

MENUFE ITEM

21. REQUEST FOR PATENT, SWAMP AND OVERFLOWED SURVEY 1357, TULARE COUNTY, TITLE INSURANCE AND TRUST COMPANY - S.W.O. 7492, GEO.-TULARE COUNTY.

After consideration of Calendar Item 18 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO ISSUE A PATENT, PURSUANT TO THE AUTHORITY OF PUBLIC RESOURCES CODE SECTION 7729, IN THE NAME OF SAMUEL SIMON, UPON RECEIPT OF THE UNPAID PRINCIPAL BALANCE OF \$2.55, PLUS ACCUMULATED INTEREST IN THE AMOUNT OF \$7.85 AND PATENT FEES IN THE AMOUNT OF \$11, FOR A TOTAL OF \$21.40, FOR THE LAND DESCRIBED AS:

BEGINNING AT THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 5, T. 18 S., R. 24 E., M.D.M.; THENCE WEST 9.83 CHAINS TO THE MEANDER LINE; THENCE SOUTH $56\frac{1}{4}^{\circ}$ EAST 11.82 CHAINS; THENCE NORTH 6.57 CHAINS TO THE PLACE OF BEGINNING, CONTAINING 3.13 ACRES.

THE PATENT IS TO CONTAIN THE APPLICABLE STATUTORY AND CONSTITUTIONAL RESERVATIONS.

Attachment
Calendar Item 18 (2 pages)

*Action
rescinded
by SLC
action 18-27-60
pgs 6393-97*

CALENDAR ITEM

18.

REQUEST FOR PATENT, SWAMP AND OVERFLOWED SURVEY 1357, TULARE COUNTY, TITLE INSURANCE AND TRUST COMPANY - S.W.O. 7492.

A request has been received from the Title Insurance and Trust Company of Visalia, California, for the issuance of a patent to certain swamp and overflowed lands located in Section 5, T. 18 S., R. 24 E., M.D.M., identified as Swamp and Overflowed Survey 1357, Tulare County, for which a certificate of purchase was issued on April 4, 1874.

The facts are as follows: Application was made by Samuel Simon to purchase the following-described parcel:

Beginning at the northeast corner of the southwest quarter of the northeast quarter of Section 5, T. 18 S., R. 24 E., M.D.M.; thence west 9.83 chains to the meander line; thence south $56\frac{1}{4}^{\circ}$ east 11.82 chains; thence north 6.57 chains to the place of beginning, containing 3.18 acres.

The application was approved by the State Surveyor-General on February 11, 1874, and, subsequently, on April 4, 1874, Certificate of Purchase No. 4032 was issued to the applicant upon the payment of \$0.83, being 20% of the purchase price (\$3.18) and interest at the rate of 7% on the balance for the remainder of 1874. The records of the State Lands Division show that no further payment was made by the applicant or his assigns, and that there remained a principal unpaid balance of \$2.55 plus interest.

An act was approved May 24, 1917 (Chapter 602, Stats. 1917) to provide for the forfeiture of land sold by the State prior to May 1, 1911, for which full payment was not made at time of purchase or upon which any interest upon any part of the unpaid portion of the purchase was delinquent. However, the statute provided that constructive notice by the State of the pending forfeiture must be given to the applicant or to any person known to have an interest in the land, and that a list of such lands must be filed with the county recorder in the county in which such lands were located.

Therefore the issue is: By reason of the fact that the State Lands Division records do not show that constructive notice of forfeiture was given by the State Surveyor-General to the purchaser as provided by Chapter 602, Stats. 1917, are the successors in interest of the original applicant, Samuel Simon, who have occupied the land for approximately 60 years and who have paid taxes thereon, entitled to make the unpaid principal and accumulated interest payments and to demand issuance of patent by the State?

The matter was referred to the office of the Attorney General, and resulted in the issuance of an informal opinion on August 28, 1959. The opinion states that the land in question was not forfeited to the State since the statutory requirement that constructive notice of pending forfeiture be given to the owner of the land was not followed. However, the successors in interest to the certificate of purchase still stand in default, and any proffered payments of unpaid principal and accumulated interest may, in the State's discretion, be rejected.

CALENDAR ITEM 18. (CONTD.)

In view of the foregoing, the land does not appear to be in forfeit; however, the State must receive full payment for the certificate of purchase in order that a patent can be issued under Section 7729 of the Public Resources Code. The successors in interest of the original applicant have requested the issuance of a State patent.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO ISSUE A PATENT, PURSUANT TO THE AUTHORITY OF PUBLIC RESOURCES CODE SECTION 7729, IN THE NAME OF SAMUEL SIMON, UPON RECEIPT OF THE UNPAID PRINCIPAL BALANCE OF \$2.55, PLUS ACCUMULATED INTEREST IN THE AMOUNT OF \$7.85 AND PATENT FEES IN THE AMOUNT OF \$11, FOR A TOTAL OF \$21.40, FOR THE LAND DESCRIBED AS:

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THE PATENT IS TO CONTAIN THE APPLICABLE STATUTORY AND CONSTITUTIONAL RESERVATIONS.