

MINUTE ITEM NO. 4

APP' NO. 2-26-76

MINUTE ITEM

2/26/76
GRII

4. RESCISSION OF AUTHORIZATION TO ISSUE NON-COMMERCIAL LEASE PRC 4998.1 AND ISSUANCE OF NEW NON-COMMERCIAL LEASE, TIDE AND SUBMERGED LAND IN THE BED OF THE PACIFIC OCEAN AND ESTERO AMERICANO, SONOMA AND MARIN COUNTIES; RUNNING FENCE CORPORATION - W 20897, PRC 4998.1.

During consideration of Calendar Item 4, Mr. James F. Trout, Manager, Land Operations, refreshed the Commission's memory on the background of the subject project.

Mr. William F. Northrop, Executive Officer, noted for the record that staff had received telephone calls protesting approval of the project from Mr. Charles Rhinehart of Santa Rosa; as well as from Ms. Mary McChesney and Ms. Lois Raymond, Co-Chairpersons of the Committee to Stop Running Fence.

Dr. Joel W. Hedgpeth, Adjunct Professor, representing Pacific Marine Station (branch of University of the Pacific), appeared in opposition to the item. Of main concern to Dr. Hedgpeth was the fact that if approved, the project would create activity on an area of beach which presently is almost void of human activity, making it ideal for scientific research. Dr. Hedgpeth also presented photographs of the area.

Commissioner Mervyn M. Dymally disagreed with Dr. Hedgpeth. In summary, he stated that it is his belief the beaches should not be set aside for an exclusive group of people wanting to preserve the beach for themselves. Instead, access should be made available to all the people of the State. Commissioner Dymally indicated that because the proposed project is temporary and will be removed, with replacement of the surrounding landscape, there will be no interference with side-effect research, property rights, or public access.

Messrs. Howard Nemerovski and Paul Kayfetz, attorneys representing Running Fence Corporation, appeared. However, they did not present testimony. Based on its previous knowledge of the project, the Commission unanimously approved the resolution as presented on Calendar Item 4 attached.

Attachment:

Calendar Item 4 (5 pages)

MINUTE ITEM NO. 14
APPROVED 2/16/76

CALENDAR ITEM

4.

2/76
GRH
W 20897

RESCISSION OF AUTHORIZATION TO ISSUE
NON-COMMERCIAL LEASE PRC 4998.1 AND ISSUANCE
OF NEW NON-COMMERCIAL LEASE

APPLICANT: Running Fence Corporation
c/o H. A. Abell
URS Research Company
155 Bovet Road
San Mateo, California 94402

AREA, TYPE LAND AND LOCATION:
An 0.837 acre parcel of tide and submerged land
in the bed of the Pacific Ocean and Estero
Americano, Sonoma and Marin Counties.

LAND USE: Temporary art object (nylon fabric fence).

TERMS OF ORIGINAL AUTHORIZATION:
Initial period: 6 months from July 1, 1975.
Public liability insurance: \$100,000/\$300,000
per occurrence for bodily injury
and \$50,00 for property damage.

Surety bond: \$2,000.

Consideration: \$225.

TERMS OF PROPOSED LEASE:
Initial period: 1 year from July 1, 1976.

Surety bond: \$5,000.

Public liability insurance in amounts to be
determined at a later date.

CONSIDERATION: \$225.

BASIS FOR CONSIDERATION:
\$225 minimum for this type of lease.

PREREQUISITE TERMS, FEES AND EXPENSES:
Applicant is permittee of upland.

Filing fee has been received.

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STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Div. 6, Parts 1 & 2.
- B. Administrative Code: Title 2, Div. 3,
Arts. 1, 2, 10 & 11.

OTHER PERTINENT INFORMATION:

At its meeting on March 31, 1975, Minute Item No. 8, the Commission authorized the issuance of a non-commercial lease to the Running Fence Corporation. The project, known as the "running fence", is a work conceived and to be constructed by New York artist, Christo. The fence was to take 5 months to construct and was to be on display for 2 weeks. The fence was to be 18 feet high and about 24 miles long, constructed of white nylon fabric, hung from a steel cable strung between steel poles. Besides crossing Estero Americano, the fence was to extend into Bodega Bay approximately 600 feet. Subsequent to the Commission's authorization, the project was rejected by the Coastal Zone Conservation Commission. Accordingly, the applicant was unable to construct the fence as proposed. Some of the objections to the project as originally proposed centered on the fact that the project was not treated in an Environmental Impact Report (original environmental documentation consisted of a Negative Declaration) and the original fence route might impact on coastal resources. The applicant has changed the routing of the fence where it enters the Pacific Ocean, and the impact of the fence construction project has been re-assessed in an Environmental Impact Report prepared by Sonoma County. The project is situated on State land identified as environmentally significant pursuant to PRC 6370.1. The county's EIR adequately treated the significant environmental values identified for Estero Americano and Bodega Bay. The Division has received a Notice of Determination on the project wherein Sonoma County found that the project would not have a significant effect on the environment. A summary of the County's EIR is attached.

