Initial Report and Analysis
Of Port Operations and City Involvement
Contrasting
Los Angeles and Long Beach Models
On Behalf of The Port Project
In Conjunction With
The Long Beach Community Studies Project
Honor Student Researchers
And
Report Preparation By:
Andrea D'Angelo-Risner & Sean McAllister

Presented on May 13, 2008
Please insert Power Point file hist-1.ppt from e-mail attachment

“A Brief History of the City of Long Beach and the Port of Long Beach”

<Hyperlinks to images and source materials appurtenant to this portion of the report>

http://www.polb.com/about/history/default.asp History of the Port of Long Beach

http://www.ussheleena.org/longbeach51.html Naval ship port of LB 1950’s

http://employees.cfnm.com/adamb/writings/lbeach.htm history of LB

PRIOR TO 1933 MOSTLY TOURISM & COMMERCE drove the city’s growth (before the quake on March 10, 1933)

Particularly from the period of incorporation in 1888 to the turn of the century, Long Beach functioned as a small (population 2252 and 3.1 square miles in area) resort town with a reputation as a prohibitionist, camp-meeting town, dotted with modest hotels and rental tents for vacationers. Result: sleepy “burg” “Iowa by the Sea”

Beginning of the connection between LB & LA:

However, the simultaneous openings of the Red Car line, connecting Long Beach to Los Angeles, and The Plunge, a bath house that marked the beginning of The Pike as a tourist center, by Charles Rivers Drake in 1902 effectively ended the separation of Long Beach from Los Angeles, leading to a more complete economic integration of the region.

The dating stage of the arranged marriage leading to the issue (offspring): ports of LB & LA in 1903

By 1903, the City of San Pedro had received a $300,000 grant to dredge the Los Angeles River channel separating the two sides of the harbor, while the Long Beach Land and Navigation Company began development of the 800 acres of marshland between the resort area and the channel.

POLB annexed Terminal Island in 1907—the military/commercial union begins.

LA annexes Wilmington & San Pedro, one long strip of land connecting the city proper w/the annexed cities—“ed both to the full development of the twin ports as economic centers and to political conflict between the two cities regarding territory rights, particularly offshore land rights, usage of the Cerritos Channel, and appropriation of land in the mid-cities (ranging from
South-Central Los Angeles to North Long Beach) area. This difficulty was partly allayed by the granting of title of state tidelands to both Los Angeles and Long Beach by the state legislature.” (Bernhart).

Economic tensions between LB & LA (competition for available cargo ships) somewhat relaxed due to 500% increase in cargo transported through the ports resultant of the Panama Canal’s impact on shipping re-routes to the Western US from 1921-1923.

An independent creation of a Naval Landing by the city transformed LB from a sleepy burg to one of America’s major seaports and a thriving civic entity.

Due to the beginnings of The Great Depression; federal financial fiscal contributions to expansion endeavors in combination with weakening the now secondary revenue stream of tourism, decreased disposable incomes of the local consumers as well as the shrinking tax base led to stunted growth in LB—even though LB was not hit as hard as much of the country.

March 10, 1933 at a 6.3 earthquake shook up the infrastructure, economy, and citizenry in Long Beach—“the amount of construction needed to rebuild the economy limited the social tension of unemployment and provided a stability to Long Beach that did not exist in other areas” (Bernhart).

The 1933 Long Beach quake led to the discovery of the Wilmington Oil Field beneath the port: A seismic survey in 1936 could be construed as the aftershock that stocked our pockets.

For thirty years (1938-1968) Long Beach’s sweet lease agreement with private contractors (they received 15% of the revenues generated from oil extraction) led to unprecedented wealth, development and expansion in the city.

Oil and water mixed: subsidence subsided when underground became flush with water to cover the land elevation’s decline due to oil losses.

Leading up to World War II, commercial and military influxes to the city’s port changed Long Beach’s culture and population demographics: 50,000 military and their dependents moved into the area—doubling to 100,000 after the war’s onset. The Naval Shipyard at LA/LB ports employed 100,000 workers in shipbuilding and repairs. The war’s end didn’t stop the aerospace industry’s influence and contribution to the city’s high employment and strong economic growth. Douglas Aircraft—especially after the historic 1967 merger formed McDonnell-Douglas, Boeing’s predecessor—became the fair-haired rival for Long Beach’s economic affections.

