

40. SALE OF STATE SWAMP AND OVERFLOWED LAND, S&O LOCATION 4287, LASSEN COUNTY;
P. C. FREDERICKSEN, S.W.O. 8179.

After consideration of Calendar Item 29 attached, and upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. FINDS THAT LOTS 3 AND 4 OF SECTION 31, T. 36 N., R. 16 E., M.D.M., CONTAINING 78.64 ACRES IN LASSEN COUNTY, ARE NOT SUITABLE FOR CULTIVATION WITHOUT ARTIFICIAL IRRIGATION;
2. FINDS THAT SAID LANDS ARE OR HAVE BEEN OCCUPIED BY THE APPLICANT, P. C. FREDERICKSEN, OR HIS PREDECESSORS, SINCE PRIOR TO 1927, THEREBY BRINGING THE SALE OF THE LANDS WITHIN THE PROVISIONS OF SECTION 2303(d) OF TITLE 2, DIVISION 3, OF THE CALIFORNIA ADMINISTRATIVE CODE; AND
3. APPROVES THE SALE OF SAID LAND TO THE OCCUPANT, P. C. FREDERICKSEN, PURSUANT TO THE AFORESAID SECTION 2303(d), SUBJECT TO ALL STATUTORY AND CONSTITUTIONAL RESERVATIONS INCLUDING MINERALS, AT A CASH PRICE OF \$3,774.72.

Attachment
Calendar Item 29 (2 pages)

SALE OF STATE SWAMP AND OVERFLOWED LAND, S&O LOCATION 4287, LASSEN COUNTY;
P. C. FREDERICKSEN, S.W.O. 8179.

On November 2, 1965, an offer was received from P. C. Fredericksen of Ravendale, California, to purchase Lots 3 and 4 of Section 31, T. 36 N., R. 16 E., M.D.M., containing 78.64 acres in Lassen County.

THE PROPERTY

Location: Approximately 65 miles northeast of Susanville and 12 miles northeast of Highway 395.

Access: Graveled road leads to within 250 yards of the southeast corner.

Water: Cold Springs Creek, an intermittent stream, flows through the parcel during periods of high precipitation.

Terrain: Level, with minor rolling slopes.

Elevation: 5,370' to 5,380'.

Cover: Limited plant cover due to use of parcel as water-storage reservoir.

Highest and Best Use: Water-storage reservoir.

Title to the subject land, as swamp and overflowed land, was acquired by the State from the United States by patent dated February 9, 1962, based upon an application under the Swamp and Overflowed Lands Act (Act of Congress approved September 28, 1850), filed with the United States on August 31, 1960. As noted above, the highest and best use established by the appraisal staff is for water-storage reservoir purposes. This highest use has been established as the result of the use and occupation of this land by the applicant as adjoining owner, or his predecessors, for water-storage purposes dating back at least to 1927. Mr. Fredericksen and his predecessors in interest erected a dirt-filled dam on adjoining lands approximately 250 yards southerly of the south boundary of the parcel, causing backwaters of the dam to flood a substantial portion of the land during most of the year; at periods when the dam is overflowing, practically the entire 78.64 acres are inundated. The waters conserved by the dam through winter and spring run-off are used during summer months for irrigation and for watering livestock used in conjunction with adjoining ranch operations. It is obvious that this use and occupancy existed for many years during the period when the land was under the jurisdiction of the United States Bureau of Land Management prior to acquisition of title by the State in 1962. However, our investigation reveals no grant of use for this purpose by the Bureau.

CALENDAR ITEM 29. (CONTD.)

In previous similar situations, the Office of the Attorney General has advised the Lands Division that occupancies of this type fall within the purview of Section 2302(d) of Title 2, Division 3, of the California Administrative Code, which provides that: "Sales of occupied lands shall be accomplished by negotiation by the State Lands Division and shall be subject to all of the provisions of this article except Section 2302, hereof." The exception noted in the above-quoted regulation waives the requirement of competitive bidding.

Reservoir-storage sites of the type situated, in part, on this parcel are unique in this area, and the value reflected in the staff appraisal gives due consideration to this unique use. The applicant agreed to such consideration, and deposited the total amount of the appraised value.

A staff appraisal shows that the land is not suitable for cultivation without artificial irrigation, and establishes the value at \$48 per acre or a total of \$3,774.72 for the parcel. As above indicated, the applicant has fully concurred with the appraised value.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT LOTS 3 AND 4 OF SECTION 31, T. 36 N., R. 16 E., M.D.M., CONTAINING 78.64 ACRES IN LASSEN COUNTY, ARE NOT SUITABLE FOR CULTIVATION WITHOUT ARTIFICIAL IRRIGATION;
2. FIND THAT SAID LANDS ARE OR HAVE BEEN OCCUPIED BY THE APPLICANT, P. C. FREDERICKSEN, OR HIS PREDECESSORS, SINCE PRIOR TO 1927, THEREBY BRINGING THE SALE OF THE LANDS WITHIN THE PROVISIONS OF SECTION 2303(a) OF TITLE 2, DIVISION 3, OF THE CALIFORNIA ADMINISTRATIVE CODE; AND
3. APPROVE THE SALE OF SAID LAND TO THE OCCUPANT, P. C. FREDERICKSEN, PURSUANT TO THE AFORESAID SECTION 2303(a), SUBJECT TO ALL STATUTORY AND CONSTITUTIONAL RESERVATIONS INCLUDING MINERALS, AT A CASH PRICE OF \$3,774.72.