

Hearst Development Case: A Dispute Turned Negotiation

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Development in the coastal areas of California continues to grow, and landowners, citizens, and political authorities must come together to reach agreement between conflicting interests. While some seek to preserve the untouched land, others focus on the potential of development for economic gain. The case involving the California coastal area of Hearst Ranch and San Simeon Point serves as a classic example of conflicting interests, but not necessarily non-negotiable differences between parties. Currently, the Hearst Corporation seeks to develop portions of its land into a resort hotel and golf course, while many environmental organizations seek to preserve the untouched environment (Cardenas 2002). After a history of heated debate, the Hearst Corporation and two environmental organizations, The Nature Conservancy (TNC) and The Conservation Fund (TCF), are attempting to negotiate their separate interests (Smith 2002). The proposed possibility of the environmental organizations purchasing plots of land where development was intended works to satisfy the interests of both parties. The Hearst Corporation intends to make a profit off the land, while the environmental groups aim to purchase and protect the land under a conservation easement, which would prevent development of any kind on the land forever (Smith 2002). The outcome of these efforts is extremely crucial to the future of the “18-mile stretch of undeveloped coastline from Cambria to Big Sur” owned by the Hearst Corporation (Cardenas 2002). Due to the vastness of the property, the coastal location, the ecologically diverse natural environment, and the lack of development thus far, the result of Hearst land negotiations will greatly affect all future development in this coastal area.

The Hearst Corporation’s proposal to build 650 hotel rooms and an 18-hole ocean front golf course was first publicized in 1998 when San Luis Obispo County approved an amendment to the Major Local Coastal Program (Kropp 2002). This amendment, approved as an update to the North Coast Area Plan, designated four zones of the Hearst land as open for development. This was the first major revision to the North Coast Area Plan since it was certified by the California Coastal Commission (CCC) in 1983 (California Coastal Commission 2002). Although approved by the County, the CCC rejected the proposal because it failed to meet the regulations

imposed by the California Coastal Act (Kropp 2002). The Coastal Act aims to “protect coastal resources by limiting new development to existing developed areas” (California Coastal Commission 2002). Section 30250 of the Coastal Act requires that new development be “concentrated in and around existing developed areas with adequate development capacities” or, where such areas are not available, development must be “located where adequate public services exist” (California Coastal Commission 2002). In addition, Section 30251 of the Coastal Act rejected the development due to the protection of visual resources and, in conjunction with Section 30242, opposed the use of agricultural grazing lands for development in one or two zones, instead of four, in the locations of Old San Simeon and Cambria. Because no common zoning agreement was reached between the CCC and the County, the original four zones allowed for “visitor-serving services,” as established in 1983, and then later confirmed by the CCC and the County in 1988, were left open for possible development by the Hearst Corporation (Lyon 2002).

Hearst’s attempt in 1998 to win development approval was also opposed by environmental organizations, such as the Environmental Defense Center, Friends of the Ranchland, and the Sierra Club, who collectively gathered public opinion that opposed the development they feared would open doors for increased coastal development (Kropp 2002). They aided the CCC in obtaining the necessary data to deny the proposal and ensured that the County would not override the Coastal Commission’s ruling.

The Hearst Corporation was not allowed to go through with development unless it complied with the Coastal Act and both the County and CCC agreed upon terms of development zoning. Currently, four zones of possible development are still present on the Hearst Ranch, although the application to develop the land was not approved. The possibility of Hearst development is again an issue at present, as the Hearst Corporation is promoting a more considerate perspective on land conservation (Cardenas 2002). The company is willing to sell its development rights on the rest of the company’s 83,000 acres in exchange for the right to build on 257 acres. The Hearst Corporation is attempting to produce 279 certificates of compliance (COCs) to gain legal approval of development on the 257 acres (Hensley 2002). COCs address lands that were mapped before the State Subdivision Map Act of 1893 and allow a landowner to dig up old property records that date back to ancient mining claims or federal patents and bypass the subdivision process entirely (Committee for Green Foothills 2002). In this

way, Hearst may evade the current agricultural zoning of its parcels to allow for more development zoning of its parcels to in desired areas (Environmental Defense Center 2001).

