

MINUTE ITEM

5/28/70
LHG

36. AUTHORIZATION TO ACCEPT INDEMNITY ENTITLEMENT LAND UNDER CONDITIONS IMPOSED BY TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AND DELEGATION OF AUTHORITY TO SIGN ASSURANCE FORM - S-8265.

After consideration of Calendar Item 4 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES:

1. ACCEPTANCE OF LAND FROM THE DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, IN SATISFACTION OF INDEMNITY ENTITLEMENT, WITH COVENANTS AS IMPOSED BY EXHIBIT "B".
2. EXECUTION OF THE ASSURANCE FORM (EXHIBIT "A"), IN COMPLIANCE WITH REGULATIONS PROMULGATED BY THE SECRETARY OF THE INTERIOR.

Attachment:

Calendar Item 4 (5 pages)

4.

AUTHORIZATION TO ACCEPT INDEMNITY ENTITLEMENT LAND UNDER CONDITIONS IMPOSED BY TITLE VI OF THE CIVIL RIGHTS ACT OF 1964, AND DELEGATION OF AUTHORITY TO SIGN ASSURANCE FORM - S-8265.

Title VI of the Civil Rights Act of 1964 provides that no recipient of Federal financial assistance shall, in carrying out the purposes for which such assistance was given, discriminate against any person on the ground of race, color, or national origin, and provides that the head of each Federal department may promulgate regulations to carry out the purposes of the statute. Title 43, Code of Federal Regulations, Sections 17, et seq., contains the rules and regulations of the Department of the Interior to carry out such statutory provisions with respect to the activities administered by that Department. The Department of the Interior, Bureau of Land Management, administers the State indemnity selection program and insists that the Act applies to lands transferred under this program.

The Division and the Office of the Attorney General took exception to the covenants in the original form as proposed by the Bureau of Land Management in 1964 on the following grounds:

1. Items 2 and 3 appeared to allow the Secretary of the Interior to terminate an indemnity selection grant unilaterally.
2. Item 5 appeared to make the covenants perpetual, although the Bureau said that upon sale of the land the covenants would attach to the money received.
3. An ultimate beneficiary, as used in Item 6, was not adequately defined.
4. Item 7, possibly requiring the State to post land received under indemnity selection, appeared unreasonable.

Since early 1965, the Division has been working with Bureau of Land Management personnel to make the covenants less burdensome. On November 25, 1969, the State Director of the Bureau forwarded a letter of understanding on the matter. This was followed by a revised form of covenants.

The letter of understanding and the revised form of covenants provide the following:

1. Revocation of the grant must follow due process procedures.
2. The covenants terminate when the land is sold for fair market value. They follow neither the land nor the money paid.
3. An ultimate beneficiary is a third party who purchases the land at fair market value.
4. Posting of the land is not required in the revised form of covenants.

CALENDAR ITEM 4. (CONTD.)

This form has been examined by the Office of the Attorney General, who has approved it both as to form and content. The Division feels it would be in the best interests of the State to accept the covenants and to authorize the execution of the assurance form required by the Bureau.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE:

1. ACCEPTANCE OF LAND FROM THE DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, IN SATISFACTION OF INDEMNITY ENTITLEMENT, WITH COVENANTS AS IMPOSED BY EXHIBIT "B".
2. EXECUTION OF THE ASSURANCE FORM (EXHIBIT "A"), IN COMPLIANCE WITH REGULATIONS PROMULGATED BY THE SECRETARY OF THE INTERIOR.

Attachments: Exhibits "A" and "B"

ASSURANCE FORM REQUIRED BY BUREAU OF LAND MANAGEMENT

U.S. DEPARTMENT OF THE INTERIOR
 ASSURANCE OF COMPLIANCE
 (TITLE VI, CIVIL RIGHTS ACT OF 1964)

_____ (hereinafter called "Applicant-Recipient")
 (Name of Applicant-Recipient)
 HEREBY AGREES THAT IT will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and all requirements imposed by or pursuant to the Department of the Interior Regulation (43 CFR 17) issued pursuant to that title, to the end that, in accordance with Title VI of that Act and the Regulations, no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant-Recipient receives financial assistance from _____ and
 _____ Bureau or Office

Hereby Gives Assurance That It will immediately take any measures to effectuate this agreement.

