

MINUTE ITEM

This Calendar Item No. 21
was approved as Minute Item
No. 21 by the State Lands
Commission by a vote of 2
0 at its 4-29-81
meeting.

MINUTE ITEM

4/29/81
Shimer
S 7845

21. AUTHORIZATION FOR EXECUTION OF MEMORANDUM OF UNDER-
STANDING BETWEEN CALIFORNIA STATE LANDS COMMISSION AND BUREAU
OF LAND MANAGEMENT, CALIFORNIA

During consideration of Calendar Item 21 attached, Mr. William F. Northrop, Executive Officer, advised that representatives from the Western States Land Commissioners Association would be in Washington, D.C. during the following week to meet with Secretary of Interior James Watt, BLM Director Bob Burford and others to discuss, among other things, the implementation of this MOU. Commission-Alternate David Ackerman asked that Mr. Northrop make this the subject of his Executive Officer's report for the next meeting.

Upon motion duly made and carried, the resolution as presented in Calendar Item 21 was approved by a vote of 2-0.

Attachment:
Calendar Item 21

CALENDAR FILE

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CALENDAR ITEM

21

4/81
S 7845
Shimer

AUTHORIZATION FOR EXECUTION OF
MEMORANDUM OF UNDERSTANDING BETWEEN
CALIFORNIA STATE LANDS COMMISSION AND
BUREAU OF LAND MANAGEMENT, CALIFORNIA

In January 1981, the Bureau of Land Management entered into a Memorandum of Understanding (MOU) with the Western States Land Commissioners' Association (WSLCA) setting out general guidelines for satisfaction of school land indemnity. Subsequently, staff has met with California BLM representatives to develop an MOU setting out goals and guidelines that address issues that are particular to California. The California MOU would supplement and further the goals of the BLM/WSLCA MOU.

In 1978, Commission and BLM staffs completed an audit to ascertain the extent of California's entitlement. This audit identified 62,423.59 acres of remaining indemnity base and 52,710.98 acres not yet surveyed, that are due to State. The MOU under consideration would recognize these lands as the minimum acreage due the State and leave the door open for further entitlement to come to the State if investigation discloses the State is due additional lands. This future study and resolution will be the subject of a separate MOU. The present MOU also provides that mineral-in-character determinations and land valuation work shall be done by BLM/SLC teams to facilitate these processes. Also, the State would agree to file selection applications for the 62,423.59 acres of indemnity base not later than December 31, 1984.

Staff review of the California Memorandum of Understanding indicates it is consistent with the WSLCA/BLM MOU on Indemnity Selection and should contribute to an effective and efficient program to satisfy the State's school land entitlement.

EXHIBIT. A. Memorandum of Understanding.

IT IS RECOMMENDED THAT THE COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO ENTER INTO AND EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN CALIFORNIA STATE LANDS COMMISSION AND BUREAU OF LAND MANAGEMENT, CALIFORNIA, IN SUBSTANTIALLY THE FORM ON FILE IN THE OFFICE OF THE COMMISSION.

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EXHIBIT "A"

MEMORANDUM OF UNDERSTANDING
BETWEEN
CALIFORNIA STATE LANDS COMMISSION
AND
BUREAU OF LAND MANAGEMENT, CALIFORNIA

PURPOSE

It is the intent of this Memorandum of Understanding (MOU) to supplement the National level Memorandum of Understanding (January 8, 1981) between the Western States Land Commissioners Association and the Bureau of Land Management (BLM), which deals with the processing of indemnity selections.

This MOU establishes certain procedural guidelines applicable to the indemnity selection program in California and provides for cooperative efforts on property valuations.

POLICY

The policy of the Department of the Interior and the Bureau of Land Management is to expeditiously transfer all outstanding section entitlements to the State of California.

This policy reflects the Supreme Court decision entitled "Andrus vs. Utah" and the following management commitments:

1. The outstanding entitlement rights are to be considered as an obligation and debt due to the states by the Federal Government.
2. In the application of laws, regulations, and policies on indemnity selections, the Bureau will consider the equities of the states to the greatest extent possible within the constraints of applicable law.
3. Satisfaction of indemnity selection rights and disposal of parcels of public lands for that purpose will be considered as "serving the national interest" in the context of Section 102 (a)(1) of the Federal Land Policy and Management Act of 1976 (FLPMA).

and in connection with land-use planning and classification activities in the indemnity selection implementation program.