The geographic size of Long Beach boomed commensurate with the population from 1940 – 1950, up from approximately 3.3 square miles to over 55 sq. mi. and from 164,271 to 250,767. Housing demand outpaced supply, advancing Long Beach’s enviable position as having no shortage of jobs for professionals as well as laborers.

Simultaneously, the city’s port went through a “change of life”—transitioning from her shipbuilding and maintenance era to a burgeoning containerized cargo transportation concern—a
change resonating in the city to this day—due to the exponential expansion seen in the cargo industry from 1950 levels to the 1970’s big bang (20 times the 1950 capacity during that decade alone).

Immigration gilded the previously *lily white* populace, much to the chagrin of the thriving KKK (as previously discussed in class, March, 2008). What was formerly class division between the majority middle and working classes and the affluent professional class in a predominantly Caucasian city morphed into racial discord during the 1970’s and 1980’s African American and Latino/Hispanic influx from the mid-cities region of LA.

1989’s end of the cold war sent shivers through the Long Beach economy in the 1990’s; aerospace (defense) spending declines sent home prices into a downward spiral, trapping homeowners in “upside-down” mortgages, leading Long Beach and the country into recession.

The future of the port was uncertain with the Naval Shipyard closure, as well as the demolition of The Pike (the one-time family amusement diversion and Mecca of tattoo artistry) led to Long Beach’s waterfront identity crisis.

The Downtown revitalization plan, the construction of The Alameda Corridor, the Carnival Cruise Lines terminal at the former home of Howard Hughes’ *Spruce Goose*, and, not inconsequentially, the expansion of the Port of Long Beach into the former site of the Naval Shipyard has led to Long Beach’s position as superior to LA’s port in terms of annual tonnage, but inferior to Los Angeles in the cooperative relationship, city role in port operations oversight, and revenues generated on the behalf of the City of Los Angeles surpassing those enjoyed by the City of Long Beach from our port.

“A Summary of The Public Trust Doctrine”

The public trust doctrine is a federal policy evolved from Ancient Roman and English common law encompassing the public’s rights of interest and access in “lands under navigable waters up to the high water mark” being held in trust by the state for the people (Public Trust Doctrine).

The state’s interest is not ownership in nature, per se, but is held accountable to the public through the state Legislature, under review of the judiciary, the ultimate arbiter of land use and disposition in the state on the people’s behalf. The lands are not “held in trust” according to
common trust law (i.e., family trusts, revocable trusts, etc.)—where tidelands ownership reverts to the public as successor trustee in the event the state should relinquish their role as trustee. Rather, “the public trust is an affirmation of the duty of the state to protect the people’s common heritage of tide and submerged lands for their common use” (Public Trust Doctrine).

The public’s rights attached to these lands are inalienable in part—not in their entirety. In this loophole we find the Port of Long Beach. Commerce, fisheries, and navigation are included in acceptable uses appurtenant to the lands held in the public trust. This adaptation was facilitated by the courts, permitting railroads, bridges, roads, and ports to be constructed on these navigable lands so long as they benefited the people of the state on the whole, thus expanding the definition of enjoyment as it relates to the Public Trust Doctrine. Whether fishing, navigation, recreational boating or bathing, the “administrator of the public trust ‘is not burdened with an outmoded classification favoring one mode of utilization over another’” (Doctrine).

The interest of commerce, therefore, is not to be favored over the interests of the people of the state. Historically, clashes over whose rights ought prevail have resulted in litigation, adding to the vast body of law governing trust lands. In 1842’s U.S. Supreme Court ruling concerning “Martin v. Lessee of Waddell, 41 U.S. 367, 16 Pet. 367” (U.S. Supreme Court, Martin v. Lessee of Waddell, 41 U.S. 367, 16 Pet. 367 (1842) - vLex), oyster fishing rights were in dispute. The historic public’s access to the oyster fishery was argued against the perceived rights of the individual. The case “boiled down” to land rights—not water rights—despite the fact that the land was buried beneath water. In this Supreme Court ruling, the Justices overturned the courts decision, siding with the lessee in a fashion: the court determined ejection from lands must be commensurate with the titled possession of the lands in dispute.
Another challenge facing guardians of the public trust involves conflicting, equally compliant proposed uses for leased projects and the construction and development of permanent structures are to be built. Three standards have been implemented as tests for compliance of the lessee’s proposed project: 1) the use of the structure to be constructed is in keeping with the uses approved for public trust lands, 2) the structure to be built must be directly related to the advancement of those public trust uses, or 3) the inherent nature of the structure specifically enhances or facilitates the public’s enjoyment of those public trust lands.

