

MINUTE ITEM

9/29/75

MVB

W 2875.42

40. AUTHORIZATION FOR SUIT IN TRESPASS AND DAMAGES AGAINST MR. DANNY FIGUEROA, MR. ALFRED FIGUEROA, ET AL., NEAR BLYTHE, RIVERSIDE COUNTY W 2875.42.

After consideration of Calendar Item 38 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION AUTHORIZES THE DIVISION STAFF TO USE ALL AVAILABLE METHODS, INCLUDING LITIGATION, TO BRING THE TRESPASSERS UNDER LEASE AND/OR EJECT THEM FROM THE LAND AREAS IN QUESTION AND RECOVER THE LOST ROYALTIES.

Attachment:

Calendar Item 38 (1 page)

A 75
S 38

CALENDAR ITEM

9/75

MVB

W 2875.42

38.

AUTHORIZATION FOR SUIT IN TRESPASS AND DAMAGES

On May 6, 1975, the State Lands Division received information through two eye witnesses that Mr. Danny Figueroa, Mr. Alfred Figueroa and others were engaging in mineral extraction of driftstone, a domestic limestone, on State-owned school land sections near Blythe. He was informed by these eye witnesses that such extraction has been occurring for quite a long period of time.

On reviewing staff records, it was learned that no lease or permit has been secured for the area of concern, nor any money has been received by the State for the minerals extracted. Further, this area has been active in the past with trespassory extraction.

The staff made an on-site inspection of the trespass site and found evidence of recent excavation. On making inquiry of the trespassers, they stated that the minerals were being excavated from a leased site one mile away; however, a loader and other excavating vehicles were located on the subject trespass parcels.

Although the amount of extraction to date is uncertain, records of the carrier of the extracted materials, the Atchison, Topeka and Santa Fe Railway, can provide tonnage, dates and destination of shipments. Due to federal statutes, such information cannot be released by the railroad until service of subpoena requesting the release of such information has been made upon the railroad.

The Division legal staff is of the opinion that the filing of a lawsuit requesting injunctive relief and damages would be the best method to terminate the trespass and get compensation for revenues lost.

EXHIBITS: A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE DIVISION STAFF TO USE ALL AVAILABLE METHODS, INCLUDING LITIGATION, TO BRING THE TRESPASSERS UNDER LEASE AND/OR EJECT THEM FROM THE LAND AREAS IN QUESTION AND RECOVER THE LOST ROYALTIES.

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