

MINUTE ITEM

12/4/72
ASM(WJA)

27. SETTLEMENT OF PENDING LITIGATION, QUEEN MARY PROJECT, CITY OF LONG BEACH AND DQM CORPORATION. W 10248.

The attached Calendar Item was presented to the Commission for information only, no action thereon being necessary.

Attachment:

Calendar Item (2 pages)

INFORMATIVE CALENDAR ITEM

11/72
ASM(WJA)

SETTLEMENT OF PENDING LITIGATION, QUEEN MARY PROJECT,
CITY OF LONG BEACH AND DQM CORPORATION

The City of Long Beach has advised the Commission that it is considering settling pending litigation between the City and the City's former Queen Mary master lessee, DQM Corporation and others. In 1970, DQM, purporting to act under the lease, gave notice of termination. This was followed by an action brought by the City of Long Beach against DQM and its corporate affiliates for damages in excess of \$139 Million for breach of contract and other causes of action, one of which is loss of profits resulting from loss of a master lessee. In turn, DQM sued the City seeking damages in excess of \$43.5 Million for breach of the master lease. Both parties have engaged in extensive discovery at great expense. The City's expense has been and would continue to be a tideland trust charge. Any recovery by the City would be a trust asset, and the City would undoubtedly assert that any recovery by DQM would be a charge against the trust.

The proposed settlement of the suit would be as follows: DQM would give the City title to all improvements installed by DQM on the Queen Mary; all parties will execute mutual releases; and all pending litigation between the parties would be dismissed with prejudice.

The City has indicated that the City's auditors have ascertained that DQM has charged in excess of \$6.7 Million to its corporate accounts for work done by it on the Queen Mary project. The City Auditor's report for Fiscal Year 1969-70 also indicates DQM Contingencies and Payables Due to the City of Long Beach of approximately \$1.75 Million and of the \$6.7 Million charged to DQM's corporate accounts, accounts payable as of June 30, 1970, of \$1.4 Million. (The two figures are partially overlapping.) Any claims by the City in these amounts would be waived. Since the initiation of the lawsuits, the City has obtained a new master lessee, although on terms less favorable to the City than under the DQM lease.

The Office of the Attorney General advises that under existing statutes the only function of the Commission in the proposed settlement is one of overall review. The determination of whether to accept the settlement is within the discretion of the City as trustee. Only if the settlement constituted an abuse of discretion would the Commission be empowered to act. Based on this advice, the Division has given the proposed settlement a general review. Consultation with the City has indicated that the City, while waiving its claims against DQM concerning construction work on the Queen Mary, will be protected against any third party claims for that same work. Based on the limited review by the Division and on the representations of the City, it does not appear at this time that the proposed settlement would constitute any abuse of discretion by the City.

INFORMATIVE CALENDAR ITEM

The Office of the Attorney General has also advised, and informed the City, that the presentation of this matter to the Commission does not constitute a waiver by the State of any claims the State may have against the City concerning the Queen Mary project. In the continuing investigation of that project, one of the areas of review is possible expenditures of tideland trust funds primarily or solely for the benefit of the commercial areas of the ship. Some of the very expenditures made by the City for which it is waiving its claims against DQM by the settlement may be subject to claims by the State against the City. The State is not waiving any such claims.