

8. 6-MONTH NONCOMMERCIAL LEASE, TIDE AND SUBMERGED LANDS IN THE BED OF THE PACIFIC OCEAN AND ESTERO AMERICANO, SONOMA AND MARIN COUNTIES; RUNNING FENCE CORPORATION - W 20897, PRC 4998.

During consideration of Calendar Item 6 attached, Mr. William F. Northrop reported that subsequent to the item being calendared, questions were raised concerning, among other things, the public benefit. These involved implications as to the possible negative effects on the environment. He pointed out that Negative Declarations were prepared by both the Counties of Marin and Sonoma. No adverse comments were received within thirty days thereafter, thereby fulfilling the requirements of the California Environmental Quality Act. However, as a policy consideration, it is the opinion of the staff that further public testimony should be taken prior to issuing the subject permit.

Mr. Howard N. Nemerovski, attorney, representing the artist, Christo, appeared. Pursuant to the Commission's request, Mr. Nemerovski briefed the Commission on the background of the proposed project. He pointed out for the record that five governmental bodies have reviewed the project with respect to the environmental implications, all of which issued Negative Declarations. He summarized Christo's qualifications, indicating that numerous letters have been filed with the Commission from various museums nationwide acclaiming his work.

Mr. Nemerovski explained that all governmental costs with respect to monitoring the project will be borne by Christo; that \$1.5 million worth of insurance has been purchased; and that a \$200,000 bond has been obtained--\$150,000 for Sonoma County and \$50,000 for Marin County. This bond guarantees that all conditions which have been imposed by the governmental bodies relating to Christo will be complied with.

Dr. Ernest Harris, Project Engineer, appeared and explained his role in the project.

Mr. Paul Kayfetz, attorney, representing Christo, appeared and described the environmental issues involved in the project. He used as an example the Valley Curtain Project which was exhibited by Christo in Rifle, Colorado. A copy of the book relating thereto was distributed to the Commissioners for their review. These copies were returned to the applicant at the conclusion of action on this item.

Upon Chairman Cory's request, Mr. Kayfetz described the structure of the fence and the proposed method for removing it from the State's tidelands. He assured the Commission that all the work will be done under the direct supervision of a biologist hired by the County of Marin and paid for by Christo. With regard to

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whether the project will interfere with users of the beach during the two-week lease period, Mr. Kayfetz stated that the beach is virtually unused because of poor public access. Both Messrs. Kayfetz and Nemerovski stressed that no trace of the project will remain after its removal.

Mr. Kayfetz explained the provisions of the liability insurance stating that the State of California is a named insured on the policy and is one of the parties that has access to the bonds should, within the four-year period after the project is completed, there be any failure to live up to the conditions of the lease. Chairman Cory questioned whether the applicant was willing to provide the same bond for the State as it had for the Counties of Marin and Sonoma. Mr. Kayfetz assured the Commission that the State is covered up to \$50,000 for the 600 feet of State tidelands involved in the project.

In conclusion, Chairman Cory instructed the staff to make sure that the State is protected for the removal of the project. He emphasized that the State should be able to unilaterally effect the removal of that portion of the project which is on State tidelands.

Upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION:

1. DETERMINES THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS PROJECT BUT THAT A NEGATIVE DECLARATION HAS BEEN PREPARED BY MARIN COUNTY, ON DECEMBER 9, 1974.
2. CERTIFIES THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED IN THE NEGATIVE DECLARATION.
3. DETERMINES THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
4. AUTHORIZES THE ISSUANCE TO THE RUNNING FENCE CORPORATION OF A 6-MONTH NONCOMMERCIAL LEASE FROM JULY 1, 1975; IN CONSIDERATION OF RENT IN THE AMOUNT OF \$225 AND PROVISION OF A \$2,000 SURETY BOND; PUBLIC LIABILITY INSURANCE IN THE AMOUNTS OF \$100,000/\$300,000 FOR PERSONAL INJURY AND \$50,000 FOR PROPERTY DAMAGE; FOR THE CONSTRUCTION OF A TEMPORARY ART OBJECT (RUNNING FENCE); ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

Attachment:

Calendar Item 6 (3 pages)

CALENDAR ITEM

3/75  
GRH  
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6.

