

MINUTE ITEM

This Calendar Item No. 19
was added to the item
No. 19 of the
Calendar Item No. 2
to 0 at its 1/25/79
meeting.

CALENDAR ITEM

19.

STIPULATION FOR JUDGMENT

1/79
W 4342
Childress
PNC 5626

The Office of the Attorney General entered into a Stipulation for Judgment in the matter of United States of America (USA) v. 21,120 Acres of Land, More or Less, situate in San Bernardino County, United States District Court, Central District of California covering State school lands within Fort Irwin.

The United States Army has used and occupied these school lands since World War II for the combat training of troops. The lands have been heavily shelled and are covered with shell fragments and unexploded ammunition. The Commission's staff and the USA have been attempting to consummate a land exchange involving these lands which will hopefully be completed within the near future. The subject stipulation covers the army's use and occupancy of the lands through March 31, 1982.

The Commission and the USA entered into an easement and right-of-way permit covering this area dated February 13, 1962. The Commission authorized the termination of said agreement on April 19, 1951.

The USA and the Commission entered into a lease beginning on August 10, 1951 and ending June 30, 1962 with a rental rate of \$1,300 per annum.

On September 29, 1966, the Commission approved a lease to the USA covering the period from July 1, 1962 through June 30, 1967 with a consideration of \$21,120 per annum.

The USA began a condemnation action for a leasehold interest for a term of years beginning July 1, 1967 and terminating June 30, 1972. The Commission authorized the lease on April 1, 1969. The final consideration was \$25,000 per annum plus \$1,000 per year as the value of the option to renew the annual leasehold.

On January 26, 1978 the Commission approved acceptance of a Stipulation for Judgment with a rental of \$21,120 per annum for the period July 1, 1972 through March 31, 1977. The Attorney General's Office recommended that the Commission accept the rental as offered based upon the

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outcome of the case of United States v. Shewfelt Investment Company. After considerable research the staff concurred that the rental rate in the subject case should also be based on the rental market value of \$21,120 of the land rather than a percentage of the fee value of the land.

The terms of the stipulation provide for use and occupancy of the land through March 31, 1979, extendable yearly thereafter at the rate of \$21,120 at the election of the United States until March 31, 1982.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 & 2.
- B. Cal. Adm. Code: Title 2, Div. 3.

OTHER PERTINENT INFORMATION:

1. This agreement shall terminate upon the finalization of negotiations concerning the proposed exchange of State school land for federal lands elsewhere or on March 31, 1982, whichever occurs first.
2. This project is situated on school lands not identified as possessing significant environmental values. A staff review of available environmental information indicates no reason to identify the subject school land parcel as having such values at this time.
3. Inasmuch as the proposed stipulation continues a use that began more than 30 years ago, staff believes that no change in the existing environmental setting will occur. The issuance of this lease is therefore exempt for the EIR/Negative Declaration requirements of CEQA.

Authority: P.R.C. 21085, 14 Cal. Adm. Code 15100 et seq., 2 Cal. Adm. Code 2907.

EXHIBIT:

- A. Judgment and Stipulation.

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IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN EIR HAS NOT BEEN PREPARED FOR THIS ACTIVITY AS SUCH REPORT IS NOT REQUIRED UNDER THE PROVISIONS OF P.R.C. 21085, 14 CAL. ADM. CODE 15100 ET SEQ., AND 2 CAL. ADM. CODE 2907.
2. RATIFY THE STIPULATION SIGNED BY THE ATTORNEY GENERAL CONTAINED IN THE JUDGEMENT AND STIPULATION, UNITED STATES OF AMERICA V. 21,120 ACRES OF LAND, MORE OR LESS, SITUATE IN SAN BERNARDINO COUNTY (CIVIL NO. 77-1159-JWC); A COPY OF WHICH IS ATTACHED AS EXHIBIT "A" AND BY REFERENCE MADE A PART HEREOF PROVIDING FOR USE AND OCCUPANCY OF THE LANDS DESCRIBED THEREIN FROM APRIL 1, 1977 THROUGH MARCH 31, 1979 AND EXTENDABLE YEARLY UNTIL MARCH 31, 1982 AT THE OPTION OF USA, AT THE ANNUAL RENTAL OF \$21,120.

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COPY

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7 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT
 9 CENTRAL DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,
 11 Plaintiff,

12 v.

