MINUTE ITEM
This Calendar Item No. C89 was approved as Minute Item No. 89 by the California State Lands Commission by a vote of 3 to 0 at its 8-19-03 meeting.

CALENDAR ITEM
C89

A: Statewide

S: Statewide

08/19/03
W 9777.234
G. Gregory
M. Meier

CONSIDER APPLICATION BY CARNIVAL CRUISE LINE FOR APPROVAL OF AN ALTERNATIVE BALLAST WATER MANAGEMENT PRACTICE

PROPOSAL:
The Commission's Staff proposes that the Commission approve an alternative environmentally sound ballast water management practice for the Carnival Cruise Lines vessel M/V ECSTASY under section 71204(a)(3) of Division 36 of the Public Resources Code (P.R.C.), entitled "Ballast Water Management for Control of Nonindigenous Species" (The Ballast Water Act).

BACKGROUND:
The Ballast Water Act establishes a program for the management and control of ballast water carried into the waters of the State. Its purpose is to curtail the introduction of nonindigenous species into California waters through the discharge of ballast water taken on board vessels in other parts of the world. Among its provisions are direct controls on the discharge of ballast water.

Under P.R.C. Section 71204(a), the master, operator or person in charge of a vessel must employ one of several specified management practices for ballast water carried into the waters of the state from areas outside the United States Exclusive Economic Zone (the EEZ). The five specified practices include the following:

1. Exchange ballast water outside the EEZ, from an area not less than 200 nautical miles from any shore, and in waters more than 2000 meters deep, before entering the waters of the state;

2. Retain the ballast water on board the vessel;

3. Use an alternative environmentally sound method of ballast water management that has been approved by the Commission before the vessel begins the voyage, and that is at least as effective as ballast water exchange in removing or killing nonindigenous species.

4. Discharge ballast water to an approved reception facility;

5. Under extraordinary conditions, conduct a ballast water exchange within an area agreed to by the Commission at the time of the request.

Carnival Cruise Lines has requested the approval of an environmentally sound alternative ballast water management practice as described paragraph 3 above (P.R.C. Section 71204(a)(3)). The alternative would apply to the M/V ECSTASY.

The M/V ECSTASY is home ported in the Port of Long Beach and maintains two separate cruise itineraries. The three-day itinerary begins each Friday and calls only at Ensenada, Mexico. The four-day itinerary begins each Monday and calls at both Santa Catalina Island and Ensenada, Mexico. During these cruises the vessel departs the EEZ but does not travel more than 200 miles offshore. Therefore it is impractical to conduct a mid-ocean exchange of their ballast water. Additionally, cruise ships are built and operated to very specific tolerances in terms of their stability, structural integrity and safety. These vessel operators are constantly adjusting liquids on board the vessel to ensure its stability. For example, as fuel is consumed, its volume and weight are replaced with other liquids such as ballast water and fresh water.

The M/V ECSTASY's ballasting operations are based upon a two-week bunkering (fueling) cycle. When the bunkers are taken on board, ballast water is discharged to maintain the trim and stability of the vessel. Under the requested alternative, ballast water that is loaded on board the M/V ECSTASY would originate from an area between the berth in the Port of Long Beach and the Port of Long Beach breakwater. All of the deballasting activities related to that water, occurs alongside the berth in the Port of Long Beach. All of this ballast water is loaded into dedicated tanks. There is no mixing of other ballast water or sediments.

Because all of the ballast water that is loaded on board the vessel originates from an area between the berth and the breakwater and all of the water is discharged alongside the berth, Carnival Cruise Lines contends that there are no nonindigenous species and therefore this practice is at least as effective as a ballast water exchange. The staff agrees with this contention.

Further, the Ballast Water Act provides for several exemptions. One of those exemptions (P.R.C. Section 71202 (d)) states a vessel is exempt from the statute if it is: "A vessel that discharges ballast water or sediments only at the location

where the ballast water or sediments originated, if the ballast water or sediments do not mix with ballast water or sediments from areas other than mid-ocean." Carnival Cruise Lines staff believes that they could fall under this exemption. Under such an exemption, the company believes that it would not have to submit Ballast Water Report Forms to the State or pay the per voyage fee. The company's staff, however, indicates that they are supportive of the ballast water program and desire to continue to be part of the program by complying with all aspects of the Ballast Water Act.

In settlement of previous litigation brought by several environmental organizations, including Bluewater Network, Environmental Law Foundation, San Diego Baykeeper and Surfrider Foundation, against Carnival Cruise Lines, All parties agreed that this practice should be considered substantially in compliance with the Ballast Water Management Act.

The approved plan would also be in compliance with proposed legislation. Currently, AB 433, a bill to reauthorize the ballast water management program, which has been passed by the State Assembly and is now in the Senate, will provide for the uptake and discharge of ballast water in the same location as a specified ballast water management practice.

