

DEPARTMENT: County Counsel BY: Jeffrey G. Green PHONE: 966-3222

RECOMMENDED ACTION AND JUSTIFICATION: (Policy Item: Yes ___ No X)

Pass and adopt this Resolution authorizing the Chairman to sign an order of the Board to reject Claim No. C95-11 for \$180,000 plus interest. Claimant is requesting a refund of taxes for the 1990/91 fiscal year despite the fact that the Assessment Appeals Board upheld the Assessor's value in June 1993. Based on this information, Counsel does not believe that a refund is warranted and, therefore, the County does not have any liability in this matter.

BACKGROUND AND HISTORY OF BOARD ACTIONS:

The Board usually follows Counsel's recommendation in matters of this nature.

LIST ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:

Claim would automatically be denied if no action is taken.

COSTS: (X) Not Applicable	
A. Budgeted current FY	\$ _____
B. Total anticipated costs	\$ _____
C. Required additional funding	\$ _____
D. Internal transfers	\$ _____
SOURCE: () 4/5ths Vote Required	
A. Unanticipated revenues	\$ _____
B. Reserve for contingencies	\$ _____
C. Source description: _____	
Balance in Reserve for Contingencies, if approved: \$ _____	

SPECIAL INSTRUCTIONS:
List the attachments and number the pages consecutively:

Claim No. C95-11.
Notice of Rejection
.

CLERK'S USE ONLY: **NOT VOTING: RALLY**

Res. No.: 95-506 Ord. No. _____
 Vote - Ayes: 3 Noes: _____
 Absent: Stewart Abstained: _____
 Approved _____ () Denied _____
 () Minute Order Attached () No Action Necessary

ADMINISTRATIVE OFFICER'S RECOMMENDATION:
This item on agenda as:
 Recommended
 Not Recommended
 For Policy Determination
 Submitted with Comment
 Returned for Further Action

The foregoing instrument is a correct copy of the original on file in this office.
 Date: _____
 ATTEST: MARGIE WILLIAMS, Clerk of the Board
 County of Mariposa, State of California
 By: _____
 Deputy

Comment: _____

 A.O. Initials: W

1 JEFFREY G. GREEN
2 County Counsel
3 P. O. Box 189
4 5100 Bullion St.
5 Mariposa, CA 95338

6 BEFORE THE BOARD OF SUPERVISORS

7 OF

8 MARIPOSA COUNTY, STATE OF CALIFORNIA

9 In the Matter of:)
10 CLAIM FOR DAMAGES PURSUANT)
11 TO GOVERNMENT CODE § 911.6)
12 Claim No. C95-11)

13 Yosemite Concession Services Corporation
14 c/o Richard J. Ayoob, Esq.
15 AJALAT, POLLEY & AYOOB
16 643 South Olive Street, Suite 200
17 Los Angeles, CA 90014-1685

18 having filed with this Board on July 21, 1995 a claim for damages in the amount of
19 \$ 180,000 ;
20 plus interest

21 **NOW, THEREFORE,** it is ordered by the Board of Supervisors that the claim is
22 hereby **REJECTED**.

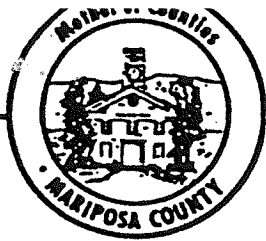
23 The foregoing order was passed by the following vote of the Board:

- 24 AYES: BALMAIN, PARKER, TABER
25 NOES: NONE
26 ABSENT: STEWART
27 ABSTAINED: NONE
28 NOT VOTING: REILLY

Dated this 28th day of November, 1995.

