

MINUTE ITEM

43. State Lands  
6/26/85

MINUTE ITEM

43

06/26/85  
W 23529  
Sekelsky, S.  
Hadly

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

During consideration of Calendar Item 43, attached, Mr. Michael Graham, Attorney for Lake Tahoe Cruises, Inc., appeared to ask the Commission to delay action on this item as Mr. Graham is currently negotiating with staff regarding a jurisdictional question. Mr. Graham felt other issues needed to be brought to the Commission's attention before proceeding with litigation.

Chairman Cory clarified that the recommendation before the Commission would not preclude Lake Tahoe Cruises from returning to the Commission if a negotiated settlement cannot be reached.

Upon motion duly made and carried, the Resolution in Item 43 was approved as presented by a vote of 2-0.

Attachment: Calendar Item 43.

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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

Michael E. Graham, Esq.  
Attorney at Law  
Porter, Simon, Graham and Phelps  
P. O. Box 2819  
Truckee, California 95734

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.

CALENDAR ITEM NO. 43 (CONT'D)

**BACKGROUND:**

Mr. Theimar 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. Theimar most recently acquired the Tahoe Queen, a 200 ton stern 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. Theimar'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. Theimar. These attempts have included written and verbal communications as well as verbal negotiating sessions with Mr. Theimar and his attorney. Mr. Theimar presently refuses to come under lease.

FB 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.