

MINUTE ITEM
This Calendar Item No. 19
was approved as Minute Item
No. 19 by the State Lands
Commission by a vote of 3
to 0 at its 10/26/89
meeting.

CALENDAR ITEM

19

A)
) Statewide
S)

10/26/89
W 23390
PRC 7097
Reese

LAND EXCHANGE AGREEMENT

APPLICANT: United States Forest Service
Pacific Southwest Region
630 Sansome Street
San Francisco, California 94111

BACKGROUND:

On June 30, 1987, the Commission approved a Memorandum of Understanding with the Pacific Southwest Region of the United States Forest Service (USFS) to facilitate an exchange of scattered parcels of school lands contained within national forests for tracts of forest land administered by USFS. The result would facilitate the formation of consolidated Commission-owned forest management units.

The parties have agreed upon properties to be exchanged within Phase I of this agreement. In this phase, the Commission will exchange primarily southern California USFS in-holdings for a block of land adjacent to the Commission-owned Cullins Management Unit in Mendocino County. Staff requests approval of a Land Exchange Agreement that provides for the completion of Phase I of the exchange, pursuant to federal regulations. The agreement has been reviewed by legal counsel of both agencies and is acceptable.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 7.7; Div. 13.
- B. Cal. Code Regs.: Title 2, Div. 3; Title 14, Div. 6.

AB 884: N/A.

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OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 15061), the staff has determined that this activity is exempt from the requirements of the CEQA as a statutorily exempt project. The project is exempt because it involves an action taken pursuant to the School Land Bank Act, P.R.C. 8700, et seq.

Authority: P.R.C. 8710.

2. Pursuant to P.R.C. Section 6441, staff has determined that this equal value exchange of scattered school land parcels for a consolidated parcel of Forest Service timberland is in the best interests of the State and is in furtherance of the School Land Bank Act of 1984 (P.R.C. 8702), which contained legislative direction regarding the consolidation of natural resource holdings.
3. Pursuant to Federal regulations, this proposed action has been published and circulated by the United States Forest Service.
4. On July 10, 1989, the Commission authorized execution of a Cultural Resources Agreement to provide special protection to any historic or cultural resources contained within the exchange.
5. The appraisal process for this transaction was conducted in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions. Under the Federal Appraisal Standards, a discount was applied to the State Land values to compensate for the number and scattered nature of the parcels to be exchanged. Although staff objects to this practice, required under the regulations of the Federal Land

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Exchange Act, the value of the timber to be received by the State has increased conservatively by 30 percent since the original appraisal date. Additionally, staff believes that large exchanges with federal agencies have some economy of scale which provides a savings in transaction costs. Therefore, staff believes the equal value requirements of P.R.C. Section 6441 have been more than met.

6. Access to the timbered land to be acquired by the State is controlled by private parties and must be acquired by the State prior to any logging activity. Staff is currently developing direct access and alternative access to the site.
7. As part of the transfer process, the Forest Service conducted an environmental evaluation of the federal property to be exchanged to certify that it did not contain habitat for threatened or endangered species.

EXHIBIT: A. Land Exchange Agreement.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. CODE REGS. 15061 AS A STATUTORILY EXEMPT PROJECT PURSUANT TO P.R.C. 8710, AN ACTION TAKEN PURSUANT TO THE SCHOOL LAND BANK ACT, P.R.C. 8700, ET SEQ.
2. AUTHORIZE APPROVAL AND EXECUTION OF A LAND EXCHANGE AGREEMENT, IN SUBSTANTIALLY THE FORM WITHIN EXHIBIT "C", BETWEEN THE STATE LANDS COMMISSION AND THE UNITED STATES OF AMERICA AND ITS ASSIGNS, ACTING BY AND THROUGH THE DEPARTMENT OF AGRICULTURE, FOREST SERVICE.
3. FIND THAT THE EXCHANGE OF THE STATE LANDS DESCRIBED IN EXHIBIT "A", SCHEDULE A, FOR THE UNITED STATES LAND DESCRIBED IN EXHIBIT "A", SCHEDULE B, IS IN ACCORDANCE WITH P.R.C. 6441, AND THAT THE SELECTED LANDS ARE OF EQUAL OR GREATER VALUE.

