

18. (SALE OF VACANT FEDERAL LAND, OBTAINED THROUGH USE OF BASE, LIEU LAND APPLICATION NO. 10364, LOS ANGELES LAND DISTRICT, LOS ANGELES COUNTY, WILMAR THOMAS KAHLER - S.W.O. 5280.) The following report was presented to the Commission:

"An offer has been received from Wilmar Thomas Kahler of Lancaster, California, to purchase the SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 19, T. 7 N., R. 14 W., S.B.M., containing 40 acres in Los Angeles County. This land may be obtained by the State from the Federal Government through use of base. The applicant made an offer of \$200, or \$5 per acre, subject to future appraisal.

"Under the procedure in effect at the time of receipt of the subject application, in April, 1947, the land embraced therein was appraised by a member of the Commission's staff, whereupon acceptance and approval of the filing of the application was referred to the Commission. Accordingly, the Commission at its meeting on March 24, 1947 (Minute Item 16) adopted a resolution approving the filing of an indemnity selection for the subject land and authorized the sale thereof to Mr. Wilmar T. Kahler, the applicant, at the appraised cash price of \$200, or \$5 per acre, subject to all statutory reservations including minerals. Mr. Kahler's application was officially filed on April 28, 1947 and the State in turn filed an indemnity selection application with the United States Bureau of Land Management to select said land on May 8, 1947.

"The records of the United States Land Office indicate that the subject parcel and adjoining land was included in an original homestead application filed with the Bureau of Land Management on February 8, 1938 by Mr. Joseph Luther Freeman, Sr.

"The Secretary of Interior, on September 24, 1940, modified a decision by the Commissioner of the General Land Office rejecting the application of Mr. Freeman in its entirety, by allowing Mr. Freeman to amend his application to include certain subdivisions. The subject land, SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of said Section 19, was excluded because it was held to be unfit for the production of agricultural crops. Mr. Freeman amended his entry in accordance with the September 24, 1940 decision which was allowed in December of 1941. Approximately one year following the filing of the State application, Mr. Freeman filed an application with the United States Bureau of Land Management to amend his entry to include the subject parcel. Said application to amend was rejected by the Director of the Bureau of Land Management holding that the land 'is totally unsuitable for cultivation'. Mr. Freeman appealed this decision and another field report was ordered which indicated approximately 8 acres of the subject land was suitable for dry land cultivation. Accordingly, the homestead entry for the subject land was allowed and the State indemnity selection application rejected by decision of the Director dated December 12, 1950.

"Based upon the aforesaid rejection decision, the State applicant, with the concurrence of the State, appealed to the Secretary of Interior, alleging principally that the subject land was entirely unfit for cultivation.

"The Secretary of Interior, by decision dated July 25, 1952, reversed the decision of the Director of the Bureau of Land Management, dated December 12, 1950, allowed the State indemnity selection application and rejected the homestead application in so far as it affected the subject land. This latter decision held that where a school indemnity selection conflicts with a homestead entry, preference is automatically given the State's application.

"Mr. Freeman, by letter dated January 22, 1955, submitted a protest to the State Lands Division, alleging a preferential right to acquire the subject land under his homestead entry and alleging also, that the State is not entitled to file for lands which are agricultural. On February 23, 1955 receipt of Mr. Freeman's protest was acknowledged and information conveyed to him concerning applicable State laws affecting lands suitable for cultivation and his right under Section 7358 of the Public Resources Code to submit a contest application, which, upon receipt, authorizes referral of the matter to the Superior Court of the county in which the lands are situated. To date no contest application has been filed by Mr. Freeman.

"An inspection and appraisal by a member of the Commission's staff on February 13, 1955 establishes the value of the subject land at \$20 per acre. The applicant posted the necessary amount to meet this value. Said appraisal also indicates that said land is not suitable for cultivation without artificial irrigation and furthermore, neither buildings nor crops were identified as being on any portion of said land, nor was evidence apparent that crops had been produced in the past. This appraisal was undertaken to establish the value of the land as of current date in accordance with existing rules and regulations of the Commission governing the sale of vacant federal land. It will be noted that under the procedure in effect at the time Mr. Kahler's application was filed with the State, a value of \$5 per acre was placed on the land and the sale at that price authorized by the Commission. It must be pointed out that there is no assurance at any time that the State will acquire the lands applied for under an indemnity selection application, as the classification and disposal of such lands are under jurisdiction of the Federal Government. Many applications of this type require several years to conclude, particularly where protests and appeals are involved and the sale price (appraised value) is established close to the date of issuance of State patent under present procedure.

"In view of the protest filed with the State by Mr. Freeman, further inspections of the subject land were made by a member of the Commission's staff on July 5 and July 9, 1955. The reports of these inspections indicate that a cabin, purportedly occupied by

Mr. Freeman, is not on any portion of Section 19, but appears to be on adjoining land in Section 30. Furthermore, no occupation by Mr. Freeman is apparent that would tend to substantiate his claim as a settler. The Assessor of Los Angeles County has no record of assessments for improvements on the subject land, and in his opinion no part of Section 19 has been under cultivation, nor is it considered agricultural land.

"Publication of notice of the State's selection application, filed with the Bureau of Land Management, appeared in the South Antelope Valley Press, Palmdale, California, once a week for 5 consecutive weeks commencing December 9, 1954. Based upon this publication, Mr. Joseph Freeman again filed a protest to the State's selection with the Bureau of Land Management on January 25, 1955, which was rejected by decision dated March 27, 1956 on the basis that no new evidence which would warrant a change in the classification for disposal under the State indemnity selection was submitted by the protestant.