A copy of the Carnival's request and a summary Ballast Water Management Plan is attached.

Staff has studied the request and has reviewed previously submitted Ballast Water Report Forms. Staff believes the request is consistent with the Ballast Water Act and that it will provide as much protection from invasion of nonindigenous species as mid-ocean ballast water exchange. It is therefore recommended that the request be approved.

STATUTORY AND OTHER REFERENCES:

A. Public Resources Code Section 6103
B. Public Resources Code, Division 36, (Sections 71200 *et seq.*)

PERMIT STREAMLINING ACT DEADLINE:

N/A

OTHER PERTINENT INFORMATION:

Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Code Regs. 10561), the Commission Staff has determined that this activity is exempt from the requirements of the CEQA because the activity is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code Section 21084 and 14 California Code Regulations Section. 15300.

EXHIBITS:

A. Carnival Cruise Lines' letter of June 17, 2003 requesting an Environmentally Sound Alternative Ballast Water Management Practice.
B. M/V ECSTASY's Ballast Water Management Plan

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO TITLE14, CALIFORNIA CODE OF REGULATIONS, §15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

2. APPROVE THE ALTERNATIVE BALLAST WATER MANAGEMENT PRACTICE AS SET FORTH IN EXHIBIT B.

3. DIRECT STAFF TO TAKE WHATEVER ACTION IS NECESSARY AND APPROPRIATE TO ENSURE COMPLIANCE WITH THE APPROVED ALTERNATIVE BALLAST WATER MANAGEMENT PRACTICE SET FORTH IN EXHIBIT B.

4. AUTHORIZE STAFF TO APPROVE MINOR MODIFICATION IN THE ALTERNATIVE BALLAST WATER MANAGEMENT PRACTICE SET FORTH IN EXHIBIT B, PROVIDED THAT STAFF DETERMINES THAT THE MODIFIED PRACTICE IS AT LEAST AS EFFECTIVE IN PREVENTING THE INTRODUCTION OF NONINDIGENOUS SPECIES AS THE PRACTICE SET FORTH IN EXHIBIT B.

EXHIBIT A

Carnival

June 17, 2003

JUN 2003
Received
Marine Facilities
Long Beach

W 9777.234
.243

Mr. Gary Gregory
Chief Marine Facilities Division
California State Lands Commission
200 Ocean Gate, Suite 900
Long Beach, CA 90802

Re: The *M/V ECSTASY'S* Ballast Water Management Plan

Dear Gary:

We are formally requesting approval of a ballast water management practice under the California Ballast Water Management Act, California Public Resources Code 71204(a) 3[1].

As you are aware, M/V ECSTASY home ports at the Port of Long Beach and maintains two separate cruise itineraries. The three-day itinerary begins each Friday and calls only at Ensenada, Mexico. The four-day cruise begins each Monday and calls at both Santa Catalina Island and Ensenada, Mexico.

The ballasting operations are based upon a two-week bunkering schedule. All of the ballast water that is loaded on board the *M/V ECSTASY* originates from an area in between the berth and breakwater in the Port of Long Beach. All of the deballasting activities occur alongside the berth. A copy of the ballast water management plan for the *M/V ECSTASY* is enclosed for your reference.

In sum, on a two-week bunkering/four voyage schedule, the *M/V ECSTASY* conducts her ballasting operations as follows:

<u>Voyage #1- Friday</u>
Load Forepeak (FP) on return to berth
Deballast double bottom (DB) 8, DB 10 and FP alongside berth.

[1] We are is not addressing whether section 71202 (d) applies to the ballast water management practice.

CARNIVAL CRUISE LINES, CARNIVAL PLACE, 3655 NW 87 AVENUE, MIAMI, FLORIDA 33178-2428
EXECUTIVE OFFICES: (305) 599-2600

Carnival

Voyage #2 -Monday

Load FP on return to berth
Deballast FP alongside berth
Load DB 10 on exit from berth

Voyage # 3-Friday

Load FP on return to berth
Deballast FP before sailing
Load DB 8 on exit from berth

Voyage #4-Monday

Load FP on return to berth
Deballast FP alongside

Voyage # 1-Friday

Begin again

Because all of the ballast water that is loaded on board the vessel originates from an area between the berth and the breakwater in the Port of Long Beach, and all of that water is deballasted alongside the berth, we contend that this practice is at least as effective as a ballast water exchange. We are, hereby, requesting approval for this method of ballast water management pursuant to section 71204(a) 3.

Please let me know if you have any questions regarding any of the above. Otherwise, thank you for your assistance in this matter, and we look forward to working with you in the upcoming months.

