

17. DETERMINATIONS RELATING TO A LEASE OF GRANTED TIDE AND SUBMERGED LANDS BETWEEN CITY OF LONG BEACH (GRANTED) AND M.J. BROCK AND SONS, INC. - W 20490.

During consideration of Calendar Item 15 attached, Mr. Lester Denevan, a resident of the City of Long Beach and a city planner by profession, appeared to protest the action being recommended by staff to the Commission. He made several claims in support of his objection; i.e., that legal requirements were ignored; that the Parking Commission and the Recreation Commission had not endorsed the plan; that the Citizens Advisory Group dealing with environmental problems in Long Beach had not been given time to take an official position; that the County Planning Agency was not consulted.

Deputy Attorney General Warren J. Abbott pointed out that the matter before the Commission was that it had to make a decision as to whether or not to give its approval in the best interests of the State. However, the Commission had no power to rescind the lease, nor to undo the general plan of Long Beach; that any possible remedy would be in the Courts, and not with the Commission.

Mr. Denevan then contended that there would be significant negative effects from the impact of the proposed project; that the development would block the view of the ocean from the proposed new scenic highway.

Mr. Abbott stated that this particular development is authorized under the tideland grant; the Executive Officer pointed out that the development will become subject to regional coastal zoning review.

Upon motion duly made and carried, the following resolution was adopted:

THE COMMISSION MAKES THE FOLLOWING DETERMINATIONS REQUIRED BY SECTION 6702 OF THE PUBLIC RESOURCES CODE, AS APPLYING TO THAT CERTAIN LEASE OF GRANTED TIDE AND SUBMERGED LANDS DATED NOVEMBER 7, 1972, BETWEEN THE CITY OF LONG BEACH AND M.J. BROCK & SONS, INC., SAID LEASE BEING ON FILE WITH THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF:

1. THAT SAID LEASE IS IN ACCORDANCE WITH THE TERMS OF THE GRANTS UNDER WHICH TITLE TO THE LANDS IN QUESTION ARE HELD BY THE CITY OF LONG BEACH;
2. THAT PURSUANT TO SECTION 260.2 OF THE CITY CHARTER, THE PROCEEDS OF SAID LEASE SHALL BE DEPOSITED IN THE TIDELAND OPERATING FUND AND EXPENDABLE ONLY FOR MAINTAINING, OPERATING AND DEVELOPING THE TIDELANDS, A STATEWIDE BENEFIT;
3. THAT SAID LEASE IS IN THE BEST INTERESTS OF THE STATE.

Attachment:

Calendar Item 15 (4 pages)

CALENDAR ITEM

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15.

W 20490

DETERMINATIONS RELATING TO A LEASE OF GRANTED TIDE
AND SUBMERGED LANDS BETWEEN CITY OF LONG BEACH (GRANTED)
AND M. J. BROCK AND SONS, INC.

The City of Long Beach has requested the Commission to make the determinations set forth in Section 6702(b) of the Public Resources Code with respect to the lease described hereinafter. The required determinations relate to (1) conformance with terms of the granting statutes, (2) proceeds of the lease shall be expended for Statewide purposes authorized by such statutes and (3) the lease is in the best interests of the State.

DESCRIPTION OF LEASE

LESSOR: City of Long Beach.

LESSEE: M. J. Brock and Sons, Inc., a Pennsylvania Corporation, (Certificate of Qualification to transact business in California dated September 23, 1969).

LOCATION: One parcel of filled tide and submerged land totalling 17.8 acres in the Pacific Terrace area of Long Beach.

LAND USE: A 300-room hotel-restaurant complex and five other separate restaurants on the filled land. There will be no development on the shoreline or the adjacent water.

Estimated cost: \$9,000,000.

Construction is to commence within 180 days from commencement of the term of the lease. The hotel and four of the restaurants are to be completed within one year of the start of construction. The fifth restaurant is to be completed within three years from the commencement of the term of the lease.

TERMS: Duration: 60 years commencing on the date the State Lands Commission makes an affirmative finding.

Rental: A minimum of \$16,000 per annum during period of construction up to a minimum of \$160,000 per annum after certain facilities are in operation, supplemented by 2½ percent to 20 percent of the gross receipts from the various services.

Estimated Percentage

Rental: \$325,000 per annum.

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Public Liability

Insurance: \$1,000,000 combined single limit for personal injury and property damage; \$4,000,000 combined personal injury and property damage for each occurrence.

Surety Bond: A bond of \$150,000 to insure development in accordance with approved plan plus a performance bond in the amount of 50 percent of estimated cost of construction.

