

MINUTE ITEM

8/26/70
WAS

33. PROPOSED COMPROMISE SETTLEMENT TO THE CONFLICT OF TITLE BETWEEN THE STATE OF CALIFORNIA AND AMERICAN SMELTING AND REFINING COMPANY (ASARCO) AND THE BUCH INTERESTS IN SECTION 16, TOWNSHIP 10 NORTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN AND PROVIDE FOR A ROYALTY AGREEMENT BETWEEN THE STATE AND ASARCO - W-503.565.

After consideration of Calendar Item 34 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. AUTHORIZES THE EXECUTIVE OFFICER TO EXECUTE, ON BEHALF OF THE STATE LANDS COMMISSION OF THE STATE OF CALIFORNIA, THE AGREEMENT BETWEEN THE BUCH GROUP, ASARCO AND THE STATE OF CALIFORNIA, SAID AGREEMENT BEING ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND MADE A PART HEREOF BY REFERENCE THERETO. SAID AGREEMENT WILL PROVIDE FOR THE WITHDRAWAL OF THE STATE'S REQUEST FOR A PATENT TO LOT 13; PORTION OF LOT 5 LOCATED WITHIN MINERAL SURVEY NO. 6768; PORTION OF SE $\frac{1}{4}$ OF SE $\frac{1}{4}$ LOCATED WITHIN MINERAL SURVEY NO. 6768; PORTION OF NW $\frac{1}{4}$ OF SE $\frac{1}{4}$ LOCATED WITHIN MINERAL SURVEY NO. 6768; ALL BEING WITHIN SECTION 16, T. 10 N., R. 1 E., S.B.M. IT INCLUDES A ROYALTY AGREEMENT BY WHICH ASARCO WILL PAY TO THE STATE 1/16 ROYALTY FOR ALL MINERAL VALUES REMOVED FROM SAID WITHDRAWN LANDS BASED ON THE NET PROFIT REALIZED FROM THE EXTRACTION OF SAID MINERAL VALUES. ASARCO WILL WITHDRAW ITS PROTEST TO STATE PATENT TO ALL OTHER PORTIONS OF THE STATE PATENT REQUEST. BUCH WILL WITHDRAW ITS PROTEST TO STATE PATENT REQUEST.
2. AUTHORIZES THE EXECUTIVE OFFICER TO FORWARD THE AGREEMENT TO THE GOVERNOR, WITH A RECOMMENDATION FOR APPROVAL.
3. AUTHORIZES THE EXECUTIVE OFFICER AND THE ATTORNEY GENERAL'S OFFICE TO TAKE ANY OTHER STEPS WHICH ARE NECESSARY OR WILL BECOME NECESSARY TO IMPLEMENT THE AGREEMENT.

Attachment:

Calendar Item 34 (2 pages)

CALENDAR ITEM

8/70
WAS

34.

PROPOSED COMPROMISE SETTLEMENT TO THE CONFLICT OF TITLE BETWEEN THE STATE OF CALIFORNIA AND AMERICAN SMELTING AND REFINING COMPANY (ASARCO) AND THE BUCH INTERESTS IN SECTION 16, TOWNSHIP 10 NORTH, RANGE 1 EAST, SAN BERNARDINO BASE AND MERIDIAN AND PROVIDE FOR A ROYALTY AGREEMENT BETWEEN THE STATE AND ASARCO - W.O. 503.565.

The subject section, located in the Calico Mining District near Yermo, California, was subject to numerous mining claims at time title vested with the State on November 12, 1914, the date of township plat approval. The validity of these mining claims is in dispute.

The General Land Office (predecessor to the Bureau of Land Management) surveyed out several mining claims, accepted them and other parcels of land within the section as base for indemnity selection, and it appeared at the date of the final Bureau of Land Management supplemental plat on June 29, 1931, the State had title to: $NE\frac{1}{4}$, $E\frac{1}{2}$ of $NW\frac{1}{4}$, $N\frac{1}{2}$ of $SE\frac{1}{4}$, $SE\frac{1}{4}$ of $SE\frac{1}{4}$, Lots 5, 10 and 13. Lot 10 and the $N\frac{1}{2}$ of $NE\frac{1}{4}$ are not subjects of this action.