While opponents of proposed land development remain suspicious of Hearst's use of COCs, Hearst claims that the COCs verify the existence of legal parcels, and that gathering COCs is a process that is commonly used to determine property value (Lyon 2002). Hearst sees the land as completely under their ownership, as the land has not been changed by any new legislation. In order to obtain permits to build on this land, however, Hearst must achieve County and the CCC approval. In light of the 1998 rejection of development application, it may be in Hearst's best interest to approach development plans with an awareness of the public disdain on the issues. While the County has already issued 260 of the desired 279 parcels as possible locations of development through the use of COCs, Hearst is also showing interest in conserving portions of its land. After the 1998 dismissal of the development proposal, the Hearst Corporation has been focusing on conservation easements as a mechanism that is successful in retiring development rights (Lyon 2002). At present, Hearst is negotiating with The Nature Conservancy (TNC) and The Conservation Fund (TCF) to sell some of the land rights to these environmental organizations, who aim to place conservation easements on any acquired property (Smith 2002).

Critics of Hearst's intentions feel that the COCs may be used as threats in putting forth the potential of development (Johnson & Weiss 2001b). They also suspect that COCs will be used as part of a strategy that "has become a way for landowners to force conservationists to pay ever higher prices for land they want to protect as open space" (Johnson & Weiss 2001a). Furthermore, many feel that Hearst is simply attempting to win public support, or at least decrease public skepticism of their development, to "neutralize opposition to the development" (Cardenas 2002).

However, The Nature Conservancy and The Conservation Fund have a more positive view of Hearst's willingness to negotiate the purchasing of some plots of its land. Both non-profit environmental organizations have been trying since August 2001 to purchase some rights to the land in order to place a conservation easement on it (Smith 2002). It is important for both environmental organizations to finish negotiations as soon as possible because the CCC ruling that allows only two zones of the Hearst land to be developed may change with the election of new members to the CCC. In other words, the CCC ruling is only a permanent solution to preventing

development beyond two zones as long as the same people remain on the CCC (Lynn 2002). The negotiations must be made within the next six months, or TNC and TLC will be forced to withdraw due to money lost from spending extensive time on this single issue. It is also important for conservation easements to be made now, while the Hearst land is still owned by one trust, because in future years, individual owners may adopt the land in many separate plots. Multiple owners would make a conservation easement on vast areas of land nearly impossible (Smith 2002). On this matter, Hearst appears to be determined to complete negotiations in the interest of first promoting conservation, and then seeking development opportunities (Lyon 2002).

In this case, some may see how the CCC is working against the goals of TNC and TCF to conserve the land, as it insists on allowing only two zones of land. When the CCC turned down the Hearst resort application in 1998, they argued, “the development would open the door to commercial exploitation, not only of Hearst’s property but of a 30-mile stretch of coast” (Johnson & Weiss 2001b). Now that Hearst has the potential to develop most of their land because of COC’s, TNC argues that the firm ruling by the CCC is interfering with the possibility of conserving more than just the two zones designated. TNC views this as a limitation in trying to conserve the land, due to the fact that the protective ruling only lasts as long as the members of the CCC remain the same and share the same view (Smith 2002). Both the Hearst Corporation and TNC with TCF seek to settle land rights before the land is sub-divided into individual ownerships, which would make any chance of conservation very difficult (Lyon 2002). At the moment, the Hearst Corporation and TNC with TCF are negotiating the future of the Hearst Ranch land. The willingness of Hearst, TNC, and TCF to make negotiations with the environmental organizations may be a promising step in the right direction of dispute resolution.

