

MINUTE ITEM

26. APPLICATION FOR THE ASSIGNMENT AND TERMINATION OF LEASE P.R.C. 4.2 AND THE ISSUANCE OF A NEW LEASE TO LINDSEY SPIGHT COVERING THE SAME AREA, SECTION 36, T. 1 N., R. 1 W., M.D.M., CONTRA COSTA COUNTY - W.O. 3106, P.R.C. 2364.2.

After consideration of Calendar Item 31 attached, and upon motion duly made and unanimously carried, the following resolution was adopted:

PURSUANT TO THE AUTHORITY CONTAINED IN SECTION 6501.1 OF THE PUBLIC RESOURCES CODE TO LEASE STATE LANDS, THE EXECUTIVE OFFICER IS AUTHORIZED TO:

- (1) APPROVE AN ASSIGNMENT OF LEASE P.R.C. 4.2 FROM TELEVISION DIABLO, INC., TO LINDSEY SPIGHT, EFFECTIVE MARCH 16, 1959.
- (2) TERMINATE LEASE P.R.C. 4.2, EFFECTIVE MARCH 16, 1959, AS PROVIDED IN PARAGRAPH 12 THEREIN, AND ACCEPT PAYMENT IN THE AMOUNT OF \$63.64 FOR RENT FROM FEBRUARY 1, 1959 THROUGH MARCH 15, 1959.
- (3) ISSUE TO LINDSEY SPIGHT A NEW LEASE COVERING LOT 4 AND THE WEST HALF OF LOT 2, SECTION 36, T. 1 N., R. 1 W., M.D.M., CONTAINING 59.62 ACRES, MORE OR LESS, IN CONTRA COSTA COUNTY, FOR A TERM OF 15 YEARS FROM MARCH 16, 1959, AT AN ANNUAL RENTAL OF \$1,098, WITH PROVISION FOR RENEWAL FOR TWO 10-YEAR PERIODS AT SUCH TERMS AS THE COMMISSION MAY IMPOSE, FOR CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF A STATION OR STATIONS, COMMERCIAL OR OTHERWISE, FOR THE TRANSMISSION AND/OR RECEPTION OF ENERGY BY ELECTRICAL WAVES FOR BROADCASTING AND/OR OTHER COMMUNICATION (INCLUDING TRANSMISSION AND/OR RECEPTION OF WRITING, SIGNS, SIGNALS, PICTURES, EITHER STILL OR MOVING, AND SOUNDS AND INFORMATION OF ALL KINDS, AND INCLUDING ALL INSTALLATIONS, FACILITIES, APPARATUS AND SERVICES INCIDENTAL THERETO) AND FOR NO OTHER PURPOSES. THE LEASE IS ALSO TO CONTAIN: (1) THE NONINTERFERENCE CLAUSE RECOMMENDED BY THE STATE COMMUNICATIONS DIVISION, (2) AUTHORITY TO CONTINUE IN EFFECT THE SUBLEASES PREVIOUSLY AUTHORIZED BY THE COMMISSION, AND (3) THE REQUIREMENT FOR A SURETY BOND IN THE AMOUNT OF \$5,000.

Attachment

Calendar Item 31 (2 pages)

CALENDAR ITEM

31.

(APPLICATION FOR THE ASSIGNMENT AND TERMINATION OF LEASE P.R.C. 4.2 AND THE ISSUANCE OF A NEW LEASE TO LINDSEY SPIGHT COVERING THE SAME AREA, SECTION 36, T. 1 N., R. 1 W., M.D.M., CONTRA COSTA COUNTY - W.O. 3106.)

Pursuant to Section 6502 of the Public Resources Code, an application has been received from Lindsey Spight for the assignment to him of Lease P.R.C. 4.2, to be followed by its termination, as authorized by Paragraph 12 thereof. After such termination a new lease would be issued, effective March 16, 1959, for a 15-year term, with provision therein for two additional renewal periods of ten years each, for the construction, maintenance and operation of a station or stations for the transmission and/or reception of energy by electrical waves for broadcasting or other communication.

Lease P.R.C. 4.2, covering Lot 4 and the $W\frac{1}{2}$ of Lot 2, Section 36, T. 1 N., R. 1 W., M.D.M., containing approximately 59.62 acres, was issued on February 1, 1942, to Robert S. Baldwin for a 20-year term at an annual rental of \$120. On March 1, 1945, the lease was assigned to Brown, Eitel and McCullough, at which time an option to renew for ten additional years was included, and the rent was increased to \$540 annually. On August 1, 1945, the lease was assigned to Radio Diablo, Inc. An amendment broadening the use of the leased site was authorized by the Commission on July 16, 1951. The lessee's name was changed to Television Diablo, Inc., by amendment of the articles of incorporation filed with the Secretary of State on April 6, 1954.

The Commission has approved the following subleases affecting this property: Lenkurt Electric Company, American National Red Cross, United States Atomic Energy Commission, and Sandia Corporation.

The subject property is located at an elevation of from 3200 feet to 3600 feet on Mt. Diablo, approximately 15 miles east of the City of Walnut Creek. It is occupied by a 180-foot-high transmission tower and a cement building which houses transmitter equipment.

Except for a site already occupied on adjoining State park lands, this property is geographically the most suitable in the area for television or direct-line broadcasting. It is reported that with a higher tower a television broadcasting facility located here could cover about one-third of Northern California.

An appraisal report by a member of the Commission's staff, under date of February 12, 1959, indicates that the fair rental value of the site is \$1,098 annually for a 15-year term.

The State Communications Division has consented to the issuance of the requested lease, provided that the lease is drawn to provide for noninterference with other communication facilities. Language for this purpose has been supplied by the Communications Division.

CALENDAR ITEM 31. (CONTD.)

A surety bond in the amount of \$5,000 is required.

IT IS RECOMMENDED THAT THE COMMISSION, PURSUANT TO THE AUTHORITY CONTAINED IN SECTION 6501.1 OF THE PUBLIC RESOURCES CODE TO LEASE STATE LANDS, AUTHORIZE THE EXECUTIVE OFFICER TO:

- (1) APPROVE AN ASSIGNMENT OF LEASE P.R.C. 4.2 FROM TELEVISION DIABLO, INC., TO LINDSEY SPIGHT, EFFECTIVE MARCH 16, 1959.
- (2) TERMINATE LEASE P.R.C. 4.2, EFFECTIVE MARCH 16, 1959, AS PROVIDED IN PARAGRAPH 12 THEREIN, AND ACCEPT PAYMENT IN THE AMOUNT OF \$63.64 FOR RENT FROM FEBRUARY 1, 1959 THROUGH MARCH 15, 1959.
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