

MINUTE ITEM

8/28/68

14. TERMINATION OF GRAZING AND AGRICULTURAL LEASE P.R.C. 3006.2, INYO COUNTY; R. W. KELSEY - S.W.O. 7961.

After consideration of Calendar Item 39 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION DECLARES LEASE P.R.C. 3006.2 TERMINATED AS OF THE DATE OF COMMISSION ACTION HEREON, ON THE GROUNDS OF BREACH OF THE LEASE DUE TO NON-PAYMENT OF ANNUAL RENTAL FOR THE YEARS COMMENCING MAY 23, 1966, MAY 23, 1967, AND MAY 23, 1968, AND FOR FAILURE TO PROVIDE AN EFFECTIVE SURETY BOND; FURTHER, THE COMMISSION AUTHORIZES ISSUANCE OF A NOTICE OF TERMINATION OF SAID LEASE.

Attachment

Calendar Item 39 (1 page)

TERMINATION OF GRAZING AND AGRICULTURAL LEASE P.R.C. 3006.2, R. W. KELSEY - S.W.O. 7961.

On May 29, 1963, the Commission entered into a grazing lease with R. W. Kelsey of San Jose, California, for a period of five years, embracing Section 16, T. 7 S., R. 37 E.; Section 36, T. 7 S., R. 37 E.; Section 36, T. 8 S., R. 37 E.; Section 16, T. 8 S., R. 38 E.; Section 36, T. 8 S., R. 38 E.; and the  $E\frac{1}{2}$  of Section 16, T. 9 S., R. 38 E., M.D.M., containing a total of 3,520 acres in Inyo County. Thereafter, on April 7, 1965, the lease was amended to extend the use of the  $E\frac{1}{2}$  of Section 36, T. 8 S., R. 37 E., and the  $E\frac{1}{2}$  of Section 16, T. 9 S., R. 38 E., M.D.M., containing a total of 640 acres, for agricultural purposes in addition to the grazing use previously authorized. This amendment also authorized the lessee to dig or drill water wells, not to exceed six in number, together with the right to install improvements such as fencing and necessary buildings in connection with the agricultural use. By the April 1965 amendment, the annual rental was adjusted from \$70.40 to \$281.60, with a performance bond required in the amount of \$500.00. By amendment executed August 23, 1965, the original five-year lease term was amended to provide for a term of ten years.

The Division's accounting records show payment of rental through May 23, 1966, with the three subsequent annual payments, each in the amount of \$281.60, due in advance on May 23, 1966, May 23, 1967, and May 23, 1968, delinquent in the total amount of \$844.80. Furthermore, the \$500.00 bond required by the terms of the April 7, 1965, amendment has not been submitted.

Diligent attempts have been made to secure both rental payments and the required bond. The lessee indicated he was working on the matter, but has not complied.

By reason of the aforesaid rental delinquencies and failure to submit the required bond, a breach of the lease has occurred, which is cause for termination action by the Commission. It is proposed to apply the last year's rental (which has been paid in advance) to one of the delinquent annual rentals.

IT IS RECOMMENDED THAT THE COMMISSION DECLARE LEASE P.R.C. 3006.2 TERMINATED AS OF THE DATE OF COMMISSION ACTION HEREON, ON THE GROUNDS OF BREACH OF THE LEASE DUE TO NONPAYMENT OF ANNUAL RENTAL FOR THE YEARS COMMENCING MAY 23, 1966, MAY 23, 1967, AND MAY 23, 1968, AND FOR FAILURE TO PROVIDE AN EFFECTIVE SURETY BOND; FURTHER, IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE ISSUANCE OF A NOTICE OF TERMINATION OF SAID LEASE.