The Division has contacted the regional office of the Department of Fish and Game at Yountville which office has stated that the project will not have any significant effect on the environment. The Department of Fish and Game was

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principally responsible for nminating these sites for their significant environmental values under PRC 6370, et seq.

Division staff has also received a letter from Dr. John R. Arnold (author of portions of the County's EIR-terrestrial biology) wherein Dr. Arnold states that: "The project, as conditioned on Page 103 of the Environmental Impact Report, will have no significant effect upon the enumerated values...". In addition, the staff has received a letter from Dr. Welton L. Lee (author of the marine biology portion of the County's EIR) wherein Dr. Lee states: "I can categorically respond that the granting of the application will have no significant effect upon these identified environmental values." Dr. Lee states further that, "...the project has been designed and conditioned so that it should not impact upon any of these (significant environmental) values." (Parenthesized items added.)

Inasmuch as the project has been subject to extensive environmental study and analysis, including the possible impact on those identified significant values, Division staff believes that the project will not have a significant effect on the environment.

EXHIBITS: A. Land Description. B. Location Map.
 C. EIR Summary.

IT IS RECOMMENDED THAT THE COMMISSION:

1. RESCIND ITS PRIOR AUTHORIZATION FOR THE ISSUANCE OF LEASE PRC 4998.1.
2. FIND THAT ADEQUATE PROVISIONS HAVE BEEN MADE FOR THE PERMANENT PROTECTION OF THE SIGNIFICANT ENVIRONMENTAL CHARACTERISTICS OF THE LANDS PROPOSED FOR LEASE.
3. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED FOR THIS PROJECT AND CERTIFIED BY SONOMA COUNTY ON DECEMBER 17, 1975.
4. CERTIFY THAT THE INFORMATION CONTAINED IN THE ENVIRONMENTAL IMPACT REPORT OF SONOMA COUNTY HAS BEEN REVIEWED AND CONSIDERED BY THE COMMISSION.

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5. DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
6. DETERMINE THAT THE GRANTING OF THE APPLICATION WILL HAVE NO SIGNIFICANT EFFECT UPON THE ENVIRONMENTAL VALUES IDENTIFIED PURSUANT TO SECTION 6302 1, ET SEQ. OF THE PUBLIC RESOURCES CODE.
7. AUTHORIZE THE ISSUANCE TO RUNNING FENCE CORPORATION OF A 1-YEAR NON-COMMERCIAL LEASE FROM JULY 1, 1976; IN CONSIDERATION OF RENT IN THE AMOUNT OF \$225 AND PROVISION OF A \$5,000 SURETY BOND; PROVISION OF PUBLIC LIABILITY INSURANCE IN AMOUNTS TO BE DETERMINED AT A LATER DATE FOR PROPERTY DAMAGE AND BODILY INJURY; FOR THE CONSTRUCTION OF A TEMPORARY ART OBJECT (NYLON FABRIC FENCE); ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment: Exhibit "A"

EXHIBIT "A"

W 20897

Parcel 1:

A strip of tide and submerged land, 50 feet in width lying in the State owned bed of the Pacific Ocean, Marin County, California, the centerline of said strip being described as follows:

BEGINNING at a point having California Coordinat System, Zone 2 coordinates x- 1,715,479.66, y- 225,822.26; thence S 33° 15' 00" W a distance of 900 feet to the point of termination.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water mark.

Bearings and distances are based upon the California Coordinate System, Zone 2.

Parcel 2:

A parcel of land 50 feet wide, lying 25 feet on each side of a proposed fence known as "Christo's Running Fence" and extending entirely across that portion of the State owned bed of the Estero Americano lying within the N 1/2 of protracted Section 2, T5N, R10W and the S 1/2 of protracted Section 35, T6N, R10W, M.D.M., situated in the Counties of Sonoma and Marin, State of California.

END OF DESCRIPTION

Prepared *P. L. Smith* Checked *M. J. Beckley*
Reviewed *P. L. Smith* Date *1/29/46*