13 21,120 ACRES OF LAND, MORE OR
 14 LESS, SITUATE IN SAN BERNARDINO
 COUNTY, etc., et al.,

15 Defendants.

Civil No. 77-1159-JWC

JUDGMENT & STIPULATION

THEREFOR

JUDGMENT

17
 18 Plaintiff, United States of America, by its attorneys of
 19 record, and the defendant, State of California, having stipulated
 20 and agreed that the following Judgment may be entered, and the
 21 Court being fully advised in the premises,

22 NOW, THEREFORE, IT IS ADJUDGED AND DECREED:

23 1. That, on March 30, 1977, plaintiff, United States of
 24 America, filed herein its Complaint in Condemnation, which included
 25 the real property therein and in these proceedings designated and
 26 described as Civil No. 77-1159-JWC.

27 2. That, the United States of America has the right to the

1 exclusive use and occupancy of the property described in its Complaint
2 in Condemnation on file herein for a term of years beginning April
3 1, 1977 and ending March 31, 1978, extendible yearly thereafter at
4 the election of the United States until March 31, 1982, by the filing
5 in this proceeding of a Notice of Election to Extend such Term as
6 provided in the Complaint in Condemnation.

7 3. That the amount agreed upon for the exclusive use and
8 occupancy of the property described in paragraph 6 hereof, by the
9 United States of America, for the period beginning April 1, 1977,
10 and ending March 31, 1978, is the sum of \$21,120.00 annually,
11 inclusive of interest, and if the exclusive use and occupancy thereof
12 shall be extended by the plaintiff as provided in the Complaint
13 herein, the just compensation for each renewal period of the use and
14 occupancy shall be the sum of \$21,120.00 per annum inclusive of
15 interest. The term of the taking has now been renewed through
16 March 31, 1979.

17 4. That all taxes, assessments and other Governmental
18 charges and all other liens and claims of whatsoever nature existing
19 against said property, are transferred therefrom to the funds
20 deposited in the Registry of the Court to the end that the United
21 States of America may have an unencumbered estate, right, title and
22 interest in said property as described in said Complaint in Condemna-
23 tion.

24 5. That said compensation shall be paid and disbursed as
25 follows:

26 TO: STATE OF CALIFORNIA.....\$42,240.00
27 representing the annual rental at the
28 rate of \$21,120.00 for the period

beginning April 1, 1977 and
ending March 31, 1979.

6. That the property and the estate therein affected by this Judgment are described in Civil No. 77-1159-JWG in plaintiff's Complaint in Condemnation as set forth in Exhibit "A" thereto.

7. That plaintiff had, and has, the right to condemn the property, estates and interests described in its Complaint in Condemnation on file herein, for the public uses described and set forth therein.

The Court retains jurisdiction to make and enter such further Orders and Judgments as may be necessary and proper in the premises.

DATED: This _____ day of _____, 1978.

UNITED STATES DISTRICT JUDGE

STIPULATION FOR JUDGMENT

COME NOW the plaintiff, United States of America, by its attorneys of record, and the defendant, State of California, which said defendant:

1. Hereby voluntarily appears in this action;
2. Represents to plaintiff and to the Court:

(a). That he is the former owner of the real property described in the Complaint in Condemnation as Civil No. 77-1159-JWG

(b). That he has no right, title, claim, or interest in or to any other property involved in this proceeding and has made no assignment of any interest in said property or in or to the

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compensation to be paid therefor except as provided in the Judgment to be entered hereon; and

(c). That all claims and demands of whatsoever name or nature which existed against said property at the time of the taking thereof, or might be made upon or against said fund or the plaintiff, for or on account of any right, title, interest, lien, tax assessment, right-of-way, easement, or claim of any other nature against said property existing prior to or at the time of the taking thereof, are subject and subordinate to the former ownership of defendant in and to said property;

3. Agrees to hold the plaintiff free and harmless therefrom;

4. Expressly waives service of process, notice of setting for trial, right of trial or other hearing on all issues, findings of fact, conclusions of law, and notice of judgment; and .

Plaintiff, United States of America, and said defendant mutually STIPULATE AND AGREE that the Court may make and enter the foregoing Judgment, without further notice, in final determination of this action as to Civil No. 77-1159-JWC;

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Whatever the context of this Stipulation requires, the singular number as used herein shall be read as plural, and the masculine gender as feminine or neuter.

DATED: This _____ day of _____, 1978.

ANDREA SHERIDAN ORDEN
United States Attorney
FREDERICK M. BROSIO, JR.
Assistant United States Attorney
Chief, Civil Division

ERNESTINE TOLIN
Assistant United States Attorney

Attorneys for Plaintiff

DATED: This 28th day of July, 1978.

EVELLE J. YOUNGER
Attorney General
N. GREGORY TAYLOR
Assistant Attorney General

ORIGINAL SIGNED BY
WILLARD A. SHANK

WILLARD A. SHANK
Assistant Attorney General

Attorneys for Defendant.

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