Like the water covering the land in question, the public’s needs are fluid—the state is not locked into consideration of limited, archaic modes of public enjoyment when making a determination as to the viability of a proposed use; i.e., historically traditional modes of use for transportation, commerce and fishing. The scope of the enterprise must be in keeping with the public enjoyment—recreational, commercial, and navigable needs inclusive. Projects limiting the benefit to a limited public sector, such as a local fire station, hospital, or dry cleaners that would be of equal use if built on higher ground [away from submerged lands] are not in keeping with public trust use. The intent of the tidelands trust is, however, not to act as an obstacle to commercial interests compatible with the public’s enjoyment of those lands—allowing for potential mixed-use development, provided their use didn’t fall outside the public trust’s usage standards due to its promotion of a “commercial enterprise unaffected by a public use” (Tidelands Trust Doctrine). Plainly put—if it’s a chain, pull up anchor and set up shop somewhere else.

Disputes may arise as to how to calculate the square footage attributable to the proper trust uses versus non-trust uses, with open waterways and parking garages likely being the dominant trust uses and structures being devoted to non-trust uses. The courts have taken a
structure-by-structure approach to approving these types of mixed-used developments to ensure non-trust space is incidental to the project.

The Legislature has the ultimate authority to approve any non-trust use of tidelands, subject to judicial review, with some limitations. In Long Beach, for example, the land in question must be bound by a lease of finite duration and the majority of the project must be compatible with public trust compliant uses. Other instances of non-trust use are exceptional and rare: only after “abandonment of the public trust is consistent with the purposes of the trust” (Public Trust Doctrine). For example, if the use of the property is no longer in keeping with the public trust, or if it becomes no longer feasible to maintain public lands, the state may grant title to a city when it is in the best interests of the public trust “for the improvement of navigation, aid in reclamation, for flood control protection, or to enhance the configuration of the shoreline for the improvement of the water and upland, on navigable rivers, sloughs, streams, lakes, bays, estuaries, inlets, or straits, and that it will not substantially interfere with the right of navigation and fishing in the waters involved” (Public Trust Doctrine).

A state cannot have it both ways: In Mallon v. City of Long Beach (1955) 44 Cal.2d 199, 206-07, 212, California had granted the City of Long Beach lands in accordance with the terms set forth in the land trust, later claiming a one-half interest in proceeds realized from oil extracted below the surface of the land granted from California. California, having failed to exclude Long Beach’s oil and mineral rights, was found to have no claim on those oil proceeds.
Notes From 4/29/2008 Interview with Geraldine Knatz Concerning Long Beach and LA Ports

**Similarities:**
- Municipal Departments of City
- Operate under State grants to operate ports on behalf of state.
- Boards govern port

**Differences:**

<table>
<thead>
<tr>
<th>Long Beach</th>
<th>Los Angeles</th>
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<tbody>
<tr>
<td>Board approves all contracts</td>
<td>Contracts longer than &gt;3 years require approval by City Council</td>
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<tr>
<td>Budget approval by city council</td>
<td></td>
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<tr>
<td>Mayors approve board</td>
<td>Mayors approve board</td>
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<tr>
<td>City council approves budget</td>
<td>City council approves budget</td>
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<tr>
<td>Board appointed executive director</td>
<td>Board recommends executive director candidate to Mayor. Mayor picks exec. Dir. Approved by city council</td>
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<tr>
<td>Has independent authority to take positions on legislation (sometimes gets LB into trouble with council members)</td>
<td>No opinion on legislation- independent of city (must work with city to reach consensus on position)</td>
</tr>
<tr>
<td>LB city charter takes 10% of port net revenues → City tidelands fund</td>
<td>Nothing similar</td>
</tr>
<tr>
<td>Pays for fire and other city services</td>
<td>Pays for fire and other city services</td>
</tr>
<tr>
<td>Grants for state for trust purposed- commerce, education,</td>
<td>SAME</td>
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<tr>
<td>Must generally spend revenues in Harbor District (designated per area)</td>
<td>SAME</td>
</tr>
<tr>
<td>LB “loan” 80 million into convention center because of Tideland (city doesn't plan on paying it back)</td>
<td></td>
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<tr>
<td>Port of LB is in North LB redevelopment area- Port tenants pay possesary interest tax (like property tax)</td>
<td>NOT in redevelopment area</td>
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Check out Nexus lawsuit: LA Steamship association and State Lands Commission vs City of LA http://findarticles.com/p/articles/mi_m5072/is_n35_v17/ai_17473589
“Port Project Sources With Summary Descriptions”