This case reflects various components of classic environmental dispute resolutions. The component of power is evident within this case. According to Linda Kropp of the Environmental Defense Center in Santa Barbara, California, Hearst attempted during the 1998 dispute to use political connections to ensure the approval of updated zoning that allowed for development on the property. Hearst spoke with the Senate majority leader and Senate speaker, but could not win over the power of the California Coastal Commission and various environmental organizations backed by public concern. The power of the CCC and the County is displayed in their mutual use of power to enforce their own rulings.

However, the CCC can be seen as preventing environmental protection because its ruling is preventing more conservation easements to be made. If the CCC agreed to the County's ruling of four zones, there would be more land for potential purchasing land rights, thus more opportunity for conservation easements to ensure environmental protection forever. The power of the CCC and the legislation of the Coastal Act, although it aims to regulate coastal development, could actually work against the aims of environmental organizations.

The issue of relationships is also evident in this case. The relationship between the Hearst Corporation and environmental organizations is important to both parties in order for common interests to be met. Furthermore, The Nature Conservancy and The Conservation Fund are confirming their similar interest to work jointly to preserve the natural environment. Both non-profit organizations view negotiations with the Hearst Corporation as a feasible means to achieve an outcome that meets their interests and exceeds their best alternative to negotiated agreement. At the same time, the Hearst Corporation is calming the fears of the public by mediating plans to develop. The relationship between corporate, political, public, and organizational power is clearly explored in this case.

The major stakeholders taking part in current negotiations, the California Coastal Commission, the County of San Luis Obispo, the Hearst Corporation, The Nature Conservancy, and The Conservation Fund, are all working in their own best interests. This is the first time that the Hearst Corporation has offered to negotiate with environmental interest groups. Thus, major changes in the consideration of environmental issues are apparent in this case. The fact that the Hearst Ranch property makes up eighty-three thousand acres of California's San Luis Obispo County supports the importance of negotiated agreements between development and environmental conservation. It is unclear exactly how much of the Hearst Ranch land will be forever protected under conservation easements, nor for what price the land rights would be sold, but nonetheless acknowledgment of interests from opposing sides has clearly been achieved. This dispute, although full of criticism and suspicion, brings the reality of environmental dispute resolution to the forefront. Hearst seeks to develop and make a profit off the land, but realizes the need to consider other interests before pursuing its own. This constructive approach that pacifies the clash between environmental and developmental interests has transformed what was once a highly contradictive dispute into a promising negotiation.

References

- California Coastal Commission (2002, February) *Hearst Ranch Development*. Available: <http://www.coastal.gov/web> [February 10, 2002].
- Cardenas, Eric (2002, January 15). Personal correspondence.
- Committee for Green Foothills (2002, February) Available: http://www.greenfoothills.org/news/2001/11-2001_Loopholes.html [February 15, 2002].
- Hensley, Gordon (2002, January 24) The Environmental Defense Center, San Luis Obispo, California. Phone interview.
- Johnson, John and Kenneth R. Weiss (2001a, July 22) "In Hearst Land Fight, Old Papers are New Weapon." *Los Angeles Times*, A-1.
- Johnson, John and Kenneth R. Weiss (2001b, February 9) "Hearst Offers New Plan for Resort." *Los Angeles Times*, A-3.
- Kropp, Linda (2002, January 30) The Environmental Defense Center, Santa Barbara, California. Phone interview.
- Lyon, Roger (2002, February 25) Hearst Corporation head council attorney. Phone interview.
- Lynn, Jack (2002, January) "Conservation Organizations Announce Exclusive Negotiating Agreement on California's 83,000-Acre Hearst Ranch." *The Conservation Fund News Release*. Available: <http://www.conservationfund.org.pagespinner> [2002, January 24].
- Smith, Kara (2002, February 8) The Nature Conservancy. San Luis Obispo, California. Phone interview.
- The Environmental Defense Center (2001, September) The Environmental Defender Newsletter. Available: <http://www.edcnet.org/Newfall2.htm> [September 5, 2001].

Statutes Cited

- California Coastal Act*, 1976.
- California State Subdivision Map Act of 1893*, 1893.