

MINUTE ITEM

13. REQUEST FOR UNITED STATES PATENT TO NUMBERED SCHOOL SECTION (APPLICATION 4780, SACRAMENTO LAND DISTRICT - S.W.O. 5323), RODNEY GREGG, SISKIYOU COUNTY.

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

THE EXECUTIVE OFFICER IS AUTHORIZED:

1. TO SUBMIT AN APPROPRIATE REQUEST TO THE UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT, FOR ISSUANCE OF A UNITED STATES PATENT IN FAVOR OF THE STATE, COVERING FRACTIONAL SECTION 16, T. 45 N., R. 7 W., M.D.M., CONTAINING 625.84 ACRES MORE OR LESS, IN SISKIYOU COUNTY, IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN SECTION 6206.5 OF THE PUBLIC RESOURCES CODE AND THE ACT OF CONGRESS APPROVED JUNE 21, 1934 (PUBLIC LAW NO. 440-73RD CONGRESS - 43 U.S.C. SEC. 871a); AND
- 2 TO SUBMIT, BEFORE ANY DESIGNATED OFFICER OF THE SECRETARY OF THE INTERIOR, SUCH EVIDENCE IN SUPPORT OF THE STATE'S REQUEST FOR PATENT AS MAY BE NECESSARY.

Attachment
Calendar Item 4 (2 pages)

CALENDAR ITEM

4.

REQUEST FOR UNITED STATES PATENT TO NUMBERED SCHOOL SECTION (APPLICATION 4780, SACRAMENTO LAND DISTRICT - S.W.O. 5323), RODNEY GREGG, SISKIYOU COUNTY.

On March 21, 1951, Rodney Gregg of Gazelle, Siskiyou County, filed an application to purchase certain vacant State school land in Siskiyou County, among which was all of fractional Section 16, T. 45 N., R. 7 W., M.D.M., containing 625.84 acres more or less. All of the land in the application was sold and patented to Rodney Gregg on January 4, 1952, except for said Section 16, which was withheld from sale to Mr. Gregg by directive of the Commission contained in resolution adopted at its meeting of December 17, 1951 (Minute Item No. 7, page 1497). On that date the Commission directed the Executive Officer to obtain an informal opinion from the office of the Attorney General with respect to the validity of certain mining claims filed on the land, in connection with a protest against the sale to Mr. Gregg which had been filed by Senator Randolph Collier on behalf of the mining claimants.

Based upon a thorough and comprehensive investigation on the ground, and research of the official records of Siskiyou County by the Mineral Resources Section of the Division, an informal opinion was rendered by the office of the Attorney General under date of March 31, 1961, copy of which is attached hereto as Exhibit "A".

In summary, the opinion suggests that the State should proceed on either of two alternatives, i.e.,

1. Offer the lands to the United States as indemnity and select other lands in lieu thereof on the basis that the section is mineral in character, or
2. Request a patent from the United States pursuant to federal and State statutes.

To proceed under the first alternative would appear difficult from the State's viewpoint, inasmuch as the land has never been classified as mineral by the United States. The burden of proof as to its mineral character, which would be required to establish the State's right to be indemnified, would be the responsibility of the State. Furthermore, staff opinion, based upon investigations to date, is that there is not sufficient evidence available to classify the section as mineral.

It therefore appears desirable to proceed under the State and federal statutes authorizing the State to request patents from the United States. Section 6206.5 of the Public Resources Code authorizes the Commission to apply to the United States Department of the Interior for such patents, in accordance with the Act of Congress approved June 21, 1934 (Public Law No. 440-73rd Congress, 43 U.S.C. Sec. 871a). The request for patents under this procedure would require findings by the Secretary of the Interior to determine that all prerequisites to the passage of title to the State had

CALENDAR ITEM 4. (CONTD.)

been met. Such findings will, in all probability, necessitate the holding of public hearings by the Secretary's designated representative, to receive all evidence and arguments as to the mineral or nonmineral character of the land in question. The net result of such findings would determine whether title to the subject section passed to the State

1. on January 6, 1885, date of approval of the official U. S. plat of survey pursuant to the School Land Grant (Act of Congress approved March 3, 1853 (10 Stat. 244); or
2. pursuant to the extension of this grant in 1927 (44 Stat. 1026), as amended by 43 U.S.C., Sec. 870, which granted to the State Sections 16 and 36 which were mineral in character except for those sections which were subject to existing valid claims; or
3. whether title passed at all.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER (1) TO SUBMIT AN APPROPRIATE REQUEST TO THE UNITED STATES DEPARTMENT OF INTERIOR, BUREAU OF LAND MANAGEMENT, FOR ISSUANCE OF A UNITED STATES PATENT IN FAVOR OF THE STATE, COVERING FRACTIONAL SECTION 16, T. 45 N., R. 7 W., M.D.M., CONTAINING 625.84 ACRES MORE OR LESS, IN SISKIYOU COUNTY, IN ACCORDANCE WITH THE AUTHORITY CONTAINED IN SECTION 6206.5 OF THE PUBLIC RESOURCES CODE AND THE ACT OF CONGRESS APPROVED JUNE 21, 1934 (PUBLIC LAW NO. 440-73RD CONGRESS - 43 U.S.C. SEC. 871a); AND (2) TO SUBMIT, BEFORE ANY DESIGNATED OFFICER OF THE SECRETARY OF THE INTERIOR, SUCH EVIDENCE IN SUPPORT OF THE STATE'S REQUEST FOR PATENT AS MAY BE NECESSARY.