

29. (OCCUPANCY AND RIGHTS-OF-WAY ACROSS NAVIGABLE SLOUGHS, SOUTH PORTION OF SAN FRANCISCO BAY, SANTA CLARA AND ALAMEDA COUNTIES, LESLIE SALT CO. - W.O. 1021, W.O. 1286.) The City of San Jose, in Case No. 73874, Santa Clara County Superior Court, filed a Complaint in Eminent Domain against the Leslie Salt Co., et al., and the State of California, for the acquisition of land to be occupied by a sewage disposal plant on certain lands in the south end of San Francisco Bay for which title had been conveyed through patent from the State of California.

The Attorney General appeared for the State in this case, and during the trial it developed that there were certain sloughs within the condemned area which were declared navigable by statute, and other sloughs that were navigable in fact. The title company which had guaranteed the Leslie Salt Co.'s title admitted that the People did have the right of navigation on these sloughs, but they contended that Leslie Salt Co. owned the fee in the bed of certain sloughs. However, the City of San Jose put on such a weak case at the trial that the proceedings were terminated, subject to the filing of a new complaint.

The discussions and testimony with respect to the navigability of the sloughs within the area brought to focus the fact that both the Leslie Salt Co. and the State should make a thorough investigation of all of the sloughs within the area owned and claimed by the Leslie Salt Co., because the Leslie Salt Co. had diked across certain navigable sloughs in the construction of their salt-water evaporation ponds, and also because they had more of such construction in contemplation.

The Leslie Salt Co. maintains that because of the State's patents, it does have the fee in these navigable sloughs, subject to the right of navigation, whereas the State contends that there was never any Legislative authority for the conveyance of navigable sloughs. There are many cases, starting with the Ocean Industries case, and opinions by the Attorney General to the effect that ownership of such sloughs did not pass out of the State, even though the description of the area sold did include a navigable slough. The Commission will recall that the State Legislature is presently studying the whole south end of San Francisco Bay to determine the policy for reclamation of large areas of the Bay.

In view of the situations enumerated above, conferences have been held with the Attorney General's Office and the attorneys for the Leslie Salt Co. to provide for a joint study by the Leslie Salt Co. and the State of the problems involved. It has been suggested that it may be possible for the State to reach an agreement with the Leslie Salt Co. wherein the State would concede certain sloughs would not be considered navigable and full title therefor would be in the Leslie Salt Co., and, conversely, the Leslie Salt Co. would agree with the State that certain sloughs are navigable and title remains in the State. Such a study is in process, but undoubtedly it will take considerable time to ascertain the facts and reach conclusions.

The Staff has felt that the policy of the Commission has been not to attempt to overthrow sales of State lands made in apparent good faith, but to recognize the equities involved and reach solutions by negotiation rather than through court proceedings.

While no formal action was taken, Mr. Dean stated that he was in agreement with the statement of policy given in the preceding paragraph. Mr. Kuchel likewise agreed, but added that if anyone involved in a title dispute with the State desires to have matters of this character adjudicated through court proceedings in order to clarify the situation, we should not resist attempts to do so.

30. (GREY LODGE REFUGE, PROPOSED GAS LEASE, BUTTE COUNTY - W.O. 1125, J.T.I. 2.) On August 29, 1951 (Minute Page 1433, Item 35), and on September 20, 1951 (Minute Page 1447, Item 11), the Commission authorized the leasing of 2,542 acres of State land in the Grey Lodge Refuge, Butte County, for the development of gas, subject to concurrence by the then Division of Fish and Game. The Department of Fish and Game has now proposed the transfer of control and possession of the Grey Lodge Refuge area to the State Lands Commission to enable the State Lands Commission to lease the land for gas production under specific conditions as determined by the Department of Fish and Game.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AMENDING THE ACTION OF AUGUST 29, 1951 (MINUTE PAGE 1433, ITEM 35), AND OF SEPTEMBER 20, 1951 (MINUTE PAGE 1447, ITEM 11), TO AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE THE AGREEMENT FOR TRANSFER OF CONTROL AND POSSESSION OF THE MINERAL RIGHTS IN GREY LODGE REFUGE, BUTTE COUNTY; WHEREUNDER JURISDICTION OVER THE AREA IS TRANSFERRED FOR THE PURPOSE OF ENABLING THE COMMISSION TO LEASE THE AREA FOR GAS PRODUCTION IN ACCORDANCE WITH DIVISION 6 OF THE PUBLIC RESOURCES CODE AND UNDER SPECIFIC CONDITIONS AS DETERMINED BY THE DEPARTMENT OF FISH AND GAME.

31. (APPLICATION FOR RENEWAL OF RIGHT-OF-WAY EASEMENT, P.R.C. 364, OWENS LAKE, INYO COUNTY, KAISER ALUMINUM & CHEMICAL CORPORATION - W.O. 1310.) Right-of-way Easement P.R.C. 364 was issued on August 19, 1948, to the Permanente Metals Corporation, predecessor to the Kaiser Aluminum & Chemical Corporation, for a period of one year, with the option on the part of the Lessee to renew the easement for 19 successive periods of one year each, upon such reasonable terms and conditions as the State may impose at the time of renewal. The annual rental paid heretofore by the Lessee in conformance with the rules and regulations of the Commission was \$66.40. The right-of-way easement covers the location of pipe lines between the brine deposits in Owens Lake and the processing facilities operated by the Lessee under State lease. An application has again been received from the Kaiser Aluminum & Chemical Corporation for an extension of the term of Right-of-way Easement P.R.C. 364, Owens Lake, for six years. The Lessee has made a deposit of \$66.40 as advance annual rental. The computed annual rental under the current policy of the Commission would be \$7.92, or \$47.52, for the six-year period requested, and hence the established minimum of \$50 would apply.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, A RESOLUTION WAS ADOPTED AUTHORIZING THE EXECUTIVE OFFICER TO RENEW RIGHT-OF-WAY EASEMENT P.R.C. 364 TO THE KAISER ALUMINUM & CHEMICAL CORPORATION FOR A TERM OF SIX YEARS FROM AND AFTER AUGUST 19, 1952, AT A TOTAL RENTAL OF \$50.