

MINUTE ITEM

27. LIEU LAND APPLICATION NO. 4796, SACRAMENTO LAND DISTRICT, HUMBOLDT COUNTY, HUDSON A. STOVER - S.W.O. 5342.

After consideration of Calendar Item 38 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE COMMISSION ACCEPTS THE OFFER OF SETTLEMENT BY HUDSON A. STOVER AND JOHN W. STOVER SET FORTH IN LETTER OF NOVEMBER 10, 1960, AND AUTHORIZES THE EXECUTIVE OFFICER TO INSTRUCT THE ATTORNEY GENERAL TO PROCEED WITH A NEGOTIATED SETTLEMENT OF THE PENDING LITIGATION ENTITLED PEOPLE OF THE STATE OF CALIFORNIA VS. HUDSON A. STOVER, ET AL., HUMBOLDT COUNTY SUPERIOR COURT CASE NO. 33195 ON THE FOLLOWING BASIS:

1. THE DEFENDANTS, HUDSON A. STOVER AND JOHN W. STOVER, WILL QUITCLAIM TO THE STATE OF CALIFORNIA ANY PROPERTY INTEREST WHICH THEY MAY HAVE IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER ($NE\frac{1}{4}$ OF THE $NW\frac{1}{4}$) OF SECTION 23, TOWNSHIP 8 NORTH, RANGE 3 EAST, HUMBOLDT MERIDIAN.
2. HUDSON A. STOVER AND JOHN W. STOVER WILL PAY TO THE STATE OF CALIFORNIA THE SUM OF FORTY THOUSAND DOLLARS (\$40,000).

IN EXCHANGE FOR THE ABOVE:

1. THE STATE OF CALIFORNIA WILL, BY AN INSTRUMENT OF CONVEYANCE, CONVEY TO HUDSON A. STOVER AND JOHN W. STOVER ANY INTEREST WHICH IT MAY HAVE IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER ($NW\frac{1}{4}$ OF THE $SE\frac{1}{4}$), AND THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER ($SE\frac{1}{4}$ OF THE $NW\frac{1}{4}$) OF SECTION 29, TOWNSHIP 8 NORTH, RANGE 3 EAST, HUMBOLDT MERIDIAN.
2. THE STATE OF CALIFORNIA WILL PROVIDE HUDSON A. STOVER AND JOHN W. STOVER WITH A DISMISSAL WITH PREJUDICE OF ACTION NUMBER 33195 PENDING BEFORE THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF HUMBOLDT, WHICH DISMISSAL WILL DISMISS ALL CAUSES OF ACTION EXISTING AGAINST HUDSON A. STOVER, JOHN W. STOVER, AND W. A. ROBINSON, ALSO KNOWN AS W. ADRIEN ROBINSON.
3. THE STATE OF CALIFORNIA WILL PROVIDE ANY DOCUMENTS WHICH THE BANK OF AMERICA, A NATIONAL TRUST AND SAVINGS ASSOCIATION, ARCATA BRANCH, ARCATA, CALIFORNIA, MAY DESIRE IN ORDER TO RELEASE TO THE STOVERS THE SPECIAL ACCOUNTS NOW ON DEPOSIT WITH SAID BANK.

FURTHER, THAT UPON APPROVAL OF THE AGREEMENT OF COMPROMISE THE EXECUTIVE OFFICER IS AUTHORIZED TO REQUEST THE BOARD OF SUPERVISORS OF HUMBOLDT COUNTY TO CANCEL ANY OUTSTANDING COUNTY TAXES AND LIENS ON THE 40 ACRES IN THE AFOREMENTIONED SECTION 23, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 5026 OF THE REVENUE AND TAXATION CODE.

Attachment
Calendar Item 38 (5 pages)

CALENDAR ITEM

38.

LIEU LAND APPLICATION NO. 4796, SACRAMENTO LAND DISTRICT, HUMBOLDT COUNTY, HUDSON A. STOVER - S.W.O. 5342.

The following-quoted report was considered by the Commission and action taken at the meeting of February 7, 1957 (Minute Item 9, page 3007):

"(SALE OF VACANT FEDERAL LAND, OBTAINED THROUGH USE OF BASE, LIEU LAND APPLICATION NO. 4796, SACRAMENTO LAND DISTRICT, HUMBOLDT COUNTY, HUDSON STOVER - S.W.O. 5342.)

"On May 9, 1951 Mr. Hudson Stover of Blue Lake, California, filed with the State Lands Commission an application to purchase vacant Federal land in Humboldt County described as the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 23 and the NW $\frac{1}{4}$ of SE $\frac{1}{4}$ and SE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 29, T. 8 N., R. 3 E., H.M., containing 120 acres in Humboldt County.

