

7/20/65

28. APPLICATION FOR RIGHT-OF-ENTRY PERMIT FOR THE CONSTRUCTION, MAINTENANCE, AND USE OF A HAUL-ROAD BRIDGE OVER THE AMERICAN RIVER, SACRAMENTO COUNTY; NATOMAS COMPANY, NATOMA, CALIFORNIA - W.O. 5674, P.R.C. 3342.1.

During presentation of Calendar Item 28 attached, the Executive Officer stressed that the attitude of the residents in the area who are opposed to issuance of the proposed permit stems from their concern that the approvals by the Sacramento County Board of Supervisors and the County Planning Department are not proper; therefore, this problem is primarily if not wholly within the cognizance of the local county jurisdictional boards. He then quoted from a letter from the Office of the County Counsel, dated May 14, 1965, to Mr. A. L. Kiefer, Director of Department of Public Works of the County of Sacramento, giving the opinion of the Office of the Sacramento County Counsel, John B. Heinrich, signed by Thomas A. Darling, Deputy County Counsel, that "In our opinion use of all the land covered by the lease, including the park located north of the American River along the right bank for the purpose of harvesting rock and gravel, constitutes a legal use which has been in existence since prior to the existence of any county ordinance requiring a use permit for such use. On this basis, harvesting of rock and gravel from the property north of the river is a continuation of a pre-existing legal use, which may be continued without obtaining the permit normally required by the regulations of the F (Flood) Zone for the establishment or enlargement of such use." The Executive Officer noted that the proposed method of operation would appear to be advantageous from the standpoint of minimizing adverse impact in connection with the adjoining residential use of the area.

The Chairman reported receipt of a letter from Senator Rodda, enclosing a letter from Dr. Geoffrey Fricker, suggesting an alternate route across the river, which would increase operating costs. The Executive Officer pointed out that the proposed alternate route would have to go through a parcel of land that is currently under option to the Sacramento County Park and Recreation Department, and that Department would oppose such relocation, as had been substantiated through contact with Mr. Pond, the Director of Parks for the Sacramento County Park and Recreation Department.

Appearances were then made by the following:

John W. Ross, Jr., Attorney, representing a group of Fair Oaks property owners opposed to issuance of the permit on the grounds that the proposed sand-and-gravel operation would create a nuisance, and suggesting an alternate route for the haul road.

Dr. G. A. Fricker, a resident of Fair Oaks, representing 30 families in the area opposed to issuance of the permit. Dr. Fricker read into the record a letter written by J. Harold Severaid, President and Chairman of the Board of Directors of The Save The American River Ass'n., on behalf of its 3,116 members and 109 co-sponsoring organizations, to Mr. Leon B. Collins, District Manager of Pacific Cement and Aggregates, Inc. The letter contained the proposal that the permit for public access to the park lands surrounding the old bridge pilings be renewed in exchange for a right-of-way easement from

the County bordering the downstream edge of the existing settling pond, and stated that the goodwill created for the Company would offset the additional cost involved.

James W. Malcolm, Landscape Architect, Department of Parks and Recreation, County of Sacramento, who reported that the Department had officially recognized the proposal of the Natomas Company, and that the alternate proposal suggested by the opponents was not acceptable from the Department's point of view. However, he indicated that, subject to some qualification, he would be inclined to give a favorable recommendation to the Board of Supervisors on the proposal outlined in the letter written by Mr. Severaid.

Stanley R. Andrus, Engineer, a resident of Fair Oaks, opposed to issuance of the permit because of the noise and dust problem.

Chandler Ide, Vice President and Secretary of the Natomas Company, who indicated that although the beach area in question was privately owned by the Natomas Company, the public had been allowed to use it for many years. He stated that the haul road would limit but not eliminate use of that beach area, and that the beach, although on privately owned property, would be available again in total when the sand-and-gravel operation was completed. Mr. Ide was opposed to the suggested alternate location, principally because of the considerable additional cost involved.

Commissioner Cranston noted that the problems discussed before the Commission in connection with the application were properly matters of local governmental concern and not problems upon which action could be taken by the Commission. He therefore moved approval of the staff recommendation. His motion was seconded by Mr. Sheehan.

