

MINUTE ITEM

12/20/73  
SCL

32. COMPROMISE REGARDING PURCHASE APPLICATION NO. SA 4780 OF RODNEY GREGG, SISKIYOU COUNTY - SA 4780.

After consideration of Supplemental Calendar Item 30 attached, and upon motion duly made and carried, the following resolution was adopted:

THE STATE LANDS COMMISSION AUTHORIZES ITS EXECUTIVE OFFICER AND THE ATTORNEY GENERAL TO:

1. ENTER INTO A STIPULATION FOR ENTRY OF JUDGMENT WITH MR. RODNEY GREGG, WHEREBY THE COMMISSION WILL BE REQUIRED TO SELL SECTION 16, T 45 N, R 7 W, MDM, TO MR. GREGG AT A NET PURCHASE PRICE OF \$31,042.00, SUBJECT TO RESERVATIONS REQUIRED BY THE CONSTITUTION AND APPLICABLE STATUTES, AND MR. GREGG WILL LEASE BACK TO THE STATE AT NO RENTAL THE SURFACE RIGHTS TO THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION, TOGETHER WITH A NONEXCLUSIVE EASEMENT OF INGRESS AND EGRESS TO SAID LEASED PROPERTY, THE TERM OF SAID LEASE TO BE MEASURED BY THE LIVES OF MR. AND MRS. RALPH J. RUSTENBACH, WITH THE STATE TO CANCEL SAID LEASE IN THE EVENT IT IS UNABLE TO PUT THE RUSTENBACHS UNDER LEASE FOR SAID PARCEL OR SUCH A SUBLEASE IS SUBSEQUENTLY CANCELLED BY THE STATE; AND
2. RECOMMEND APPROVAL BY THE STATE BOARD OF CONTROL OF A CLAIM FOR INTEREST IN A REASONABLE AMOUNT ON THE ORIGINAL DEPOSIT TO BE FILED WITH THE BOARD BY MR. GREGG. THE RATE OF INTEREST NOT TO EXCEED 5.55 PERCENT, COMPOUNDED QUARTERLY, FROM THE DATE OF DEPOSIT.

Attachment:

Supplemental Calendar Item 30 (2 pages)

## SUPPLEMENTAL CALENDAR ITEM

12/73  
SC/L  
SA 4780

30.

COMPROMISE REGARDING PURCHASE APPLICATION  
NO. SA 4780 OF RODNEY GREGG

Pursuant to the suggestion of the Commission at its September 1973 meeting, representatives of the State Lands Division and the Attorney General's Office have met with Mr. Franklin Dill, attorney for Mr. Rodney Gregg, the applicant in this matter, and have arrived at a compromise in connection with Mr. Gregg's purchase application for the subject school lands which is agreeable to both parties.

The factual background regarding Mr. Gregg's purchase application and the legal contentions of both the Division and Mr. Gregg have been set forth at length in the previous calendar item prepared for the September 1973 meeting of the Commission, as well as supplemental memoranda submitted by both the Division and Mr. Gregg's attorney. In summary, in March 1951, Mr. Gregg applied to purchase as school land Section 16, T 45 N, R 7 W, MDM, at a price of \$5.00 per acre. The section included approximately 625.84 acres. Shortly after Mr. Gregg had deposited the full purchase price with the Division of \$3,129.20, it became apparent that the State did not have clear evidence of title for the section, and in January 1952, Mr. Gregg was offered a refund of his purchase price. He chose to leave the purchase money on deposit, however. The State finally obtained clear evidence of title in the form of a patent from the U. S. Bureau of Land Management in 1969. Mr. Gregg has subsequently requested the issuance of a patent from the State to him for this land at the original price of \$5.00 per acre, although the per acre value of the subject property has multiplied many times in the intervening years since the original application. It is the Division's position that the Commission is not bound to issue a patent to Mr. Gregg, and that a patent of the land to Mr. Gregg at the original purchase price of \$5.00 an acre would be in violation of the "Gift Clause" of the California Constitution. Mr. Gregg, on the other hand, claims that he is legally entitled to the patent at the original purchase price.

The Division and Mr. Gregg have now agreed that a fair price for the section is \$31,292.00. The appraisal personnel of the Division have reviewed this figure and have concluded that it is within the range of current fair market value for the property. Mr. Gregg will of course receive a credit toward this total purchase price in the amount of \$3,129.20, the amount of his original deposit.

Regarding the presence upon a portion of the property of the residence of Mr. and Mrs. Ralph J. Rustenbach, Mr. Gregg has agreed to lease back to the State of California, rent free, the surface rights to the southeast quarter of the northwest quarter of the southwest quarter of Section 16,

SUPPLEMENTAL CALENDAR ITEM NO. 30. (CONTD)

upon which the Rustenbach cabin is located. This lease would be for a term measured by the lives of the Rustenbachs. The lease would also include a nonexclusive easement of ingress and egress over the road extending northward from the south line of Section 16 to the Rustenbach cabin. The State will attempt to put the Rustenbachs under lease for the property leased to the State at no rental by Mr. Gregg. If the State is unable to put the Rustenbachs under lease, or if any such sublease to the Rustenbachs is later cancelled by the State, the State will cancel the lease between it and Rodney Gregg. Mr. Gregg will receive a reduction of \$250 in the purchase price in consequence of this lease provision.

Mr. Gregg also desires interest on his deposit of \$3,129.20, which has been on deposit for 22 years. The Division is agreeable to recommending the award of reasonable interest in response to a claim to be filed by Mr. Gregg with the State Board of Control, the interest not to exceed the rate of 5.55 percent, compounded quarterly, from the date of deposit.

The compromise outlined above is agreeable to both parties, provided it has the approval of a court. It has therefore been agreed that Mr. Gregg will file an appropriate suit in Superior Court requesting delivery of a patent to him by the Commission, and that subsequently, a stipulation for entry of judgment containing in substance the agreement set forth above will be filed for review and approval by the court. If the court disposes of the litigation in conformity with the stipulation for entry of judgment, the parties may proceed to effect the compromise outlined above pursuant to the judgment.

EXHIBIT:           A. Location Map.

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION AUTHORIZE ITS EXECUTIVE OFFICER AND THE ATTORNEY GENERAL TO:

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