29 Garry R. Parker
30 GARRY R. PARKER, Chairman
31 Board of Supervisors

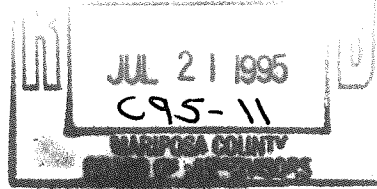
32 ATTEST:
33 Margie Williams
34 MARGIE WILLIAMS, Clerk of the Board



County of Mariposa

Office of Treasurer-Tax Collector

Telephone:
Treasurer-Tax Collector (209) 966-2621
Data Processing (209) 742-6022



Don Z. Phillips
Treasurer-Tax Collector
Hall of Records
P. O. Box 36
Mariposa, CA 95338

REFUND CLAIM

(Applicant must fill in the necessary information.)

Name of applicant: Yosemite Concession Services Corporation (successor in interest to Yosemite Park & Curry Co.)

Address of applicant*: c/o Mr. Michael Welch, P.O. Box 578, Yosemite, CA 95389

Assessor's Parcel Number: 27-000230-00 (see attached tax bill, Exhibit B)

Tax payment was made on: October 30, 1992, ~~date(s)~~ and April 1, 1993

In accordance with the provisions of Chapter 5, Article 1, of the California Revenue and Taxation Code

(commencing with Section 5096), I am/we are filing this claim with the Mariposa County

Board of Supervisors and ask that a refund of taxes for fiscal year(s) 1990-91 in the

amount of \$ 180,000.00 ** be made in accordance with this application.

**plus interest

I/we claim that the whole assessment/part of the assessment for the year(s) as shown above is/are void for the following reasons:

The taxpayer specifically incorporates by reference all grounds heretofore raised and the evidence submitted in Application Nos. 92-4, SB813-62 and SB813-63, heard before the County of Mariposa Assessment Appeals Board on May 3, 1993, including but not limited to the fact that the assessment (1) under the income approach does not reflect appropriate deductions for expenses incurred by the government landlord or for a reasonable profit to the operator, (2) includes the value of improvements beyond the reasonably anticipated term of the possessory interest, and (3) is unconstitutional under the Supremacy Clause of the United States Constitution and Articles XIII and XIII A of the California Constitution. See attached Exhibit A.

I certify, or declare, under penalty of perjury, that the foregoing is true and correct.

June 6, 1995

Yosemite Concession Services Corporation
By: Michael Welch

Please return to the address above.

*Please send copies of all correspondence to:

Richard J. Ayoob, Esq.
Ajalat, Polley & Ayoob
643 South Olive Street, Suite 200
Los Angeles, CA 90014-1685

The assessment was not made in accordance with provisions of federal and state constitutional, statutory, administrative and case law, including but not limited to Articles XIII and XIII A of the California Constitution and its implementing statutes and regulations. Assessments were not made within the appropriate statutes of limitation. Some of the statutory provisions and administrative rules applied with respect to this assessment are unconstitutional, under the federal and state constitutions. Further, some of the state constitutional provisions are unconstitutional under the federal constitution.

The assessment does not reflect the correct base year, base-year value, nor full cash value of the property. The assessment does not reflect either the lower of a proper base-year value or fair market value. There was no event allowing upward revaluation under Article XIII A since the appropriate base year. The assessment was based on mistaken facts, including but not limited to the date of valuation and the status of completion of the property.

The assessment was based upon an invalid method of valuation. The assessment is not justified by any method of valuation.

To the extent that a valid method of valuation was used, the assessment was based upon an invalid application of that method. The assessment was improperly calculated as to certain elements of value under each method of valuation (including but not limited to the purchase price, and comparable sales, the cash equivalent of the purchase price, the net income to be capitalized, the capitalization rate, the proper costs and the proper adjustments to costs) and includes non-taxable values and non-taxable property. Legal and factual mistakes were made as to the addition of costs to taxpayer's acquisition costs; the inclusion of double-taxed property; the inclusion of property not owned and/or possessed by taxpayer; the use, nature, age, obsolescence, etc. of the property; property assumed to be existing which was not existing; classification of property; the effect of enforceable restrictions; exemption of property; the inclusion of non-typical costs; and the adjustment of actual costs for economic and functional obsolescence.

