

MINUTE ITEM

47
47
0
8/21/84

CALENDAR ITEM

A 7
S 3, 13

47

08/21/84
503.772
Hadly
Horn
Judson
BLA 247

APPROVAL OF PROPOSED
STIPULATION FOR JUDGEMENT

This litigation was begun in 1974 when the owner of the Timber Cove Lodge at Lake Tahoe, HKM Investments, sued the City of South Lake Tahoe to quiet title to the beach between the lodge and the low-water mark of Lake Tahoe. Upon request of the City, the State Lands Commission authorized the Office of the Attorney General to intervene on its behalf to assert its interests in the lake shore to the high-water mark including the requirement that HKM Investments enter into a lease with the Commission for the operation of its marina.

Shortly after the state intervened, the court bifurcated the case into two principal issues: public rights of access to and use of the beach area between the lodge and the lake, and the boundary between state ownership of the bed of the lake including rights and obligations surrounding the use of the marina. Following a trial of the public access issue in 1979, the court ruled that the public has the right to use the beach for recreational purposes.

The second issue relating to sovereign state interests along the shoreline of Lake Tahoe was put in abeyance pending the outcome of Lyon and Fogerty cases which dealt with the issue of the boundary between state and private interests along California's inland waters. Although decisions were reached by the California Supreme Court in those cases in 1981, holding that by application of Civil Code Section 830, the water boundary of private ownership of lots fronting on Lake Tahoe and, conversely, the landward boundary of the state's ownership of the bed thereof is the low-water mark and that a public trust for commerce navigation, fishing, recreation, or the preservation of land in its natural state exists in the bed up

CALENDAR ITEM NO. 47 (CONT'D)

to the high-water mark, no decision was reached as to the location on the land of the low and high water marks of Lake Tahoe. That issue is in the trial court in the Fogerty litigation and probably will not be finally determined for at least another year.

The office of the Attorney General and HKM Investments have agreed that because trial in this litigation of the issue of the location on the ground of the high and low water marks of Lake Tahoe with respect to the subject property would be unduly expensive, unnecessarily time consuming, and duplicative of efforts pending in the Fogerty litigation and because it is not essential to resolve the issue in this particular case, a stipulation for judgment has been reached wherein the boundary between public and private interests, as well as the rights and obligations of the parties with respect thereto, will follow a final determination of those issues in the Fogerty litigation. Additionally, the parties have agreed that because there is no question that the majority of the Timber Cove Marina extends below any low water mark that will ultimately be determined to be the landward limit of state ownership, HKM Investments will lease the Marina from the Commission according to the terms set forth in Calendar Item No. 46 of this Calendar.

OTHER PERTINENT INFORMATION:

1. Pursuant to the Commission's delegation and the State CEQA Guidelines (14 Cal. Adm. Code 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a statutory exempt project. The project is exempt because it involves settlements of title and boundary problems.

Authority: P.R.C. 21080.11.

EXHIBIT: A. Site Map.

IT IS RECOMMENDED THAT THE COMMISSION:

1. FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO 14 CAL. ADM. CODE 15061 AS STATUTORY EXEMPT PROJECT PURSUANT TO PRC 21080.11, SETTLEMENT OF TITLE AND BOUNDARY PROBLEMS, AND FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED FOR THE LAND PURSUANT TO PRC 6370 ET SEQ.

CALENDAR ITEM NO. 47 (CONT'D)

2. APPROVE RESOLUTION OF THE SOVEREIGN TITLE ISSUE BY A STIPULATION OF JUDGMENT SUBSTANTIALLY IN THE FORM OF THE ONE ON FILE WITH THE SACRAMENTO OFFICE OF THE STATE LANDS COMMISSION.
3. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS STIPULATION FOR JUDGMENT.