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4. AUTHORIZE THE EXCHANGE AND ISSUANCE OF A PATENT OF STATE LANDS DESCRIBED IN EXHIBIT "A", SCHEDULE A, INCLUDING MINERAL RIGHTS, SUBJECT TO APPLICABLE STATUTORY AND CONSTITUTIONAL RESERVATIONS TO THE UNITED STATES OF AMERICA AND ITS ASSIGNS.
5. AUTHORIZE ACCEPTANCE AND CONSENT TO RECORDATION OF TITLE TO THE LANDS OF THE UNITED STATES OF AMERICA DESCRIBED IN EXHIBIT "A" IN ACCORDANCE WITH P.R.C. 7307.5.

EXHIBIT "A"

5430 Exchange
Cleveland, Los Padres, and
Mendocino National Forests
State of California,
State Lands Commission
CA-22828

LAND EXCHANGE AGREEMENT
(Land for Land)
(Ref: FSH 5409.13)

This Land Exchange Agreement by and between the State of California, acting by and through the State Lands Commission, hereinafter referred to as the nonfederal landowner, and the United States of America and its assigns, acting by and through the Department of Agriculture, Forest Service.

WITNESSETH. That pursuant to the Act of March 20, 1922 (42 Stat. 465; 16 U.S.C. 485), as amended by the Act of February 28, 1925 (43 Stat. 1090; 16 U.S.C. 486), the Act of June 11, 1960 (74 Stat. 205), and the Act of October 21, 1976 (90 Stat. 2743; 43 U.S.C. 1716), the nonfederal landowner does hereby agree to exchange to the United States of America by State of California Patent the lands described in Schedule "A" attached hereto and made a part hereof. In exchange therefore the United States of America will convey to the nonfederal landowner by Patent issued by the Department of the Interior, the lands described in Schedule "B" attached hereto and made a part hereof.

The nonfederal landowner agrees to convey the lands described in Schedule "A" free from all encumbrances except those set forth on Schedule "C" attached hereto and made a part hereof. When notified to do so by the Forest Service, the nonfederal landowner also agrees to execute the subject State of California Patent "to the United States of America and its assigns" and any documents needed to replace permits or easements issued by the United States of America to users as shown in Schedule "D" attached hereto and made a part hereof. The nonfederal landowner further agrees to deliver said executed State of California Patent, said executed documents in favor of users, to the Forest Supervisor, Shasta-Trinity National Forest, who will act as escrow holder. The nonfederal landowner further agrees to furnish title evidence on the lands described in Schedule "A" in such a form that a Policy of Title Insurance satisfactory in the Office of the General Counsel of the United States Department of Agriculture can be issued.

Upon a finding that a good and sufficient title acceptable to the United States of America is vested in the United States of America, the Forest Service agrees to convey the lands described in Schedule "B", subject to any reservations and exceptions described in Schedule "D" by causing a Patent to be issued by the Secretary of the Interior.

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Both parties agree not to do, or suffer others to do, any act by which the value of the lands which are the subject of this agreement may be diminished or further encumbered. In the event any such loss or damage occurs from any cause, including acts of God, to the lands described in Schedules "A" or "B" prior to passage of title, either party may refuse without liability to complete the exchange.

This Agreement is subject to the provisions of 36 CFR 251.82, the Administrative Review Procedure of the Forest Service, and in the event of an appeal, this Agreement is contingent upon the final disposition of that appeal.

This Agreement will be terminated in the event that either party cannot convey a good and sufficient title to the lands or interests in lands agreed to be exchanged.

The rules and regulations of the Secretary of Agriculture, where applicable, apply to the reservation of any rights retained by the nonfederal landowner.

It is agreed that no Member of or Delegate to Congress or Resident Commissioner, after his election or appointment, and either before or after he has qualified, and during his continuance in office, shall be admitted to any share or part of this Agreement, or to any benefit to arise thereupon. Nothing however, herein contained shall be construed to extend to any incorporated company, where such agreement is made for the general benefit of such corporation or company (Sec. 3741, Rev. Stat., and Secs. 114-116, Act of March 4, 1909).