Each of the grounds for protesting the taxes herein are separate. No ground nor claim of exemption or immunity nor any protest herein is to be deemed as a waiver of any other ground for protesting the taxes herein. Supplementary or clarifying information will be supplied at the request of the taxing authority. Applicant reserves the right to supplement, clarify or delete the above grounds.

EXHIBIT A

UNSECURED TAX BILL

FOR THE FISCAL YEAR THROUGH **JULY 1, 1990 TO JUNE 30, 1991** MARIPOSA COUNTY

TAX RATE AREA 51-004	ACCOUNT NUMBER 27-000230-00	TAX BILL NO. 9001597	TAX RATE 1.0000	GROSS TAXES 300,630.51	NOTE	ACCOUNT NUMBER 27-000230-009001597
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ASSESSMENT INFORMATION

FOR THE YEAR 1989-90

20,059,556

8,704,822

30,063,091

30,063,091

PROPERTY LOCATED IN **CONCESSIONS**

LOCALLY ASSESSED VALUES ARE DETERMINED BY THE ASSESSOR IN ACCORDANCE WITH STATE LAW

YOSEMITE PARK & CURRY CO.

YOSEMITE PARK & CURRY CO.
C/O MIKE WELCH
YOSEMITE PARK & CURRY CO.
YOSEMITE NATL PK. CA 95389

PROPERTY HAS BEEN SOLD PLEASE FORWARD TO NEW OWNER

MAKE CHECKS PAYABLE TO:

DON Z. PHILLIPS
MARIPOSA COUNTY
TAX COLLECTOR
CO. HALL OF RECORDS
P. O. BOX 35
MARIPOSA, CA 95338
(209) 966-2621

DUE DATE SEP. 30, 1990

GROSS TAX DUE 300,630.51

EXEMPT .00

TAX DUE 300,630.51

OLP
9/2/90

Before calling the Tax Collector, please read the important information on the reverse side of this bill.

Please write the ACCOUNT NUMBER on your check, enclose the PAYMENT STUB, and mail them PRIOR to the delinquent date shown.

YOUR CANCELLED CHECK IS YOUR BEST RECEIPT. HOWEVER, IF YOU REQUIRE AN ADDITIONAL RECEIPT PLEASE RETURN THIS ENTIRE BILL FOR VALIDATION.

UNSECURED TAX PAYMENT STUB

YOSEMITE PARK & CURR

51-004

PAY THIS AMOUNT 300630.51

BY SEP. 30, 1990

LEGAL ACTION
NO LATE PENALTY SEP. 30, 1990

NO LATE PENALTY NOV. 30, 1990

RETURN THIS STUB WITH YOUR PAYMENT

UNSECURED TAX BILL

FOR THE FISCAL YEAR THROUGH JULY 1, 1990 TO JUNE 30, 1991 MARIPOSA COUNTY

TAX RATE AREA	51-004	ACCOUNT NUMBER	27-000230-00	TAX BILL NO.	9001597																				
ASSESSMENT INFORMATION	<table border="1"> <tr> <td>LAND</td> <td>FULL VALUE</td> <td>TAX RATE</td> <td>GROSS TAXES</td> </tr> <tr> <td>IMPROVEMENTS</td> <td>20,069,936</td> <td>.0100</td> <td>316,166.78</td> </tr> <tr> <td>PERSONAL PROPERTY</td> <td>10,258,449</td> <td></td> <td></td> </tr> <tr> <td>MISCELLANEOUS EXEMPTION</td> <td></td> <td></td> <td></td> </tr> <tr> <td>NET TAXABLE VALUE</td> <td>31,616,678</td> <td></td> <td></td> </tr> </table>					LAND	FULL VALUE	TAX RATE	GROSS TAXES	IMPROVEMENTS	20,069,936	.0100	316,166.78	PERSONAL PROPERTY	10,258,449			MISCELLANEOUS EXEMPTION				NET TAXABLE VALUE	31,616,678		
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PROPERTY LOCATION
YOSEMITE PARK & CURRY CO. CONCESSIONS

