the United States Bureau of Land Management, which was attempting to work out an exchange on this land for use as part of a proposed "multiple use" lands area.

Mr. John Peavy, Chief Division Resource Manager for the U. S. Bureau of Land Management at Riverside, California, who explained that the land was wanted primarily for access to a large block of adjacent public lands and that at least another year would be needed to work out details.

The Commission directed that the staff evaluate the reports presented and report back to the Commission for final action.

Attachment

Calendar Item 15 (2 pages)

15.

REQUEST OF DEPARTMENT OF FISH AND GAME FOR WITHDRAWAL OF LAND IN SAN BERNARDINO COUNTY FROM PUBLIC SALE (APPLICATION NO. 116, RIVERSIDE LAND DISTRICT, S.W.O. 8289).

In February and March of 1965, two private-purchase applications were filed, on Section 16, T. 12 N., R. 15 E., and on Section 16, T. 13 N., R. 15 E., S.B.M., and were assigned Application Nos. 46 and 64, Riverside Land District, respectively. In accordance with Section 2302(a) of the Commission's regulations set forth under Article 5, Title 2, Division 3, of the California Administrative Code, all State agencies having a possible land-acquisition program were circularized with a written notice allowing 45 days from the dates of receipt of such notice within which to respond if interested. Responses were received from the State Department of Fish and Game, wherein the Commission was requested to withhold the subject parcels for the maximum period of two years, pending purchase or lease by the Department subject to the availability of funds. Accordingly, pursuant to regulations, the two private-purchase applications were cancelled and the parcels were withdrawn from the public sales list. During the two-year withdrawal period, the Department of Fish and Game failed to exercise its right to purchase or lease and the parcels were automatically restored to the public sales list, effective March 10, 1967, as to Section 16, T. 12 N., R. 15 E., and effective April 22, 1967, as to Section 16, T. 13 N., R. 15 E., S.B.M.

Shortly after the restoration of these lands to public sale, a private application to purchase was received for both parcels, which again required the Division to circularize a written notice to State agencies having a land-acquisition program, requesting advice as to whether any agency wished to have such land withdrawn for the maximum period of two years for purchase or lease. A response was received again from the Department of Fish and Game, requesting that the land be withheld from sale to the general public for the maximum period, during which the Department indicated it would purchase or lease subject to the availability of funds.

Section 2302(a) of the Commission's regulations provides, in part, that "Upon the receipt of a bona fide application..., 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 land within two years, subject to the availability of funds."

The 45-day period under the recent circularized notice expired at 5:00 p.m., July 2, 1967, but, since the expiration date was on a Sunday, the time for response was extended until Monday, July 3, 1967, at 5:00 p.m. The memorandum from the Director of the Department of Fish and Game, requesting the withdrawal of said lands for a second two-year period, is dated June 29, 1967; however, it was not received in the office of the State Lands Division until 9:30 a.m., July 5, 1967, after the close of the deadline specified by the regulations.

CALENDAR ITEM 15. (CONTD.)

The regulations governing this procedure and the right of public entities to have lands withheld for their purchase or lease contemplate that a maximum initial period of two years will be allowed. Any withdrawal of lands based upon a request originating from the same agency that, in essence, attempts to extend the original two-year withdrawal period for the same land, is considered discretionary with the Commission. Failure of a public entity to act during the original two-year withdrawal period is considered cause for requiring such entity to justify, to the satisfaction of the Commission, the substantial public benefit to be served by an extension beyond the original withdrawal. The regulations do not provide for, nor do they contemplate, the automatic extension of time upon receipt of a second request beyond the first two-year withdrawal period. As noted in the above-quoted portion of the pertinent regulation, the public entity is expected to act affirmatively on its request to have lands withheld, subject only to the provision that funds are made available either to purchase or to lease. No such action was taken by the Department of Fish and Game during the original two-year withdrawal period.

The Department of Fish and Game was furnished a copy of this calendar item in advance of this meeting.

Attached (Exhibit "A") is a location map of the subject property.

IT IS RECOMMENDED THAT THE COMMISSION REJECT THE JUNE 29, 1967, REQUEST OF THE DEPARTMENT OF FISH AND GAME, RECEIVED BY THE STATE LANDS DIVISION ON JULY 5, 1967, FOR WITHDRAWAL FROM PUBLIC SALE OF SECTION 16, T. 12 N., R. 13 E., AND OF SECTION 16, T. 13 N., R. 15 E., S.B.M., CONTAINING 1,280 ACRES IN SAN BERNARDINO COUNTY, UNLESS THE DEPARTMENT OFFERS EVIDENCE OR TESTIMONY IN SUPPORT OF ITS WITHDRAWAL REQUEST THAT, IN THE JUDGMENT OF THE COMMISSION, CLEARLY INDICATES AND ESTABLISHES A SUBSTANTIAL PUBLIC BENEFIT TO BE SERVED BY THE WITHDRAWAL; IF SUCH EVIDENCE OR TESTIMONY IS OFFERED, IT IS RECOMMENDED THAT THE PRIVATE PURCHASE APPLICATION BE REJECTED, THAT ALL DEPOSITS BE REFUNDED, AND THAT THE LANDS BE WITHDRAWN FROM PUBLIC SALE FOR A PERIOD OF TWO YEARS FROM JULY 5, 1967; IF SUCH EVIDENCE OR TESTIMONY IS NOT OFFERED, IT IS RECOMMENDED THAT THE COMMISSION DIRECT THE STAFF TO CONTINUE WITH THE USUAL PROCESSING OF THE PRIVATE PURCHASE APPLICATION FILED UNDER APPLICATION NO. 116.