MINUTE ITEM

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01/31/85
W 23529
S. Sekelsky
D. Hadly

AUTHORIZATION FOR LITIGATION
FOR EJECTMENT AND DAMAGES
FOR UNAUTHORIZED OCCUPATION
OF STATE-OWNED LAND

Calendar Item 42, attached, was pulled from the agenda prior to the meeting.

Attachment: Calendar Item 42.

CALENDAR ITEM

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AUTHORIZATION FOR LITIGATION
FOR EJECTMENT AND DAMAGES
FOR UNAUTHORIZED OCCUPATION
OF STATE-OWNED LAND

PARTY: Lake Tahoe Cruises, Inc.
(Henry Joseph Theiman)
970 Ski Run Boulevard
South Lake Tahoe, California 95702

AREA, TYPE LAND AND LOCATION:
A parcel or parcels of submerged land in the bed of Lake Tahoe, El Dorado County, occupied by one or more commercial tour boats for permanent mooring purposes.

UNAUTHORIZED USE:

1. Nature of use: Commercial tour boat mooring.
2. Appropriate authorization: General Lease - Commercial Use.
3. Duration of use: From approximately 1977 to present.
4. Value to use: Percentage of appraised value pursuant to 2 Cal. Adm. Code 2003 from initial occupation to present plus interest of 1 1/2 percent per month on amounts due.

BACKGROUND: Mr. Theiman has operated several tour boats on Lake Tahoe since at least 1977, mooring them at various locations including Lakeside and Ski Run Marinas, both located in the City of South Lake Tahoe. Mr. Theiman's most recently acquired the Lake Queen, a 200 ton stern

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wheeling riverboat with a maximum carrying capacity of 500 passengers. That boat is currently authorized to carry up to 250 passengers pursuant to a permit issued by TRPA. A Commission lease is required for the ongoing, overnight mooring or basing of Mr. Theiman's vessels as opposed to temporary docking for the boarding of passengers incidental to operating the vessel. Staff has made repeated attempts over a three-year period to secure a lease from Mr. Theiman. These attempts have included written and verbal communications as well as verbal negotiating sessions with Mr. Theiman and his attorney. Mr. Theiman presently refuses to come under lease.

AB 884: N/A.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by CEQA and the State CEQA Guidelines.

   Authority: P.R.C. 21065 and 14 Cal. Adm. Code 15378.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY P.R.C. 21065 AND 14 CAL. ADM. CODE 15378.

2. AUTHORIZE STAFF COUNSEL AND/OR THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL STEPS NECESSARY, INCLUDING LITIGATION, TO TERMINATE THE CONTINUING UNAUTHORIZED OCCUPATION OF STATE-OWNED SUBMERGED LAND IN THE BED OF LAKE TAHOE, EL DORADO COUNTY, BY LAKE TAHOE CRUISES, INC., HENRY JOSEPH THEIMAN, AND ANY OTHER NECESSARY PARTIES AND TO COLLECT REASONABLE COMPENSATION FOR THE USE OF SUCH LANDS AND FOR WHATEVER OTHER LEGAL OR EQUITABLE REMEDIES THAT MAY BE NECESSARY OR APPROPRIATE.