

MINUTE ITEM

10. APPLICATION OF MARTIN ELLERMAN, NO. 11476, LOS ANGELES LAND DISTRICT, IMPERIAL COUNTY - S.W.O. 7310.

After consideration of Calendar Item 28 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE EXECUTIVE OFFICER IS AUTHORIZED TO:

1. ACCEPT THE REQUEST OF MARTIN ELLERMAN TO WITHDRAW FROM THE PURCHASE OF SECTION 36, T. 9 S., R. 11 E., S.B.M.;
2. REFUND ALL DEPOSITS OF MARTIN ELLERMAN EXCEPT THE STATUTORY \$5 FILING FEE.

THE COMMISSION:

1. RESCINDS THE RESOLUTION ADOPTED AT ITS MEETING OF DECEMBER 17, 1959 (MINUTE ITEM 18, PAGE 5489), AUTHORIZING THE SALE OF SAID LAND;
2. AUTHORIZES THE SALE OF THE SUBJECT LAND TO THE IMPERIAL IRRIGATION DISTRICT AT THE MARKET VALUE ESTABLISHED BY STAFF APPRAISAL FOLLOWING THE FILING OF THE STANDARD PURCHASE APPLICATION, WITHOUT ADVERTISING FOR COMPETITIVE BIDS.

Attachment

Calendar Item 28 (2 pages)

CALENDAR ITEM

28.

APPLICATION OF MARTIN ELLERMAN, NO. 11476, LOS ANGELES LAND DISTRICT,  
IMPERIAL COUNTY - S.W.O. 7310.

The Commission at the meeting of December 17, 1959, authorized the sale of land underlying the Salton Sea in Imperial County described as Section 36, T. 9 S., R. 11 E., S.B.M., containing 640 acres, to the highest qualified bidder, Martin Ellerman, at a cash price of \$1,920. Approval of this sale by the Commission to the highest qualified bidder resulted from the failure of the first applicant, Frederick R. Stowell, to meet the highest qualified bid within the twenty-day period allowed following the bid opening date.

Thereafter, a question was referred to the Office of the Attorney General as to what provisions, if any, should be included in a State patent conveying lands situated beneath the waters of the Salton Sea in Imperial County to protect the State from possible future claims by reason of fluctuations of the water level of the sea.

By formal opinion issued under date of July 14, 1960 (Opinion 60/15), the Office of the Attorney General suggested the inclusion of several conditions and reservations for protection of the State over and above those normally set forth in a State patent.

The proposed patentee, Martin Ellerman, was advised of the conditions and reservations suggested by the Office of the Attorney General, by letter dated July 18, 1960. A response received from Mr. Ellerman under date of August 3, 1960, states in part as follows:

"Since this parcel is located in Salton Sea a short distance from the shoreline it was assumed at the time of bid to contain potential for development by hydraulic fill or piles into a private recreational area and that state patent would contain the usual reservations derived from and listed in the basic federal patent.

"However, the many additional reservations now proposed indicates that the State of California is not in a position to convey, for a consideration, title to anything which is not already available to the public.

"Two of the reservations: 1, Reserving any and all rights of the public to the use of the overlying water of the Salton Sea for commerce or recreation" and 2, "No right to the use of overlying waters of the Salton Sea for navigation, commerce, recreation, hunting and fishing is hereby conveyed" precludes any conceivable private development that the land owner would ordinarily be entitled to.

"With the proposed reservations it would be difficult to define what was being conveyed for the bid consideration involved.

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"While I am somewhat disappointed to learn that the State cannot convey title to this and similar parcels in Salton Sea, it is apparently an unforeseen circumstance not previously encountered.

"In view of the complications, it would appear equitable and appropriate for your office to delete the parcel from your Imperial County list, rescind any actions taken and refund full deposit to applicant."

In view of the applicant's desire to withdraw from this purchase as the result of conditions and reservations to be imposed upon the land by the State in its instrument of conveyance which are not normally reflected and which were not anticipated at the time the transaction was in process, it appears reasonable and proper for the Commission to permit Mr. Ellerman to withdraw.

The Commission at its meeting of May 24, 1960 (Minute Item 26, page 6011), authorized the sale of all then remaining vacant State school lands underlying the Salton Sea to the Imperial Irrigation District at the market value established by staff appraisal, without advertising for competitive bids, upon the filing of appropriate purchase application or applications by the District. In view of this action, the offer of sale of the subject parcel to the Imperial Irrigation District should be authorized if the Commission accepts the withdrawal request of Martin Ellerman.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO:

1. ACCEPT THE REQUEST OF MARTIN ELLERMAN TO WITHDRAW FROM THE PURCHASE OF SECTION 36, T. 9 S., R. 11 E., S.B.M.;
2. REFUND ALL DEPOSITS OF MARTIN ELLERMAN EXCEPT THE STATUTORY \$5 FILING FEE.

IT IS ALSO RECOMMENDED THAT THE COMMISSION:

1. RESCIND THE RESOLUTION ADOPTED AT ITS MEETING OF DECEMBER 17, 1959 (MINUTE ITEM 18, PAGE 5489), AUTHORIZING THE SALE OF SAID LAND;
2. AUTHORIZE THE SALE OF THE SUBJECT LAND TO THE IMPERIAL IRRIGATION DISTRICT AT THE MARKET VALUE ESTABLISHED BY STAFF APPRAISAL FOLLOWING THE FILING OF THE STANDARD PURCHASE APPLICATION, WITHOUT ADVERTISING FOR COMPETITIVE BIDS.