Sincerely yours,

Roberto Martinoli, SVP
Technical Operations, Environmental
& Safety

Encl: M/V Ecstasy Water Management Plan

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EXHIBIT B

DE/S ECSTASY

BALLAST MANAGEMENT PLAN

TO MINIMIZE QAUNTITY AND AREA OF BALLASTING/DE-BALLASTING OPERATIONS INSIDE THE CALIFORNIAN WATERS, BALLAST MANAGEMENT PLAN FOR 3&4 DAYS CRUISES IS BASED ON BUNKERING SCHEDULE FOR EVERY TWO WEEKS

1st WEEK – 3 DAY'S CRUISE – BUNKERING DAY

SHIP TO ARRIVE IN PORT OF LONG BEACH WITH APP. 850/900 MT OF IFO , DB 8 DB 10 FULL (loaded in Long Beach during previous cruises) AND 150 T IN FP (Taken after entering Long Beach Breakwater)

DEPARTURE WEIGHTS:

IFO	1400	- BUNKERING 500 MT
FW	3385	- LOADED FULL CAPACITY OF FW
BW	NIL	- DE-BALLASTED DB 8 , DB10 , FP (during loading of Bunker and FW)
GW	415	- DB6 P/S DB11 DB13 DB14 DB 15

Middle draught 7.86

IF NECESSARY ON SAILING FROM ENSENADA KEEP DB 15 (Grey waters) FULL OR LOAD THE SAME ONE ONCE INSIDE THE U.S.E.E.Z. AND DISCHARGE BEFORE ENTERING IN 12 NM RANGE FROM NEAREST LAND
WHEN ENTER LONG BEACH BREAKWATER LOAD 150 T IN FP TANK AND DISCHARGE THE SAME ONE WHEN START TO LOAD FW.

1st WEEK – 4 DAY'S CRUISE

DEPARTURE WEIGHTS:

IFO	1270
FW	3385 – LOADED FULL CAPACITY OF FW
BW	120 – BALLAST IN DB 10
GW	415 - DB6 P/S DB11 DB13 DB14 DB 15

ON SAILING BEFORE PASSING LONG BEACH BREAKWATER LOAD DB 10

Middle draught 7.86

LOAD APROX. 450 T OF FW IN ENSENADA
IF NECESSARY ON SAILING FROM ENSENADA KEEP DB 15 (Grey waters) FULL OR LOAD THE SAME ONE ONCE INSIDE THE U.S.E.E.Z. AND DISCHARGE BEFORE ENTERING IN 12 NM RANGE FROM NEAREST LAND
WHEN ENTER LONG BEACH BREAKWATER LOAD 150 T IN FP TANK AND DISCHARGE THE SAME ONE WHEN START TO LOAD FW.

2nd WEEK – 3 DAYS CRUISE

DEPARTURE WEIGHTS;

IFO	1115
FW	3385 – LOADED FULL CAPACITY OF FW
BW	320 - BALLAST IN DB8 & DB 10
GW	415 - DB6 P/S DB11 DB13 DB14 DB 15

ON SAILING BEFORE PASSING LONG BEACH BREAKWATER LOAD DB 8

Middle draught 7.86

IF NECESSARY ON SAILING FROM ENSENADA KEEP DB 15 (Grey waters) FULL OR LOAD THE SAME ONE ONCE INSIDE THE U.S.E.E.Z. AND DISCHARGE BEFORE ENTERING IN 12 NM RANGE FROM NEAREST LAND
WHEN ENTER LONG BEACH BREAKWATER LOAD 150 T IN FP TANK AND DISCHARGE THE SAME ONE WHEN START TO LOAD FW.

2nd WEEK – 4 DAYS CRUISE

DEPARTURE WEIGHTS,

IFO	985
FW	3385 – LOADED FULL CAPACITY OF FW
BW	320 - BALLAST IN DB8 & DB 10
GW	415 - DB6 P/S DB11 DB13 DB14 DB 15

Middle draught 7.85

LOAD APROX. 450 T OF FW IN ENSENADA
IF NECESSARY ON SAILING FROM ENSENADA KEEP DB 15 (Grey waters) FULL OR LOAD THE SAME ONE ONCE INSIDE THE U.S.E.E.Z. AND DISCHARGE BEFORE ENTERING IN 12 NM RANGE FROM NEAREST LAND
WHEN PASS LONG BEACH BREAKWATER LOAD 150 T IN FP AND DISCHARGE THE SAME ONE ONCE START TO LOAD FW. AND DB 8 , DB 10 WHEN START TO BUNKER IFO

NOTE:

1. *Ballast tanks DB 8 , DB 10 and FP to be loaded or discharged only in Long Beach Port.*
2. *Ballast water tank DB 15 (Gray waters) to be de-ballast before 12 Nmls range*
3. *Bunker consumption based on 130 MT for 3 days, 155 MT for 4 days cruise*
4. *Permanent bunker on board 850/900 MT*
5. *On 4 days cruise load app. 450 T of FW in Ensenada*
6. *As per stability book following water tanks are NOT to be kept partly filled BW 1, BW 21, BW 4, BW 5, BW 6 , BW 7, BW 8, BW 9, BW 10*