UPON MOTION DULY MADE AND UNANIMOUSLY CARRIED, THE FOLLOWING RESOLUTION WAS ADOPTED:

THE EXECUTIVE OFFICER IS AUTHORIZED TO GRANT TO THE NATOMAS COMPANY A TWO-YEAR RIGHT-OF-ENTRY PERMIT FOR THE CONSTRUCTION OF A HAUL-ROAD BRIDGE OVER THE AMERICAN RIVER ADJACENT TO AND WESTERLY OF THE FAIR OAKS BRIDGE IN SACRAMENTO COUNTY; PRELIMINARY TO THE NEGOTIATION OF A RIGHT-OF-WAY EASEMENT WITH STANDARD TERMS AND CONDITIONS RETROACTIVE TO DATE OF ISSUANCE OF THE PERMIT. THE PERMIT IS TO BE WITHOUT PREJUDICE TO TITLE CLAIMS TO THE BED OF THE AMERICAN RIVER BY EITHER PARTY.

Attachment

Calendar Item 28 (4 pages)

28.

APPLICATION FOR RIGHT-OF-ENTRY PERMIT FOR THE CONSTRUCTION, MAINTENANCE, AND USE OF A HAUL-ROAD BRIDGE OVER THE AMERICAN RIVER, SACRAMENTO COUNTY; NATOMAS COMPANY, NATOMA, CALIFORNIA - W.O. 5674.

Natomas Company, a California corporation, is the holder of fee title to lands located on both sides of the American River in Sacramento County lying adjacent to and westerly of the Fair Oaks Bridge on Sunrise Avenue in Fair Oaks. The State and the Natomas Company have conflicting claims as to the title to the bed of the American River in this area. There are extensive gravel deposits on the north side of the river (the remnants of placer mining operations) which the Natomas Company and Pacific Cement and Aggregate~~s~~, Inc., wish to transport to a crushing and washing plant on the south side of the river (see Exhibit "A"). This plant has been in operation since 1914 and the contract for extraction of gravel from Natomas lands by the predecessor to Pacific Cement and Aggregates has been in effect since 1929.

The Natomas Company, apparently unaware of the State's title claim, had proceeded with plans to reconstruct a bridge (constructed originally in 1956) over the American River to facilitate the transport of the gravel from its property on the north bank to its property on the south bank. With the exception of the bridge crossing of approximately 150 feet of State land, the entire operation on both sides of the river would be confined to lands owned by the Natomas Company. There would be no transport of materials from the operation over any dedicated street, county road or public highway.

Approximately thirty property owners on the north side of the river have registered a protest with the Sacramento County Board of Supervisors and the County Planning Department, citing the nuisance of noise, dust, and fumes. The protestants reside in single-family dwellings set back on a 175-foot bluff which overlooks the proposed operation and located a minimum of 700 feet from the haulage road.

This group has stated that a crossing would be more acceptable 1,500 feet downstream from the existent bridge support location. The relocation route suggested by the opponents would cross land under option to the Sacramento County Park and Recreation Department, which department would oppose such a route.

The Natomas Company does not favor a downstream location because it would entail about \$63,000 additional cost. This would be in addition to an already incurred construction penalty of \$4,000 because of delay in obtaining the easement from the State.

The applicant has stated that all reasonable controls will be exercised to keep noise and dust to a minimum pursuant to Sacramento County operation authorizations. The controls are as follows:

1. All equipment will be muffled.
2. All equipment will be rubber-tired.
3. The roads will be sufficiently watered.
4. Work will be restricted to eight hours per day; no weekend, holiday, or night work.
5. Trees will not be harmed.

The residents of the bluff area would be subjected to a certain amount of nuisance during the life of the operations (six to seven years), but it does not appear that any permanent damage would be suffered as a result of the proposed operations.

The Reclamation Board and the U. S. Army Corps of Engineers have approved the project, with definite specifications and requirements.

The County of Sacramento, through the Department of Public Works and Legal Counsel, has expressed the opinion that the Natomas Company has fulfilled all county requirements to proceed with the project.

The bridge will consist of a superstructure and decking to be erected on existing steel-pile bents, and will be approximately 250 feet long and 20 feet wide, of which approximately 150 feet will cross State land.

In view of the project schedule and the fact that the Company was unaware of the State's title claim until recently, a request has been made for a temporary right-of-entry permit to allow the applicant to proceed with the project. The permit would be issued subject to terms and conditions of a right-of-way easement retroactive to the date of issuance of the permit. The permit and easement would be issued without prejudice to the title claims of the Natomas Company to the bed of the American River.

IT IS RECOMMENDED THAT THE STATE LANDS COMMISSION AUTHORIZE THE EXECUTIVE OFFICER TO GRANT TO THE NATOMAS COMPANY A TWO-YEAR RIGHT-OF-ENTRY PERMIT FOR THE CONSTRUCTION OF A HAUL-ROAD BRIDGE OVER THE AMERICAN RIVER ADJACENT TO AND WESTERLY

OF THE FAIR OAKS BRIDGE IN SACRAMENTO COUNTY; PRELIMINARY TO THE NEGOTIATION
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