LOCALLY ASSESSED VALUES ARE DETERMINED BY THE ASSESSOR IN ACCORDANCE WITH STATE LAW.
 ASSESSED OWNER MARCH 1

YOSEMITE PARK & CURRY CO.
 C/O MIKE WELCH
 YOSEMITE PARK & CURRY CO.
 YOSEMITE NATL PK, CA 95389

**IF PROPERTY HAS BEEN SOLD PLEASE FORWARD TO NEW OWNER
 MAKE CHECKS PAYABLE TO:**

DON Z. PHILLIPS
 MARIPOSA COUNTY
 TAX COLLECTOR
 CO. HALL OF RECORDS
 P.O. BOX 36
 MARIPOSA, CA 95338
 TEL 527-5271

DUE DATE

GROSS TAX DUE 15,936.27
 EXEMPT TAX DUE 15,936.27

OK
10/29/90

Before calling the Tax Collector, please read the important information on the reverse side of this bill.

Please write the ACCOUNT NUMBER on your check, enclose the PAYMENT STUB, and mail them PRIOR to the delinquent date shown.

YOUR CANCELLED CHECK IS YOUR BEST RECEIPT. HOWEVER, IF YOU REQUIRE AN ADDITIONAL RECEIPT PLEASE RETURN THIS ENTIRE BILL FOR VALIDATION

UNSECURED TAX PAYMENT STUB

YOSEMITE PARK & CURRY TAX RATE AREA

51-004 COR # 90

PAY THIS AMOUNT BY NOV. 30, 1990

IF UNPAID SUBJECT TO LEGAL ACTION AND 10% PENALTY AFTER NOV. 30, 1990

1% PENALTY ADDED ON THE 1ST OF EACH MONTH AFTER JAN. 31, 1991

TOTAL

RETURN THIS STUB WITH YOUR PAYMENT

SUPPLEMENTAL PROPERTY TAX STATEMENT

FOR THE FISCAL YEAR THROUGH JUNE 30, 1991

TAX NUMBER	TAX RATE AREA	PARCEL NUMBER	TAX BILL NO	TAX RATE	GROSS TAXES
1	51-004	27-000230-00-01	0992086	1.000	180,451.56
ASSESSMENT INFO		PRIOR VALUE	NEW VALUE	SUPPLEMENTAL	
LAND		1,288,673	25,920,000	24,631,327	
IMPROVEMENTS		18,781,014	30,240,000	11,458,986	
PERSONAL PROPERTY					
MISCELLANEOUS					
EXEMPTION					
SPONS ASMT BEFORE					
NONOWNER & EXEMPT					
STATE FINANCED					
NONOWNER EXEMPTION					
NET TAXABLE VALUE		20,069,687	56,160,000	36,090,313	

PARCEL NUMBER			PARCEL NUMBER		
27-000230-00-01			27-000230-00-01		
2ND INSTALLMENT			1ST INSTALLMENT		
IMPORTANT INFORMATION ON THE REVERSE SIDE			IMPORTANT INFORMATION ON THE REVERSE SIDE		
ASSESSED OWNER NAME AS OF MARCH 1			ASSESSED OWNER NAME AS OF MARCH 1		
YOSEMITE PARK & CURRY CO.			YOSEMITE PARK & CURRY CO.		
CORTAC	TAX DEFAULTED	TAX RATE AREA	CORTAC	TAX DEFAULTED	TAX RATE AREA
TOTAL BOTH INSTALLMENTS		TAX BILL NO	TOTAL BOTH INSTALLMENTS		TAX BILL NO
180,451.56		0992086	180,451.56		0992086
SECOND INSTALLMENT			FIRST INSTALLMENT		
DUE 2-1-93		DEL 4-10-93	DUE 11-1-92		DEL 12-10-92
TAX DUE		90,225.78	TAX DUE		90,225.78
ADD 10% PENALTY AND \$10.00 COST AFTER 4-10-93			ADD 10% PENALTY AFTER 12-10-92		
TOTAL		90,225.78	TOTAL		90,225.78
BE SURE TO REPORT ANY ADDRESS CHANGE			BE SURE TO REPORT ANY ADDRESS CHANGE		
SUPPLEMENTAL TAX			SUPPLEMENTAL TAX		
RETURN THIS STUB WITH YOUR PAYMENT			RETURN THIS STUB WITH YOUR PAYMENT		
YOUR CANCELLED CHECK IS YOUR BEST RECEIPT. HOWEVER, IF YOU REQUIRE AN ADDITIONAL RECEIPT PLEASE RETURN THIS ENTIRE BILL FOR VALIDATION.			YOUR CANCELLED CHECK IS YOUR BEST RECEIPT. HOWEVER, IF YOU REQUIRE AN ADDITIONAL RECEIPT PLEASE RETURN THIS ENTIRE BILL FOR VALIDATION.		