"Subsequently, the State filed an indemnity selection application with the Federal Government to acquire said lands, which was approved and title conveyed to the State on November 3, 1954.

"For a period during the first few months of 1954, no appraisal staff was available to the Commission to undertake appraisal assignments. During this interim period, arrangements were made to utilize the services of the assessor's staff of several counties, based upon recommendations of the respective county assessors. It was agreed that the appraisal work would be accomplished independent of their respective duties, and on a fee basis. Accordingly, the services of Mr. Harold Trott were made available to undertake this appraisal. In accordance with Article 6 of the Rules and Regulations of the State Lands Commission, the lands were appraised during January 1954, by Mr. Harold Trott, Deputy County Assessor of Humboldt County. The value established by Mr. Trott's appraisal was \$1,560.

"The State Lands Commission, at its meeting held March 26, 1954 approved the sale of the subject land to Hudson Stover at the appraised value. Accordingly, State patent was issued to Hudson Stover on June 9, 1955.

"During the course of recent appraisal work by a member of the Commission's staff in Humboldt County, information was obtained indicating that the aforesaid lands were valuable timbered lands, and the sale price as established by the appraisal submitted by Mr. Harold Trott was not representative of its true value. An investigation was undertaken by staff members, and it appears that the lands are quite valuable for timber purposes, containing in excess of three

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million board feet of Douglas fir. Moreover, the information developed indicated that a mutual mistake in fact may have occurred, by failure of the appraiser and the State applicant to properly identify the land on the ground. In addition, the possibility of misrepresentation by the State applicant should be considered as a result of statements under oath that the land involved is brush and grass land, when in fact it contains a valuable stand of good quality merchantable Douglas fir timber.

"The matter has been referred to the Attorney General for review, and we are informed that sufficient grounds appear to exist for the State to proceed with an action to rescind the patent. If this procedure is followed, the Attorney General has requested that appropriate steps be initiated to arrange for a refund to Hudson Stover of the initial purchase price and costs, totaling \$1,631.72. In this connection a "spot" bill has been introduced in the Legislature which can be used to accomplish this purpose, if necessary. However, it is possible that the matter may be settled by negotiation, and a meeting to that end has been arranged between the attorney representing the State patentee and a representative of the Attorney General's Office during the week of February 4, 1957.

"THE COMMISSION AUTHORIZES THE EXECUTIVE OFFICER TO PROCEED TO SECURE A RETURN TO THE STATE OF THE FAIR MARKET VALUE FOR THE LANDS LYING IN THE NE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 23 AND THE NW $\frac{1}{4}$ OF THE SE $\frac{1}{4}$ AND THE SE $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 29, ALL IN TOWNSHIP 8 NORTH, RANGE 3 EAST, H.M., CONTAINING 120 ACRES IN HUMBOLDT COUNTY; AND, IF EQUITABLE SETTLEMENT CANNOT BE REACHED BY NEGOTIATION, THE EXECUTIVE OFFICER IS AUTHORIZED TO RESCIND THE PATENT ISSUED TO MR. HUDSON STOVER AND TO TAKE SUCH STEPS AS MAY BE NECESSARY TO SECURE THE RETURN OF THE PURCHASE PRICE AND EXPENSES PAID BY MR. STOVER IN THIS TRANSACTION."

In accordance with the directive of the Commission, the office of the Attorney General filed an action in the Superior Court of Humboldt County in April 1957, entitled People vs. Hudson A. Stover, et al., Humboldt County Superior Court Case No. 33195. Generally, the suit was instituted to cancel the patent issued by the State based upon a transaction consummated during the early part of 1954, to quiet title to the 120 acres involved, for an accounting of all monies had and received from the use and occupancy of said premises and the appointment of a receiver, on the grounds of fraud and misrepresentation.

Following the aforesaid Action of the Commission and filing of the suit by the office of the Attorney General, a complete and thorough investigation of the facts was undertaken by both the staff and representatives of the Attorney General's office. Basically, from the information assembled it was determined, first, that the position of the State in alleging fraud and misrepresentation appeared reasonably sound; second, that the value of

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the land and timber as it should have been established in January 1954, the date of original appraisal, should have been substantially more than the original selling price, based upon best survey data available at that time which left much to be desired; and, third, that a serious problem existed respecting the precise identification of a portion of the land on the ground.

No question has been raised as to the position of the 80-acre tract in Section 29. However, a 1959 private survey, verified by the United States Bureau of Land Management as to the position of the east quarter corner of Section 23 in which the 40-acre parcel is situated, indicates that approximately one-half of the 40-acre parcel is actually nontimbered, and the value, therefore, is approximately one-half of the \$60,000 value established by a 1957 staff investigative appraisal. Thus, the entire value of the 120 acres as of January 1954 was approximately \$100,000.