ENVIRONMENTAL IMPACT OF THE LEASE

The City submitted an environmental impact report to the Division, and it was circulated to affected governmental agencies. The Air Resources Board noted the project's contribution to air pollution of 1,000 vehicles per day. Developments along the shoreline and in the nearby downtown area which include the subject project as well as the Queensway complex, convention center, and institutional and commercial buildings are expected to increase vehicular traffic in the vicinity and its attendant air pollution. However, this increase in traffic cannot be avoided if the unique features of the shoreline are to be fully utilized by the public. It appears that greater reliance must be placed on the development of emission control devices to lessen the impact of vehicular pollution rather than the alternative of restricting the public use of the attractions of the area by denying developments leading to full and efficient use of the shoreline features.

The Department of Conservation noted the history of subsidence in the area and the proximity of active seismic faults. The terms of the lease require construction plans and specifications to be approved by the City prior to construction and they must be in accordance with all building code regulations and applicable local and State laws. This will insure that the construction will incorporate those design features necessary to accommodate anticipated movements from seismic shaking or subsidence at the site.

The lease is in conformance with the General Coastal Plan, as amended on August 24, 1972, by the City Planning Commission and by the City Council on September 26, 1972, after open hearings. Some objection has been voiced to the amended plan since formerly the subject area was designated for public open space and an extension of the public beach that extends for about five miles to the east of the site. Buildings contemplated by the lease will interfere with views of the waterfront from Shoreline Drive, another aspect of the former plan.

Beach use of the site is discouraged by the rock embankment along the shoreline which is required in this area because of the influence of storm flows from the Los Angeles River Flood Control Channel. The flood control channel also has a detrimental effect on fishing and swimming at this location because of siltation. While more open space would be desirable near to the downtown area of Long Beach, the low profile and proposed landscaping of the project minimize its impact. Public access to the water is to be provided by pedestrian and bicycle paths along the shoreline seaward of the leased area.

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CONFORMANCE WITH TERMS OF THE GRANTS

Legislative acts affecting the leased land are:

<u>Chapter</u>	<u>Year</u>
676	1911
102	1925
158	1935
29	1956, First Extra Session
138	1964, First Extra Session

The Division has found the lease to be in accordance with the terms of the above-listed statutes, including the proposed use for promotion and accommodation of commerce, navigation and fisheries. Provision is made for public access to the adjacent shoreline and there will be no restrictions on use of the adjacent water or submerged land resulting from this lease.

DISPOSITION OF PROCEEDS

The granting statutes do not prescribe any use of funds generated by this lease, although such funds may only be used for authorized trust purposes. However, under Section 260.2 of the Long Beach City Charter the proceeds must be deposited in the "Tideland Operating Fund." Money deposited with the fund may be expended only for purposes provided for in the legislative grants.

The money deposited in the fund may be invested. The disposition of funds from this lease into the Tideland Operating Fund complies with the granting statutes and Section 6702.

DOES THE LEASE SERVE THE BEST INTEREST OF THE STATE?

Tideland Operating Fund

If this project is successful, the annual rental to the grantee will be a minimum of \$160,000, with a possible estimated percentage-rental of \$325,000, which through the Tideland Operating Fund will be available for trust purposes.

Economic Feasibility

This project is a part of the City's plan for the development of the shoreline fronting the business and shopping center of the City. The hotel and restaurants will be adjacent to the Pacific Terrance Convention Center and Pacific Aquatic Park. The proposed facilities will be in competition with the facilities of the Queen Mary and the Queensway complex nearby. It is estimated, however, that sufficient business will be generated in the vicinity to support these additional facilities. The City's investment is \$1,300,000 for the land fill. Since the lease provides for clearing of the

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site in the event of termination, there is little risk of liability accruing to the granted land and to the State.

Consideration

Capitalization of the minimum annual rental indicates a land value of \$2,300,000, increasing to \$4,643,000 if the project succeeds as estimated.

The rental is considered adequate in light of the fact that the lease is the result of nationwide advertising.

Statewide Public Benefit

The estimated benefits accruing from the lease to the general public are:

1. The income will be expended to benefit the tidelands as authorized by the granting statutes.
2. The hotel and restaurants will serve the general public by providing services for users of commercial, navigational and recreational facilities in the area without discrimination.

EXHIBITS: A. Location Map.
 B. Site Drawings.
 C. Lease.

IT IS RECOMMENDED THAT THE COMMISSION MAKE THE FOLLOWING DETERMINATIONS REQUIRED BY SECTION 6702 OF THE PUBLIC RESOURCES CODE, AS APPLYING TO THAT CERTAIN LEASE OF GRANTED TIDE AND SUBMERGED LANDS DATED NOVEMBER 7, 1972, BETWEEN THE CITY OF LONG BEACH AND M. J. BROCK & SONS, INC., SAID LEASE BEING ON FILE WITH THE STATE LANDS COMMISSION AND BY REFERENCE MADE A PART HEREOF:

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