MINUTE ITEM

This Calendar Item No. 25 was approved as Minute Item No. 25 by the State Lands Commission by a vote of 3 to 0 at its 6-27-79 meeting.

CALENDER ITEM

25.

6/79
W 503.1007
Stevens

AUTHORIZATION FOR LITIGATION

Approximately 95% of California's school lands are "landlocked" by federal lands.

The increasing difficulty in obtaining access across these federal lands is causing problems with respect to leases, development, and other utilization of them. To date, California and other states in a similar position have had difficulty in obtaining access from the Bureau of Land Mangement which takes the position that access can be granted only pursuant to the Federal Land Policy and Management Act of 1976 and that the grant of access is within its sole discretion.

These restrictions which prevent reasonable access to California's school lands for economic development would appear to be on controvention of the trust created when the United States conveyed such lands to the State of California. Further, they would seem to constitute an unreasonable restriction upon the use of such lands which were granted to the states to compensate for the immunity from state taxation of the vast quantities of federal land within their borders.

The unwillingness of the Bureau of Land Management to grant such access has led to litigation instituted by the State of Utah, i.e., Utah v. Andrus, Civil No. C-79-0037 in the United States District Court for the District of Utah. This case may be consolidated with United States v. Cotter Corporation and the State of Utah. It appears that these cases provide an appropriate vehicle for resolution of the issue of access to landlocked school lands. Amicus briefs will be filed by a number of organizations and interested states.

Although a final determination as to California's appearance will be dependent on complete review of the pleadings in this matter, the case is moving rapidly and it would appear desirable to have authorization to make an appearance in it.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE ATTORNEY GENERAL TO FILE AN AMICUS BRIEF ON ITS BEHALF IN UTAH v. ANDRUS URGING THAT THE COURT FIND AS A MATTER OF LAW THAT STATES HAVING SCHOOL LANDS PARCELS HAVE A REASONABLE RIGHT OF ACCESS THROUGH ADJOINING FEDERAL LANDS FOR PURPOSES OF LEASING AND DEVELOPMENT.