The State has sold: $SE\frac{1}{4}$ of $NW\frac{1}{4}$, $N\frac{1}{2}$ of $NE\frac{1}{4}$, $SE\frac{1}{4}$ of $SE\frac{1}{4}$, Lot 5 and Lot 10, reserving 1/16 mineral rights. The $NW\frac{1}{4}$ of $SE\frac{1}{4}$ was sold without any reservation of mineral rights.

The Bureau of Land Management, on July 31, 1967, approved Mineral Survey No. 6768 for Chapman, for which ASARCO is presently successor in interest, which intrude on land sold by the State with mineral reservation on the $SE\frac{1}{4}$ of $SE\frac{1}{4}$ and Lot 5, and on Lot 13, unsold State land.

ASARCO contends that the validity of these claims is based on relocation of claims filed in 1905 on land known to be mineral before title vested with the State in 1914. Legal investigation indicates there may be some merit to this claim.

The Buch interest is in claims intruding on other State lands. The Buch interests have consolidated their claim with the claim of ASARCO and will approve any settlement made by ASARCO of their claims.

On January 2, 1969, the State requested a confirming patent for the 440.40 acres of land indicated by the supplemental plat of June 29, 1931, as being unencumbered school land.

ASARCO has filed protest (R-1549) to State's application (R-1994), and presently the case has been remanded to the Riverside Office of the Bureau of Land Management for determination of State interest. The Buch group and ASARCO are the only parties who filed protests to the State's application.

The Bureau of Land Management has indicated its willingness to accept a settlement. State Lands Division and the State Attorney General's office have, after extensive investigation and negotiation, agreed on a compromise agreement to the conflicting claims with ASARCO, a copy of which is on file

CALENDAR ITEM 34. (CONFD.)

with the State Lands Division in Sacramento, which will avoid litigation. It is the opinion of the Division that the agreement is in the State's best interest. The office of the Attorney General recommends approval. The agreement includes a Royalty Agreement with ASARCO as part of the settlement of the pending litigation.

IT IS RECOMMENDED THAT THE COMMISSION:

1. AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE, ON BEHALF OF THE STATE LANDS COMMISSION OF THE STATE OF CALIFORNIA, THE AGREEMENT BETWEEN THE BUCH GROUP, ASARCO AND THE STATE OF CALIFORNIA, SAID AGREEMENT BEING ON FILE IN THE OFFICE OF THE STATE LANDS COMMISSION AND MADE A PART HEREOF BY REFERENCE THERETO. SAID AGREEMENT WILL PROVIDE FOR THE WITHDRAWAL OF THE STATE'S REQUEST FOR A PATENT TO LOT 13; PORTION OF LOT 5 LOCATED WITHIN MINERAL SURVEY NO. 6768; PORTION OF SE $\frac{1}{4}$ OF SE $\frac{1}{4}$ LOCATED WITHIN MINERAL SURVEY NO. 6768; PORTION OF NW $\frac{1}{4}$ OF SE $\frac{1}{4}$ LOCATED WITHIN MINERAL SURVEY NO. 6768; ALL BEING WITHIN SECTION 16, T. 10 N., R. 1 E., S.B.M. IT INCLUDES A ROYALTY AGREEMENT BY WHICH ASARCO WILL PAY TO THE STATE 1/16 ROYALTY FOR ALL MINERAL VALUES REMOVED FROM SAID WITHDRAWN LANDS BASED ON THE NET PROFIT REALIZED FROM THE EXTRACTION OF SAID MINERAL VALUES. ASARCO WILL WITHDRAW ITS PROTEST TO STATE PATENT TO ALL OTHER PORTIONS OF THE STATE PATENT REQUEST. BUCH WILL WITHDRAW ITS PROTEST TO STATE PATENT REQUEST.
2. AUTHORIZE THE EXECUTIVE OFFICER TO FORWARD THE AGREEMENT TO THE GOVERNOR, WITH A RECOMMENDATION FOR APPROVAL.
3. AUTHORIZE THE EXECUTIVE OFFICER AND THE ATTORNEY GENERAL'S OFFICE TO TAKE ANY OTHER STEPS WHICH ARE NECESSARY OR WILL BECOME NECESSARY TO IMPLEMENT THE AGREEMENT.