Under the defendant's offer to return the 40-acre parcel to the State, the remaining value attributable to the 80-acre parcel as of January 1954 is \$69,100 (land and timber), for which the defendant has offered to pay \$40,000 in cash, plus approximately \$1,632 paid under the original transaction, or a total of \$41,632.

Throughout the pendency of the Court action, several contacts were made by the defendants looking toward a possible negotiated settlement. A firm proposal, received from the defendants in February 1960, offered to reconvey to the State 40 acres described as the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 23, T. 8 N., R. 3 E., H.M. (valued by staff appraisal as of January 1954, at \$60,800 land and timber), and to pay the State \$10,000 cash as compensation for the remaining 80 acres in Section 29, T. 8 N., R. 3 E., H.M. A rejection of this offer by the State resulted in the most recent firm proposal from the defendants under date of November 10, 1960, as follows:

"We, the defendants, Hudson A. Stover and John W. Stover, offer to compromise the above referred to law suit upon the following basis:

- "1. The defendants, Hudson A. Stover and John W. Stover will quit claim to the State of California any property interest which they may have in the northeast quarter of the northwest quarter (NE $\frac{1}{4}$ of the NW $\frac{1}{4}$) of Section 23, Township 8 North, Range 3 East, Humboldt Meridian.
- "2. Hudson A. Stover and John W. Stover will pay to the State of California the sum of Forty Thousand Dollars (\$40,000.00).

"In exchange for the above:

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- "1. The State of California will quit claim to Hudson A. Stover and John W. Stover any interest which they may have in the northwest quarter of the southeast quarter (NW $\frac{1}{4}$ of the SE $\frac{1}{4}$), and the southeast quarter of the northwest quarter (SE $\frac{1}{4}$ of the NW $\frac{1}{4}$) of Section 29, Township 8 North, Range 3 East.
- "2. The State of California will provide Hudson A. Stover and John W. Stover with a dismissal with prejudice of action number 33,195 pending before the Superior Court of the State of California, in and for the County of Humboldt, which dismissal will dismiss all causes of action existing against Hudson A. Stover, John W. Stover, and W. A. Robinson, also known as W. Adrien Robinson.
- "3. The State of California will provide any documents which the Bank of America A National Trust and Savings Association, Arcata Branch, Arcata, California, may desire in order to release to the Stovers the special accounts now on deposit with said bank.

"This letter is not to be construed as an admission of liability by any of the defendants but is made purely and simply in order to effectuate a compromise of the above referred to law suit.

Yours very truly,

/s/ Charles V. Moore

CHARLES V. MOORE

CVM:fs

Approved:

/s/ Hudson A. Stover
Hudson A. Stover

/s/ John W. Stover
John W. Stover.

This proposal, in the opinion of the staff, appears to be a reasonable offer under a negotiated settlement. The Attorney General's office has indicated that prosecution of the action to a Court determination would be extremely costly. Furthermore, a negotiated settlement contemplates concessions by both sides, and the proposed settlement provides a reasonable return to the State considering all factors involved.

Property taxes in the amount of \$40.74 due on the 40-acre parcel in Section 23 can be canceled by the Board of Supervisors, Humboldt County, on petition of the Commission pursuant to Section 5026 of the Revenue and Taxation Code.

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IT IS RECOMMENDED THAT THE COMMISSION ACCEPT THE OFFER OF SETTLEMENT BY HUDSON A. STOVER AND JOHN W. STOVER SET FORTH IN LETTER OF NOVEMBER 10, 1960, AND AUTHORIZE THE EXECUTIVE OFFICER TO INSTRUCT THE ATTORNEY GENERAL TO PROCEED WITH A NEGOTIATED SETTLEMENT OF THE PENDING LITIGATION ENTITLED PEOPLE OF THE STATE OF CALIFORNIA VS. HUDSON A. STOVER, ET AL., HUMBOLDT COUNTY SUPERIOR COURT CASE NO. 33195 ON THE FOLLOWING BASIS:

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IT IS RECOMMENDED FURTHER THAT UPON APPROVAL OF THE AGREEMENT OF COMPROMISE THE EXECUTIVE OFFICER BE AUTHORIZED TO REQUEST THE BOARD OF SUPERVISORS OF HUMBOLDT COUNTY TO CANCEL ANY OUTSTANDING COUNTY TAXES AND LIENS ON THE 40 ACRES IN THE AFOREMENTIONED SECTION 23, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 5026 OF THE REVENUE AND TAXATION CODE.