

MINUTE ITEM

32. (RESTORATION TO ENTRY OF PUBLIC LANDS OF THE UNITED STATES AND PREFERENCE RIGHT ACCORDED STATE UNDER PUBLIC LAW 85-771 (72 STAT. 928), APPROVED AUGUST 27, 1958 - GEN. DATA.)

After consideration of Calendar Item 36 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO EXECUTE SUCH NECESSARY FORMS AS MAY BE REQUIRED UNDER EACH INDIVIDUAL RESTORATION ORDER FOR THE PURPOSE OF WAIVING THE SIX-MONTH PREFERENTIAL RIGHT ACCORDED THE STATE FOR THE FILING OF INDEMNITY SELECTION APPLICATIONS AS PROVIDED BY PUBLIC LAW 85-771 (72 STAT. 928).

Attachment

Calendar Item 36 (2 pages)

CALENDAR ITEM

MISCELLANEOUS

36.

(RESTORATION TO ENTRY OF PUBLIC LANDS OF THE UNITED STATES AND PREFERENCE RIGHT ACCORDED STATE UNDER PUBLIC LAW 85-771 (72 Stat. 928), APPROVED AUGUST 27, 1958 - GEN. DATA.)

Public Law 85-771 (72 Stat. 928), approved August 27, 1958, amends the Indemnity Selection Act in certain particulars. This has an important bearing on the right of the State to select unappropriated vacant Federal land in lieu of the 16th and 36th sections of each township which may have been lost to the State for various reasons.

Prior to enactment of the aforesaid statute by Congress, the State was entitled to select unappropriated public lands of the United States in lieu of surveyed or unsurveyed Sections 16 and 36 which were embraced in any Federal withdrawal order. This, in effect, allowed the State to offer sections 16 and 36 as indemnity base, irrespective of whether the State's title attached under the School Land Grant (Act of Congress, approved March 3, 1853).

Public Law 85-771 (72 Stat. 928) provides, in part, that lands which may be offered to the United States as indemnity base are those Sections 16 and 36 of each township to which the State's title has not attached under the School Land Grant, i.e., only Sections 16 and 36 or portions thereof included within the boundaries of Federal withdrawals prior to survey, or which remain unsurveyed within the boundaries of a withdrawal order.

In addition to having the effect as outlined above, the Act accords the State a preference right for a period of six months within which to file indemnity selection applications on lands restored to public entry from a withdrawal. This preferential right extends for a period of 10 years from the effective date of the Act. Notice to the State will be by publication in the Federal Register, and probably will be supplemented by written notice in accordance with procedures currently being arranged. Following publication of notice in the Federal Register, the State will have a preferential right, for a six-month period, within which to file an indemnity selection application to select all or any portion of the lands listed in the restoration order. This right is to the exclusion of the rights of all other applicants entitled to file under the public land laws.

The indemnity base acreage available to the State for offer to the United States under this new Act is extremely limited, aggregating approximately 15,000 acres. This acreage, it is felt, should be retained, at least temporarily, for use in amending indemnity selection applications currently on file with the United States. In addition, outstanding certificates of scrip heretofore sold, containing 1,056.40 acres, are subject to surrender. In view of this situation, it appears desirable for the Commission to authorize the Executive Officer to execute such forms as may be required under each individual restoration order for the purpose of waiving the six-month preferential right previously referred to. This will have the effect of allowing interested

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private individuals to file on restored lands immediately upon delivery of the State's waiver, rather than awaiting the expiration of the six-month period. In many instances, restoration of lands to public entry is made at the request of an individual who is desirous of filing an application to purchase under applicable public land laws.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO EXECUTE SUCH NECESSARY FORMS AS MAY BE REQUIRED UNDER EACH INDIVIDUAL RESTORATION ORDER FOR THE PURPOSE OF WAIVING THE SIX-MONTH PREFERENTIAL RIGHT ACCORDED THE STATE FOR THE FILING OF INDEMNITY SELECTION APPLICATIONS AS PROVIDED BY PUBLIC LAW 85-771 (72 STAT. 928).