NONCOMMERCIAL LEASE

APPLICANT: Running Fence Corporation.

AREA, TYPE LAND AND LOCATION:

Approximately .82 acres of tide and submerged lands in the bed of the Pacific Ocean and Estero Americano, Sonoma and Marin Counties.

LAND USE: Temporary art object (running fence).

TERMS OF PROPOSED LEASE:

Initial period: 6 months, from July 1, 1975.

Surety bond: \$2,000.

Public liability insurance:  
\$100,000/\$300,000 for personal injury and \$50,000 for property damage.

CONSIDERATION: \$225.

BASIS FOR CONSIDERATION:

\$225 minimum rental for this type of lease or permit.

PREREQUISITE TERMS:

Applicant is lessee or permittee of upland.

STATUTORY AND OTHER REFERENCES:

- a. Public Resources Code: Div. 6, Parts 1 & 2.
- b. Administrative Code: Title 2, Div. 3, Arts. 1, 2 & 10.

OTHER PERTINENT INFORMATION:

1. The "running fence" is a work conceived by and to be constructed by New York Artist, Christo. This major, modern art project will be temporary. The fence will take approximately 5 months to construct and will be displayed for about 2 weeks. Following the short display period, the running fence and its supporting structure will be removed so that no visible evidence will remain.

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The fence will be 18 feet high and about 24 miles long, emerging from the ocean and following an undulating path inland. The fence will be of heavy, white nylon fabric, hung from a steel cable strung between steel poles. The poles, generally 62 feet apart, will be buried in the ground and braced laterally with guy wires and earth (rock) anchors. The portion of the fence to be located on State lands will be braced laterally with boat anchors and lateral guys in such a manner as not to impede pedestrian passage where such passage is feasible.

2. Marin County, as lead agency under CEQA, conducted an investigation into the environmental impacts associated with the fence construction project. Based on its initial studies, the county issued a negative declaration stating that the project would not have a significant effect on the environment. The Marin County Board of Supervisors approved the project on February 4, 1975, and accordingly filed the Notice of Determination.

EXHIBITS:           A. Land Description.           B. Location Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. DETERMINE THAT AN ENVIRONMENTAL IMPACT REPORT HAS NOT BEEN PREPARED FOR THIS PROJECT BUT THAT A NEGATIVE DECLARATION HAS BEEN PREPARED BY MARIN COUNTY, ON DECEMBER 9, 1974.
2. CERTIFY THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED IN THE NEGATIVE DECLARATION.
3. DETERMINE THAT THE PROJECT WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
4. AUTHORIZE THE ISSUANCE TO THE RUNNING FENCE CORPORATION OF A 6-MONTH NONCOMMERCIAL LEASE FROM JULY 1, 1975; IN CONSIDERATION OF RENT IN THE AMOUNT OF \$225 AND PROVISION OF A \$2,000 SURETY BOND; PUBLIC LIABILITY INSURANCE IN THE AMOUNTS OF \$100,000/\$300,000 FOR PERSONAL INJURY AND \$50,000 FOR PROPERTY DAMAGE; FOR THE CONSTRUCTION OF A TEMPORARY ART OBJECT (RUNNING 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 wide, lying within the bed of the Pacific Ocean, Marin County, State of California, the centerline of said strip being more particularly described as follows:

BEGINNING at a point having California Coordinate System, Zone II Coordinates  $X = 1,719,237$ ,  $Y = 221,505$ ; thence  $S 48^{\circ} 36' 00'' W$ , 700 feet to the end of the herein-described centerline.

The basis of bearings for Parcel 1 is the California Coordinate System, Zone II.

PARCEL 2:

That portion of the State-owned bed of the Estero Americano lying within Section 2, T 5 N, R 10 W and Section 35, T 6 N, R 10 W, MDM, situated in the Counties of Sonoma and Marin, State of California.

END OF DESCRIPTION