

MINUTE ITEM NO. 39

APPROVED 1/16/76

CALENDAR ITEM

39.

2/76
MLC
ST 3080

REQUEST FOR REFUND OF PRICE PAID FOR INDEMNITY
SCHOOL LAND SELECTION IN TUOLUMNE COUNTY

INTRODUCTION:

Public Resources Code Sections 7971-7977 provide a procedure by which the owner of a Certificate of Purchase for land to be purchased from the State of California, but which land, for various reasons, was not conveyed or conveyable by the State, may receive a refund of the purchase price.

Pursuant to Section 7971, the person applying for the refund is required to surrender the original Certificate of Purchase to the State Lands Commission. Section 7971 also requires him to convey a quitclaim deed to the State of all his right, title, or interest in and to the subject land.

Section 7973 requires the Commission to determine that the person applying for the refund is the owner of the Certificate of Purchase and that a proper case exists for the issuance of a refund.

Upon surrender of the original certificate and upon a favorable determination by the Commission, Section 7971 provides that the Commission shall issue to the applicant a certificate showing the amount originally paid and the class of land upon which payment was made. This certificate may be presented to the State Controller who will then issue a warrant payable to the order of the applicant for the specified amount.

Pursuant to the aforementioned Public Resources Code Sections, Mrs. Evarista McCormick Conner, as present owner of Certificate of Purchase No. 2942, has applied to the State Lands Commission for a refund of the original \$100 purchase price paid by her father, James McCormick, for 80 acres of land in Tuolumne County.

FACTUAL BACKGROUND:

On February 19, 1898, James McCormick filed an indemnity selection application with the State Surveyor General to purchase 80 acres of land in Tuolumne County, described as the West 1/2 of the Southeast 1/4 of Section 19, T 1 N, R 14 E, MDM.

The application was approved by the State Surveyor General as State Indemnity Selection ST 3080 on May 21, 1898, and Mr. McCormick paid the full \$100 purchase price on May 28, 1898. He was issued Certificate of Purchase No. 2942, dated June 2, 1898.

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CALENDAR ITEM NO. 39. (CONT'D)

However, because the land was classified as mineral in character by the United States Land Office, the State notified Mr. McCormick that in order to perfect the indemnity selection, federal regulations required proof of the mineral character of the base State school land to be exchanged for the indemnity land.

No proof having been offered by Mr. McCormick of the mineral character of the land, the United States Land Office on August 25, 1905, notified the State that State Indemnity Selection ST 3080 was being held for cancellation.

The State Surveyor General again notified Mr. McCormick on December 29, 1916, November 11, 1917, and May 29, 1918, that State Indemnity Selection ST 3080 was being held for cancellation subject to his duty of furnishing proof as to the mineral character of the base State school land.

On August 13, 1918, the United States Land Office informed the State Surveyor General that State Indemnity Selection ST 3080 "has this day been canceled."

On August 20, 1918, the Surveyor General notified Mr. McCormick that State Indemnity Selection ST 3080 had been canceled and that, by complying with Political Code Section 571 (forerunner of Public Resources Code Sections 7971, et seq.), as present owner of Certificate of Purchase No. 2942, he could obtain a refund of the \$100 purchase price paid for the land.

The State Lands Division has no record of reply from James McCormick concerning State Indemnity Selection ST 3080 or his right of refund.

THE PRESENT APPLICATION:

In compliance with the applicable Public Resources Code Sections, Mrs. Conner has surrendered Certificate of Purchase No. 2942 to the State Lands Division and she has executed a quitclaim deed to the State of California of any right, title or interest in and to the subject land. These documents are currently on file in the offices of the State Lands Division. She has also presented other evidence of inheritance of the Certificate of Purchase from her father.

An independent title search of Tuolumne County records made by the staff of the State Lands Division has confirmed that Mrs. Conner has not assigned or conveyed her interest in the certificate or the land therein described and that she is indeed the present and rightful owner of Certificate of Purchase No. 2942 for the 80 acres of land in Tuolumne County described as the West 1/2 of the Southeast 1/4 of Section 19, T 1 N, R 14 E, MDM.

EXHIBIT: A. Site Map.

CALENDAR ITEM NO. 39. (CONTD)

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE APPLICATION OF MRS. EVARISTA McCORMICK CONNER FOR A REFUND OF THE \$100 PURCHASE PRICE PAID FOR 80 ACRES OF LAND IN TUOLUMNE COUNTY DESCRIBED IN CERTIFICATE OF PURCHASE NO. 2942, LOCATION NO. 3080, STOCKTON LAND DISTRICT, AS THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 19, T 1 N, R 14 E, MDM.
2. AUTHORIZE THE ISSUANCE OF A CERTIFICATE TO MRS. EVARISTA McCORMICK CONNER WHICH BEARS THE SEAL OF THE COMMISSION AND WHICH SHOWS THE AMOUNT PAID (\$100) AND CLASS OF LAND UPON WHICH PAYMENT WAS MADE, AND WHICH UPON SURRENDER TO THE OFFICE OF THE STATE CONTROLLER WILL ENTITLE MRS. CONNER TO A WARRANT IN THE AMOUNT OF \$100 PAYABLE TO THE ORDER OF HER NAME.