"The selection of the subject land is considered to be to the advantage of the State in that the selection thereof will assist the State in satisfying the loss to the School Land Grant and in addition will place said land on the tax rolls of the county in which it is situated. As indicated above, the State's application to select the land has been accepted by the Bureau of Land Management.

"Mr. Freeman has been notified in writing that the matter of the sale of this land is being submitted to the Commission for consideration at its next regular meeting.

"IT IS RECOMMENDED THAT THE COMMISSION DETERMINE THAT IT IS TO THE ADVANTAGE OF THE STATE TO SELECT THE FEDERAL LAND COMPRISED IN THE SE $\frac{1}{2}$ OF SE $\frac{1}{2}$ OF SECTION 19, T. 7 N., R. 14 W., S.B.M., CONTAINING 40 ACRES IN LOS ANGELES COUNTY; THAT THE COMMISSION FIND THAT SAID FEDERAL LAND IS NOT SUITABLE FOR CULTIVATION WITHIN THE MEANING OF SECTION 7357 OF THE PUBLIC RESOURCES CODE; THAT THE COMMISSION FIND THAT JOSEPH L. FREEMAN, SR. IS NOT AN ACTUAL SETTLER UPON THE LAND; THAT THE COMMISSION RESCIND THAT PORTION OF THE RESOLUTION ADOPTED AT ITS MEETING OF MARCH 24, 1947 (MINUTE ITEM 16) WHICH ESTABLISHED THE SALE PRICE OF \$200; THAT THE COMMISSION APPROVE THE SELECTION AND AUTHORIZE THE SALE OF SAID LAND, FOR CASH, TO WILMAR THOMAS KAHLER, AT THE APPRAISED CASH PRICE OF \$800, SUBJECT TO ALL STATUTORY RESERVATIONS INCLUDING MINERALS, UPON THE LISTING (CONVEYANCE) OF SAID LAND TO THE STATE BY THE FEDERAL GOVERNMENT."

Mr. Smith of the Sacramento office reported that three separate appraisals had been made by members of the Commission's staff, and that they had been unable to find any evidence of use of the land for agricultural purposes, or any evidence that anyone had occupied or settled on the land.

Major Joseph L. Freeman appeared on his own behalf, to contend that he had a valid claim to the land in question, and informed the Commission that this land had been occupied by him, even while he was away in the Service, and that Mrs. Freeman had put in a protest to the Bureau of Land Management on April 14, 1947, and that it wasn't until three weeks later that the State put in its claim. He asserted that he had raised barley and wheat on this particular land; that it is agricultural land; that it was homesteaded as agricultural land. He further informed the Commission that the highway goes right through the land.

The Chairman asked Mr. Freeman if he had homesteaded the 40 acres being discussed, whereupon he stated that he had homesteaded all of the section except the 40 acres in question. He admitted that his house is on Section 29. When questioned by Mr. Peirce as to whether he had actually raised wheat and barley on the particular 40 acres under consideration, he said "Yes".

Mr. Smith informed the Commission that the homestead application for this land had been rejected by the Federal Government on the basis that the land was not suitable for cultivation.

Mr. Smith and the Executive Officer, upon being questioned by the Commission as to the State's interest, stated that the application was handled as a matter of standard procedure upon the application of Mr. Kahler, and it was brought out that Mr. Freeman would have a six months' preferential right to purchase the land on the basis that he had settled on it if it was determined that it is suitable for cultivation.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE COMMISSION DEFERRED ACTION ON THE APPLICATION OF WILMAR THOMAS KAHLER TO PURCHASE VACANT FEDERAL LAND IN THE SE $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ OF SECTION 19, T. 7 N., R. 4 W., S.B.M., CONTAINING 40 ACRES IN LOS ANGELES COUNTY, PENDING A FURTHER INVESTIGATION WHICH IS TO BE MADE OF ANY RIGHTS WHICH JOSEPH L. FREEMAN MAY HAVE WITH RESPECT TO THIS PARTICULAR PARCEL OF LAND; THE COMMISSION'S REPRESENTATIVE IS TO CONTACT MR. FREEMAN.

19. (VACANT FEDERAL LAND, OBTAINED THROUGH USE OF BASE, LIEU LAND APPLICATION NO. 4846, SACRAMENTO LAND DISTRICT, LAKE COUNTY, ERNEST M. MCKEE, SR. - S.W.O. 5403.) The following report was presented to the Commission:

"An offer has been received from Ernest M. McKee, Sr., of Berkeley, California, to purchase the S $\frac{1}{2}$, W $\frac{1}{2}$ of NE $\frac{1}{4}$ and SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 15, T. 11 N., R. 8 W., M.D.M., containing 440 acres in Lake County. This land may be obtained by the State from the Federal Government through use of base. Mr. McKee made an offer of \$2,200, or \$5 per acre.

"An inspection and appraisal by a member of the Commission's staff on May 24, 1956 establishes the value of the subject land at \$15,400 for the land and \$84,700 for timber situated thereon, or a total value of \$100,100. The applicant has objected to this value on the basis that it is excessive and has requested additional time, which has been granted through August 15, 1956, to complete his own appraisal of the land and to meet the appraised value.