AUTHORITY

The authority permitting indemnity selections is outlined in the National level MOU incorporated as an attachment to this document.

DEFINITIONS

A. Entitlement

In December 1978, the BLM and the State Lands Commission completed a comprehensive audit of the remaining school base acreages due to the State of California. The results of this audit are:

1. Remaining indemnity Base (Includes all withdrawn lands, some of which are unsurveyed)	63,725.13 acres (acreage based on protraction diagrams and survey plats)
2. Minus Excess Indemnity Used	<u>-1,301.54 acres</u>
Subtotal	62,423.59
3. Unsurveyed Lands (Sections 16 & 36 to pass in-place at time of survey.)	52,710.98 acres (acreage based on protraction diagrams)
Total	<u>115,134.57 acres</u>

For the purposes of this agreement, only those lands identified as selection base (62,423.59 acres) will be used to complete the selection process. The complete listing of these lands is incorporated herein by reference.

Those unsurveyed lands (52,710.98 acres) on which title would pass to the State, when surveyed, will be used for exchange only; specific guidance regarding these lands will be incorporated into the existing State Lands Commission/BLM MOU on

exchanges. In addition, future audits or reinterpretations may increase the State's entitlement.

The BLM recognizes that the State is entitled to select no less than 62,423.59 acres (on the basis of the above audit). The State may be entitled to additional base upon the survey of unidentified hiatus townships or any other unresolved acreages, the resolution of which will be covered in a separate Memorandum of Understanding.

B. Selection Concepts

The State Lands Commission may, at its option, elect to utilize either the pooling concept, the tract-for-tract procedures, or a combination of the two as described below. Regardless of the approach, selections may not exceed the State's acreage entitlement or value limits.

1. Pooling Concept

This approach involves pooling all base acreage due the State and assigning a value-per-acre. The values of selected lands may not exceed the value of the pooled base lands by more than ten percent.

2. Tract-for-Tract

Tracts of base land may be offered for tracts of selected land without the constraints of a tract-for-tract match in acreage or dollar value. When a base land tract has a value of less than \$500 per acre, the value of the selected tract may not exceed the base land value by more than 25%. If the base land tract has a value of more than \$500 per acre, the roughly equivalent guidelines (10%) will apply; i.e., a selection may not exceed the base land value by more than 10%.

C. Valuation

Valuation on both base and selected lands will be made at approximately the same date. If the State elects to utilize the pooling concept, tract-for-tract concept, or a combination of both, appraised values of base lands will be fixed as of the date

of appraisal; any subsequent appraisal of selected lands will also be made as of this date.

1. Appraisals

The basic policy on valuing base and selected lands will be based on the highest and best use. Although no formal appraisals are required for this program, the comparative value approach will be used whenever possible, with cost and income approaches used when appropriate.

2. Mineral Evaluation

Where the highest and best use includes mineral extraction or development, the contribution of minerals to the fee value of the tract shall be determined by the most supportable valuation method: either discounted cash flow for the period of depletion of the estimated reserves or market data from sales or leases of similar property rights on comparable properties.

Purely speculative mineral values will be assumed to be included in sales prices of properties with comparably speculative mineral potential. In the absence of reliable market data, however, mineral values in the base and selected lands will be balanced through the use of a mineral potential ranking system developed by BLM/State Lands Commission Geologists/Mining Engineers, to facilitate the appraisal process.

D. Mineral-In-Character

All mineral-in-character determinations will be made as of the date of the selection application. Base lands must be mineral-in-character if a selection involves mineral lands. Any base lands classified by USGS as "prospectively valuable" or "valuable" for any leaseable mineral will be considered as mineral-in-character. This interpretation also applies to lands so classified for locatable minerals by BLM and State Lands Commission Geologists/Mining Engineers.