(REVISED 08/20/84)

-3-

CALENDAR PAGE	302
MINUTE PAGE	1986

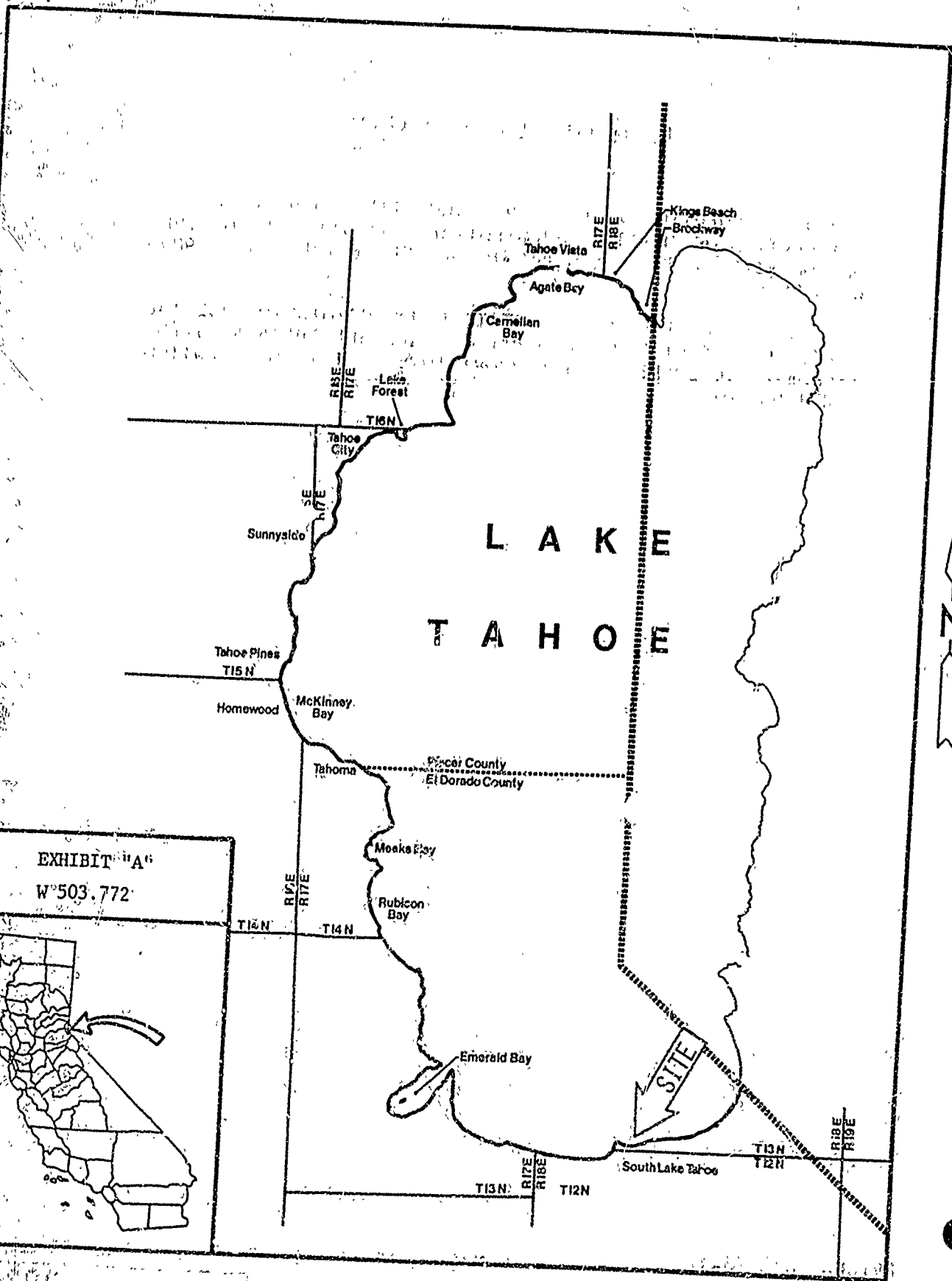


EXHIBIT "A"
W 503,772



CALENDAR ITEM NO. 47 (CONT'D)

2. APPROVE RESOLUTION OF THE SOVEREIGN TITLE ISSUE BY A STIPULATION OF JUDGMENT SUBSTANTIALLY IN THE FORM OF THE ONE ON FILE WITH THE SACRAMENTO OFFICE OF THE STATE LANDS COMMISSION.
3. AUTHORIZE THE STAFF OF THE STATE LANDS COMMISSION AND THE OFFICE OF THE ATTORNEY GENERAL TO TAKE ALL FURTHER STEPS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS STIPULATION FOR JUDGMENT.

(REVISED 08/20/84)

-3-

CALENDAR PAGE	302
MINUTE PAGE	1986