PROPERTY LOCATION
POSS. INT. MRS CONCESSIONS

BEFORE CALLING THE TAX COLLECTOR PLEASE READ THE BACK SIDE OF THIS BILL

SUPPLEMENTAL ASSESSMENT FOR

IT IS IMPORTANT THAT YOU READ THIS ENTIRE STATEMENT BEFORE PAYING THE TAX.

YOSEMITE PARK & CURRY CO.
 C/O MIKE WELCH
 YOSEMITE PARK & CURRY CO.
 YOSEMITE NATL PK, CA 95389

MAKE CHECKS PAYABLE TO:

DON Z. PHILLIPS, TAX COLLECTOR
 P.O. BOX 36
 MARIPOSA, CA 95338
 (209) 966-2621

2 SECOND INSTALLMENT
 ADD 10% PENALTY AND \$10.00 COST AFTER 90,225.78

DATE OF CHANGE IN OWNERSHIP OR NEW CONSTRUCTION OCCURRED
 12-28-90 ✓

DATE OF ASSESSOR'S NOTICE
 07-21-92

GROSS SUPPLEMENTAL TAX 180,451.56

LESS STATE FINANCED NONOWNER REDUCTION

NET TAX DUE 180,451.56

1 FIRST INSTALLMENT
 ADD 10% PENALTY AFTER 90,225.78

Yosemite Concession Services Corporation
TO: c/o Richard J. Ayoob, Esq.
AJALAT, POLLEY & AYOOB
643 South Olive Street, Suite 200
Los Angeles, CA 90014-1685

RE: CLAIM FOR DAMAGES AMOUNT OF CLAIM \$ 180,000
NOTICE OF REJECTION Claim No. C95-11 plus interest

NOTICE IS HEREBY GIVEN that the claim which you presented to the Board of Supervisors of Mariposa County on July 21, 1995 was rejected by action of the Board on Noember 28, 1995.

WARNING

"Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim." (See Government Code Section 945.6)

"NOTE: This six-month filing period applies only to State Court actions. If your action is based on federal law and/or you intend to file it in Federal Court, a shorter or longer period within which to file the action may apply."

"You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately."

JEFFREY G. GREEN
Mariposa County Counsel

PROOF OF SERVICE BY MAIL (1013a, 2015.5 C.C.P.)


STATE OF CALIFORNIA, COUNTY OF MARIPOSA:

I am a citizen of the United States and a resident of the County aforesaid. I am over the age of eighteen years and not a party to the within entitled action; my business address is 5100 Bullion Street (P. O. Box 189), Mariposa, CA 95338. On December 5, 1995 I served the within Notice of Rejection of Claim No. C95-11 on the claimant in said action by placing a true copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing a copy into an inter-office delivery receptacle located in Counsel's office:

Yosemite Concession Services Corporation
c/o Richard J. Ayoob, Esq.
AJALAT, POLLEY & AYOOB
643 South Olive Street, Suite 200
Los Angeles, CA 90014-1685

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on December 5, 1995 at Mariposa, California.


Sandra V. Adams