

MINUTE ITEM

9. APPLICATION FOR RIGHT-OF-WAY EASEMENTS BY TRUSTEES OF DEEP SPRINGS FOR TRANSPORT OF WATER ACROSS PORTIONS OF STATE SCHOOL LANDS, SECTION 36, T. 6 S., R. 36 E., M.D.B. & M., INYO COUNTY - W.O. 3544.

Following presentation of Calendar Item 3 attached, Mr. Ralph N. Kleps, appearing as attorney for Deep Springs College, asked that the Commission give consideration to the following points in connection with the proposed easements: (1) the actual name in which title should vest; i.e., in the specific names of the now acting trustees and their successors; (2) the fact that the proposed easements would be for only a 49-year period, which might be detrimental to the interests of the College after that time; and (3) the expansion in the necessary documents covering the easements of the words "to Deep Springs College", to read: ". . . for the purpose of transmitting water across the described premises to the property owned by the trustees of Deep Springs . . .". The Commission was informed that the subject property and easements actually have been in use by the College since 1869, before the State of California acquired title to the land, and that the trustees therefore may have rights that antedate those of the State.

Mr. Francis C. Whelan, Attorney for Aorienne C. Burke, the applicant for purchase of the property over which the proposed easements are to be issued (See Minute Item 10), stated that he could see no reason for expansion of the designation "to Deep Springs College". He pointed out that the proposed easements had been under discussion for many months, that his client was anxious to conclude the purchase transactions, and that Mr. Lyon, Attorney for Deep Springs College, had not previously questioned the proposed wording of the easement documents in this specific regard. Thereafter, it was brought out by the Commission that the wording as originally proposed might be too restrictive. It was finally agreed that the actual wording in the easements should be "The described land shall be used during the term herefor for the sole and exclusive purpose of transmitting water across the hereinabove described premises to the property owned by the lessee in Deep Springs Valley, together with rights of ingress and egress".

In answer to a question by Mr. Kleps as to whether or not the State could reserve the right to grant a further easement after 49 years, the Executive Officer pointed out that it appeared that maximum authority in the Commission at this time was to issue 49-year easements, and that Mr. Lyon, the Attorney for Deep Springs, had agreed to this term. Commissioner Carr commented that primary consideration should be given to the rights of the Deep Springs institution, and said he failed to see where Mr. Whalen's client could be damaged by making the easements highly protective to the school.

UPON MOTION MADE BY COMMISSIONER CARR, DULY SECONDED, AND CARRIED, A RESOLUTION WAS ADOPTED DEFERRING FOR FURTHER STUDY AND REFERRAL TO THE OFFICE OF THE ATTORNEY GENERAL THE MATTER OF THE STATE'S RESERVATION OF THE RIGHT TO REISSUE EASEMENTS AFTER ISSUANCE OF INITIAL 49-YEAR RIGHT-OF-WAY EASEMENTS TO THE ADMINISTRATORS OF DEEP SPRINGS COLLEGE OVER STATE SCHOOL LANDS IN SECTION 36, T. 6 S., R. 36 E., M.D.B. & M., INYO COUNTY, WITH THE UNDERSTANDING THAT A FURTHER REPORT WILL BE MADE AT THE NEXT MEETING OF THE COMMISSION.

Attachment
Calendar Item 3 (2 pages)

6448

CALENDAR ITEM

3.

APPLICATION FOR RIGHT-OF-WAY EASEMENTS BY TRUSTEES OF DEEP SPRINGS FOR TRANSPORT OF WATER ACROSS PORTIONS OF STATE SCHOOL LANDS, SECTION 36, T. 6 S., R. 36 E., M.D.B. & M., INYO COUNTY - W.O. 3544.

On April 7, 1960, Trustees of Deep Springs, Administrators for Deep Springs College, applied for easements for water transmission by open ditch and pipe line, with right of ingress and egress for purposes of inspection, repair, replacement thereof, etc., across the NW portion of Section 36, T. 6 S., R. 36 E., M.D.B. & M., Inyo County.

Deep Springs College, a nonprofit educational institution, has reported that the NW $\frac{1}{4}$ of Section 36 has been used for the diversion of water from Wyman Creek to Deep Springs Ranch continuously since prior to 1873. The applicant is dependent upon these facilities to transport most of its water for domestic and irrigation purposes.

The expense deposit and the statutory filing fee have been paid. No bond is required. Based on present use, the land is estimated to be worth \$15 per acre; hence, the total rental for a 49-year easement would be \$388.57 for the 5.58 acres in the parcel.

An application to purchase all of the subject NW $\frac{1}{4}$ and the E $\frac{1}{2}$ of Section 36, T. 6 S., R. 36 E., M.D.B. & M., containing 480 acres in Inyo County, had been received on October 5, 1959. The applicant-to-purchase has waived any rights of priority resulting from earlier filing.

The proposed draft of the easement has been approved, as to form, by the office of the Attorney General.