If any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the Applicant-Recipient by _____, This assurance obligates the Applicant-
 _____ Bureau or Office

Recipient, or in the case of any transfer of such property, any transferee for the period during which the real property or structure is used for a purpose involving the provision of similar services or benefits. If any personal property is so provided, this assurance obligates the Applicant-Recipient for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant-Recipient for the period during which the Federal financial assistance is extended to it by _____

_____ Bureau or Office

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property discounts or other Federal financial assistance extended after the date hereof to the Applicant-Recipient by the bureau or office, including installment payments after such date on account of arrangements for Federal financial assistance which were approved before such date. The Applicant-Recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this assurance, and that the United States shall reserve the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant-Recipient, its successors, transferees, and assignees, and the person or persons whose signature appear before are authorized to sign this assurance on behalf of the Applicant-Recipient.

_____ Dated

_____ Applicant-Recipient

By _____

(President, Chairman of Board or Comparable
 authorized Official

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_____ Applicant-Recipient's Mailing Address

EXHIBIT "B" - REVISED FORM OF COVENANTS

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

SACRAMENTO, CALIFORNIA

CALIFORNIA INDEMNITY SELECTION

It is hereby certified that the lands described in this List No. _____ are embraced in the original list on file in this Bureau, of lands selected by the State of California, pursuant to the laws of the State, in the (Riverside or Sacramento) Land District, as indemnity for losses in the sections and townships named, which school land indemnity selections are authorized by the Acts of Congress cited.

It is further certified that the description of lands reported lost or deficient in this list and those selected in lieu thereof have been examined and compared with the township plats and tract books in the Land Office; that the indemnity lands claimed have been found to be properly due the townships for which they were selected, and the selected lands are shown to be subject to such selection, being surveyed public lands within the meaning of 43 U.S.C. 851 and 852 and within the limits of the State and free from adverse claims of record. Reports have been received indicating that both the selected lands and the base lands are valuable for oil and gas.

The selected lands are not affected by any withdrawal adverse to this selection.

Therefore, and pursuant to Bureau Order No. 701, Amendment No. 1 of December 18, 1964 (26 F.R. 8216) this list, embracing _____ acres, is hereby approved subject to valid existing rights existing at date of selection; but excepting and reserving to the United States rights-of-way over and across

the lands for ditches and canals constructed by the authority of the United States, as directed and required by the Act of Congress approved August 30, 1890 (26 Stat. 391).

The grant of the above-described lands is subject to the following reservations, conditions, and limitations:

(1) The patentee or its successor in interest shall comply with and shall not violate any of the terms or provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 241), and requirements of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant thereto (43 CFR 17) for the period that the lands conveyed herein are used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits.

(2) If the patentee or its successor in interest does not comply with the terms or provisions of Title VI of the Civil Rights Act of 1964, and the requirements imposed by the Department of the Interior issued pursuant to that title, during the period during which the property described herein is used for the purpose for which the grant was made pursuant to the act cited above, or for another purpose involving the provision of similar services or benefits, the Secretary of the Interior or his delegate may declare the terms of this grant terminated in whole or in part.

(3) The patentee, by acceptance of this patent, agrees for itself or its successors in interest that a declaration or termination in whole or in part of this grant shall, at the option of the Secretary or his delegate, operate to revert in the United States full title to the lands involved in the declaration.

(4) The United States shall have the right to seek judicial enforcement of the requirements of Title VI of the Civil Rights Act of 1964, and the terms

and conditions of the regulations, as modified or amended, of the Secretary of the Interior issued pursuant to said Title VI, in the event of their violation by the patentee.

(5) The reservations, conditions, and limitations contained in paragraphs (1) through (4) shall constitute a covenant running with the land, binding on the patentee and its successors in interest for the period for which the land described above is used for the purpose for which this grant was made, or for another purpose involving the provision of similar services or benefits.

(6) The assurances and covenant required by secs. 1-5 above shall not apply to ultimate beneficiaries under the program for which this grant is made. "Ultimate beneficiaries" are identified in 43 CFR 17.12(h) (19__ edition).

(7) Procedures for effecting compliance of the foregoing conditions shall be in accordance with 43 CFR 17.7, et seq. (revised as of January 1, 19__).

J. R. Penny
State Director