COOPERATIVE PROCEDURES

A. BLM/State Lands Commission

1. Each cooperator will name one individual from each office to coordinate the program and maintain contact with respective staffs.
2. Each cooperator will jointly agree on mineral-in-character determination for base and selected lands. These determinations will be made effective as of the date of filing a selection. The basis for determining mineral-in-character includes literature search, knowledgeable sources in industry, geologic inference, mining claim activity, etc.
3. Each cooperator will jointly agree on Fair Market Value appraisals and mineral evaluations for base and selected lands. Since no formal reports are required, preliminary estimates of value using comparative sales, and other approaches as necessary, will be jointly prepared, however, separate appraisal reports will be made for base and selected lands. No review of estimates of value will be made unless there is disagreement, in which case, reports will be forwarded for resolution by the BLM State Director and the Executive Officer of the State Lands Commission.
4. In the interest of operating efficiency and expediency, both cooperators agree that individual selection applications will normally not be less than 2,500 or more than 15,000 acres.

B. State Lands Commission, Executive Officer

1. Assure that funding and personnel are available to continue the project through to completion recognizing, however, that budgetary constraints may limit availability of funds or personnel.
2. File selection applications on all base (62,423.59 acres). All applications will be tendered prior to December 31, 1984.
3. Excess indemnity lands (1,301.54 acres) identified under "Definitions" will be used to delete

fractional acreages on the base land list. However, the Act of March 1, 1877, provided that the State could purchase for \$1.25 per acre any excess acreage used prior to enactment of that law. The State has 71.81 acres of excess in this category, leaving a remainder of 1,229.73 acres. If the State does not exercise the above option, all of the excess will be applied to the base list. The State will review the base list and advise BLM of the areas where these fractional acreages are to be deleted.

C. BLM California, State Director

1. Initiate the processing of a selection on receipt of an application
2. Assure that adequate funding and personnel are considered in the formulation of the annual lands and realty budget, recognizing, however, that budgetary constraints may limit the availability of funds or personnel.
3. Appoint a BLM team to review all selections for conformity with land-use plans and NEPA requirements.

OPERATIONAL PROCEDURES

The Task Implementation Plan, which is incorporated by reference in the National-level MOU, proposes certain procedures for identifying selections. For the purposes of this agreement, the following procedures will be utilized for the selection program in California:

1. The State Lands Commission will develop a listing of selected public lands by geographic area, ranking them in order of priority.
2. The BLM will review (30-45 days) the State's selection list. Within 15 days after the initial screening, the BLM will notify the State Lands Commission as to the areas where they would or would not recommend classifications for lieu selection. This determination will be reviewed jointly by both parties who will reach agreement on go/no-go areas. If further study of a selection area is required before BLM can make a decision on classification, both parties will agree on a completion

date. The final BLM decision on whether a selection classification would or would not be approved will be made by the State Director.

3. Within 30 days after joint agreement on selection areas, the State will file a selection(s) application utilizing the pooling, tract-for-tract, or an approach combining both concepts.
4. The BLM will process the selection application. After proposed and initial classifications have been issued and all protests resolved, BLM will issue a clear list to the State.

IMPLEMENTATION SCHEDULE

The proposed implementation schedule for the selection program in California is planned for completion in 1984. Specific time frames for completing certain actions are as follows:

1. Mineral-in-character determination of all base lands by BLM/SLC Geologists/Mining Engineers March 1982. Mineral-in-character determinations will be made for each selection application when filed. Each case is estimated to take four weeks.
2. After the 30-to-45-day initial screening of a selection proposal and the BLM decision to allow, the SLC will file an application within 30 days.
3. BLM will assign a team to analyze and make recommendations on a selection application (30-to-60-day review period). This analysis will include the mineral potential ranking and fair market value appraisals. If values conform to the percentage guidelines, BLM will issue a proposed and an initial classification decision each with a 30-day review period. Publication of the selection in local newspapers may require another three weeks.

The total amount of time to process any particular selection will vary depending on acreage and the particular resource values of the selected lands. On the average, however, most selections will require at the minimum, three months to process after receipt of the application.

This Memorandum of Understanding will become effective upon the date of the last signature below. This MOU may be renegotiated at any time and either party may cancel the agreement after a 60-day notification period.

WILLIAM F. NORTHROP
Executive Officer
State Lands Commission
State of California

JAMES B. RUCH
BLM State Director
California State Office
Bureau of Land Management

Date

Date