IT IS RECOMMENDED THAT THE EXECUTIVE OFFICER BE AUTHORIZED TO ISSUE TO TRUSTEES OF DEEP SPRINGS, ADMINISTRATORS FOR DEEP SPRINGS COLLEGE, FOR A PERIOD NOT TO EXCEED 49 YEARS, AT A TOTAL RENTAL OF \$388.57, RIGHT-OF-WAY EASEMENTS AS SET FORTH BELOW:

OPEN DITCH EASEMENT

AN EASEMENT AND RIGHT-OF-WAY FOR AN OPEN DITCH FOR THE TRANSPORTATION OF WATER IN, ON AND OVER THAT CERTAIN STRIP OF LAND SIX FEET IN WIDTH LYING THREE FEET ON EACH SIDE OF THE FOLLOWING-DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THE NW $\frac{1}{4}$ OF SECTION 36, T. 6 S., R. 36 E., M.D.B. & M., COUNTY OF INYO, STATE OF CALIFORNIA, WHICH BEARS S. 89° 29' 36" E. 1156.91 FEET FROM THE WEST $\frac{1}{4}$ CORNER OF SECTION 36; THENCE N. 01° 32' 30" E. 970.14 FEET AND N. 06° 12' 37" W., 1733.38 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SECTION 36, WHICH BEARS S. 89° 23' 07" E. 1047.83 FEET FROM THE SECTION CORNER COMMON TO SECTIONS 36, 35, 26 AND 25, CONTAINING .37 ACRE, MORE OR LESS.

CALENDAR ITEM 3. (CONTD.)

SECONDARY OPEN DITCH EASEMENT NO. 1

AN EASEMENT 32 FEET IN WIDTH, FOR THE PURPOSE OF INSPECTION, MAINTENANCE AND REPAIR OF THE AFOREMENTIONED OPEN DITCH, SAID SECONDARY EASEMENT NO. 1 BEING PARALLEL TO THE CENTERLINE OF THE AFOREMENTIONED 6-FOOT OPEN-DITCH EASEMENT AND WHOSE EASTERLY BOUNDARY LINE COINCIDES WITH THE WESTERLY BOUNDARY LINE OF THE SAME AFOREMENTIONED 6-FOOT OPEN-DITCH EASEMENT, CONTAINING 1.99 ACRES, MORE OR LESS.

SECONDARY OPEN DITCH EASEMENT NO. 2

AN EASEMENT SEVEN FEET IN WIDTH, FOR THE PURPOSE OF INSPECTION, MAINTENANCE AND REPAIR OF THE AFOREMENTIONED OPEN DITCH, SAID SECONDARY EASEMENT NO. 2 BEING PARALLEL TO THE CENTERLINE OF THE AFOREMENTIONED 6-FOOT OPEN-DITCH EASEMENT AND WHOSE WESTERLY BOUNDARY LINE COINCIDES WITH THE EASTERLY BOUNDARY LINE OF THE SAME AFOREMENTIONED 6-FOOT OPEN-DITCH EASEMENT, CONTAINING .43 ACRE, MORE OR LESS.

PIPE LINE EASEMENT

AN EASEMENT AND RIGHT-OF-WAY FOR A PIPE LINE FOR THE TRANSPORTATION OF WATER IN, ON AND OVER THAT CERTAIN STRIP OF LAND SIX FEET IN WIDTH LYING THREE FEET ON EACH SIDE OF THE FOLLOWING-DESCRIBED CENTERLINE:

BEGINNING AT A POINT ON THE SOUTHERLY LINE OF THE NW $\frac{1}{4}$ OF SECTION 36, T. 6 S., R. 36 E., M.D.B. & M., COUNTY OF INYO, STATE OF CALIFORNIA, WHICH BEARS S. 89° 29' 36" E. 1727.87 FEET FROM THE WEST $\frac{1}{4}$ CORNER OF SECTION 36; THENCE N. 04° 57' 06" W. 2702.77 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF SECTION 36, WHICH BEARS S. 89° 23' 07" E. 1546.92 FEET FROM THE SECTION CORNER COMMON TO SECTIONS 36, 35, 26 AND 25, CONTAINING .37 ACRE, MORE OR LESS.

SECONDARY PIPE LINE EASEMENT NO. 1

AN EASEMENT 32 FEET IN WIDTH, FOR THE PURPOSE OF INSPECTION, MAINTENANCE AND REPAIR OF THE AFOREMENTIONED PIPE LINE, SAID SECONDARY PIPE LINE EASEMENT NO. 1 BEING PARALLEL TO THE CENTERLINE OF THE AFOREMENTIONED 6-FOOT PIPE LINE EASEMENT AND WHOSE EASTERLY BOUNDARY LINE COINCIDES WITH THE WESTERLY BOUNDARY LINE OF THE SAME AFOREMENTIONED 6-FOOT PIPE LINE EASEMENT, CONTAINING 1.99 ACRES, MORE OR LESS.

SECONDARY PIPE LINE EASEMENT NO. 2

AN EASEMENT SEVEN FEET IN WIDTH, FOR THE PURPOSE OF INSPECTION, MAINTENANCE AND REPAIR OF THE AFOREMENTIONED PIPE LINE, SAID SECONDARY PIPE LINE EASEMENT NO. 2 BEING PARALLEL TO THE CENTERLINE OF THE AFOREMENTIONED 6-FOOT PIPE LINE EASEMENT AND WHOSE WESTERLY BOUNDARY LINE COINCIDES WITH THE EASTERLY BOUNDARY LINE OF THE SAME AFOREMENTIONED 6-FOOT PIPE LINE EASEMENT, CONTAINING .43 ACRE, MORE OR LESS.