This exchange is subject to completion of a thirty-day oversight review by the Committee of Agriculture of the House of Representatives, United States Congress.

IN WITNESS WHEREOF, the nonfederal landowner by its authorized officers and the Regional Forester, Pacific Southwest Region, acting for and on behalf of the Forest Service have executed this Agreement this _____ day of _____, 19_____.

UNITED STATES FOREST SERVICE

STATE OF CALIFORNIA,
STATE LANDS COMMISSION

By: _____
RALPH L. BAUMAN
Acting Director, Lands and
Real Estate Management

By: _____
CLAIRE T. DEDRICK
Executive Officer,
State Lands Commission

SCHEDULE A, Attachment to the Land Exchange Agreement with State of California, State Lands Commission, Phase I, dated

Legal description of the Non-Federal lands:

Cleveland National Forest

San Bernardino Meridian, San Diego County,

T. 17 S., R. 4 E., (Section 16);
Tract 53, (E1/2SE1/4);
Tract 54, (W1/2SW1/4);

T. 16 S., R. 5 E., Section 16, All;

Los Padres National Forest

San Bernardino Meridian, Santa Barbara County,

T. 6 N., R. 25 W., Section 36, NE1/4NW1/4;

T. 7 N., R. 27 W., Section 16, SE1/4NW1/4;

Mount Diablo Meridian, Monterey County,

T. 19 S., R. 2 E.,
Section 16, All;
Section 36, SW1/4NE1/4; SE1/4NW1/4;

T. 19 S., R. 3 E., Section 36, NE1/4NE1/4;

Mount Diablo Meridian, San Luis Obispo County,

T. 30 S., R. 14 E., Section 36, Lot 3;

Mendocino National Forest

Mount Diablo Meridian, Glenn County,

T. 18 N., R. 7 W., Section 16, All;

T. 20 N., R. 9 W., Section 16, W1/2SW1/4;

Mount Diablo Meridian, Lake County,

T. 19 N., R. 9 W., Section 16, NW1/4NW1/4, SE1/4NW1/4;

T. 18 N., R. 11 W., Section 36, NE1/4NE1/4, NW1/4, NW1/4SE1/4.

SCHEDULE B, Attachment to the Land Exchange Agreement, State of
California, State Lands Commission, Phase I, dated

Legal description of the Federal lands:

Mendocino National Forest

Mount Diablo Meridian, Mendocino and Lake Counties,

T. 18 N., R. 11 W.,
Section 8, Lots 6, 10, and 11;
Section 9, S1/2S1/2;

Mount Diablo Meridian, Lake County,

T. 18 N., R. 11 W.,
Section 10, S1/2SW1/4.

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Schedule C, the nonfederal land reservations of the nonfederal landowner and surveys of record:

1. Reservations:

There is hereby reserved to the grantor, in all of the property described herein, the absolute right of the people to fish thereupon, as provided by Section 25 of Article 1 of the Constitution of the State of California.

2. Surveys of Record:

1. That certain Record of Survey, filed in Record of Surveys, Lake County, recorded June 17, 1980 in Book 27 Page 39-41. T.19N., R.9W., MDM, Section 16, NW1/4NW1/4, SE1/4NW1/4.

2. That certain Record of Survey, filed in Record of Surveys, Lake County, recorded September 26, 1980 in Book 29 Page 12-13. T.19N., R.9W., MDM, Section 16, NW1/4NW1/4, SE1/4NW1/4.

3. That certain Record of Survey, filed in Record of Surveys, Lake County, recorded March 17, 1981 in Book 30 Page 42-43. Lake County, T.18N., R.11W., MDM, Section 36, NW1/4, NW1/4SE1/4, NE1/4NE1/4.

3. Uses to be Recognized:

Roads used by third parties to access private land without benefit of right-of-way will be placed under Special Use Permit upon acquisition by the United States.

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Schedule D, the Federal land reservations of the United States, exceptions to title and uses to be recognized:

1. Reservations:

A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945) (1976).

2. Exceptions to Title:

NONE

3. Uses to be Recognized:

NONE