

MINUTE ITEM

25. SETTLEMENT OF TIMBER TRESPASS WITH MR. MARVIN ELLIS IN GLENN COUNTY - S.W.C. 7950.

After consideration of Calendar Item 1 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

THE COMMISSION APPROVES THE SETTLEMENT WITH MR. MARVIN ELLIS OF THE TIMBER TRESPASS OCCURRING ON THE NW $\frac{1}{4}$  OF THE SW $\frac{1}{4}$  OF SECTION 16, T. 20 N., R. 9 W., M.D.M., GLENN COUNTY, UNDER THE JURISDICTION OF THE COMMISSION, AT THE AMOUNT OF \$9,090.10, CONSISTING OF DOUBLE DAMAGES AUTHORIZED BY SECTION 3346 OF THE CIVIL CODE PLUS COSTS INCURRED IN CONNECTION WITH THE TRESPASS INVESTIGATION, AND THE EXECUTIVE OFFICER IS AUTHORIZED TO REQUEST THE ATTORNEY GENERAL TO PREPARE AN AGREEMENT FOR EXECUTION BY THE EXECUTIVE OFFICER ON BEHALF OF THE COMMISSION THAT WILL ACKNOWLEDGE PAYMENT OF THE SUM OF \$1,500.00 BY MR. ELLIS ON ACCOUNT OF THE TOTAL TRESPASS DAMAGE AND PROVIDE FOR THE PAYMENT OF THE BALANCE IN TWO EQUAL INSTALLMENTS OF \$3,795.05 ON OR BEFORE JULY 31, 1965, AND OCTOBER 31, 1965, WITH INTEREST AT THE RATE OF 7%.

Attachment

Calendar Item 1 (2 pages)

CALENDAR ITEM

1.

SETTLEMENT OF TIMBER TRESPASS WITH MR. MARVIN ELLIS IN GLENN COUNTY -  
S.W.O. 7950.

In December 1962, during the course of field appraisal work, a timber trespass was observed on a parcel of land under the Commission's jurisdiction described as the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of Section 16, T. 20 N., R. 9 W., M.D.M., title to which was acquired by the State under the School Land Grant prior to 1900. The land is situated within the exterior boundaries of Mendocino National Forest in Glenn County, approximately 25 miles westerly of the town of Elk Creek. A complete and detailed staff investigation that was undertaken showed that merchantable timber was removed during the summer of 1962 from approximately 15 acres of the 40 acres contained in the parcel.

The trespass was committed by Mr. Marvin Ellis, operating under the firm name of Ellis Logging and Construction Company. During the course of logging adjoining lands, and in reliance upon information furnished Mr. Ellis by other parties generally familiar with the area, Mr. Ellis assumed that the boundary lines dividing the State-owned land from the adjoining private ownerships were situated in one location when, in fact, measurements from known and found corners indicate the boundary lines to be located elsewhere.

The trespass involved the removal and sale of various species of timber, the volumes and values of which have been established by staff appraisal as follows:

<u>SPECIES</u>	<u>VOLUME-M.B.F.</u>	<u>UNIT PRICE</u>	<u>VALUE</u>
Ponderosa Pine	154	\$22.50 per M	\$3,465.00
Sugar Pine	19	21.00 per M	399.00
White Fir	17	3.00 per M	51.00
Douglas Fir	24	8.90 per M	213.60
Incense Cedar	1.5	1.00 per M	1.50
	<u>215.5 M.B.F.</u>		<u>\$4,130.10</u>

Under the double-damage feature provided by Section 3346 of the Civil Code, applicable to a situation where the trespass was involuntary or unintentional, a claim in the amount of \$8,260.20 plus investigation costs in the amount of \$829.90, for a total of \$9,090.10, was submitted to Mr. Marvin Ellis on July 16, 1964. As a result of this claim, Mr. Ellis requested meetings with staff members for the purpose of determining the basis upon which the volumes and values had been established. As a result of such discussions, it was learned that Mr. Ellis was not in a position financially to make a lump-sum payment of \$9,090.10. This led to a tentative agreement and understanding that \$1,500.00 of the amount due the State would be paid during the month of January 1965, with the balance of \$7,590.10 to be made in two equal installments of \$3,795.05 on or before July 31, 1965, and October 31, 1965, with interest on the unpaid balance to be paid at the rate of 7%. The amount of \$1,500.00 above referred to was paid by check on February 11, 1965.

CALENDAR ITEM 1. (CONTD.)

IT IS RECOMMENDED THAT THE COMMISSION APPROVE THE SETTLEMENT WITH MR. MARVIN ELLIS OF THE TIMBER TRESPASS OCCURRING ON THE NW $\frac{1}{4}$  OF THE SW $\frac{1}{4}$  OF SECTION 16, T. 20 N., R. 9 W., M.D.M., GLENN COUNTY, UNDER THE JURISDICTION OF THE COMMISSION, AT THE AMOUNT OF \$9,090.10, CONSISTING OF DOUBLE DAMAGES AUTHORIZED BY SECTION 3346 OF THE CIVIL CODE PLUS COSTS INCURRED IN CONNECTION WITH THE TRESPASS INVESTIGATION, AND AUTHORIZE THE EXECUTIVE OFFICER TO REQUEST THE ATTORNEY GENERAL TO PREPARE AN AGREEMENT FOR EXECUTION BY THE EXECUTIVE OFFICER ON BEHALF OF THE COMMISSION THAT WILL ACKNOWLEDGE PAYMENT OF THE SUM OF \$1,500.00 BY MR. ELLIS ON ACCOUNT OF THE TOTAL TRESPASS DAMAGE AND PROVIDE FOR THE PAYMENT OF THE BALANCE IN TWO EQUAL INSTALLMENTS OF \$3,795.05 ON OR BEFORE JULY 31, 1965, AND OCTOBER 31, 1965, WITH INTEREST AT THE RATE OF 7%.