The following compilation of sources is intended to be representative of the materials used in connection with the research conducted in connection with this project. In no way does it represent the entire body of research done of behalf of this report. Over 600 sources were examined—they are not all listed here, nor is it implied that all 600 were used in connection with this project.


http://vlex.com/vid/20073239 U.S. Supreme Court, Martin v. Lessee of Waddell, 41 U.S. 367, 16 Pet. 367 (1842) – vLex copyright 2008 original case decision dated 1842 referencing The Magna Charta (!) tracing the history of ownership of New Jersey back to “the grant of Charles II”1683 arguing the rights of the king to grant title to lands acquired by discovery, not conquest… [way wordy, and coming from me—that’s saying something!] New Jersey oyster fishing rights also argues if it’s able to be granted, it (title or proprietary rights) may be granted by prescription [similar to squatter’s rights—if you don’t oppose the use, you have granted permission] The entire “acquired by discovery, not conquest” argument is rather ironic, in light of the assault and eradication of the indigenous Native American peoples by the conquering European Americans which would later clear up the question of discovery versus conquest at a later date. “This shows the light in which these charters, granting the soil, were considered by this court. That they conveyed an absolute

[Page 41 U.S. 367, 428]

interest in the soil, and passed everything susceptible of private and individual ownership, of which a fishery is certainly one, according to the settled law, by the authorities I have referred to. Subject always, as before mentioned, to the jus publicum, or rights of navigation and trade; but of which the right of a common fishery forms no part, after the soil has been conveyed as private property.”

http://www.csc.noaa.gov/ptd/glossary.htm “Glossary” of legal terms contained in The Public Trust Doctrine [particularly, but not limited to “jus publicum”]

http://vlex.com/vid/36705542 “Lewis W. TWOMBLEY, Appellant, v. CITY OF LONG BEACH, a California Muni…th Circuit – September 14, 1964, Federal Circuits, Docket 18574 – vLex” argues that Long Beach wasn’t subject to California’s claim to one-half of the proceeds
from the sale of oil beneath the submerged lands it had previously granted to the City of Long Beach.

http://www.usconstitution.net/const.html#Am10 “The United States Constitution Online – USConstitution.net” Article I., Section 9 “No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.” [it just seemed interesting to me in light of the fees truckers absorb in doing business w/the Port of LB]

http://www.northdakotafairchase.com/Game_A_Public_Trust.htm “Public Trust and Fair Chase” a concise (brief!!!) statement of what the Public Trust Doctrine is, and three key related principles

http://www.wec.ufl.edu/faculty/SchaeferJ/3401/September10.html “September 10” outline of significant court cases in the history of The Public Trust Doctrine through the present (specifically Florida)—more extensive than “Fair Chase” site

http://www.nauticalcharts.noaa.gov/shalowitz/App_b.pdf “[title the same name as URL]” A plethora of a bibliography of case laws pertaining to Tidelands/Public Trust Doctrine


http://nrpa.com/public_trust.htm#_ednref10 “public trust doctrine” states

“With a history spanning upwards of fifteen centuries, or potentially more, it would be impossible to cite every publication, historical record or litigation associated with the public trust doctrine. Fortunately, such a bibliography is not necessary to illustrate the constantly evolving history of the doctrine as it applies to wildlife management responsibilities. As it seems to be the case with many important issues in America, litigation, and the occasional Act of Congress, have played roles in defining the responsibilities of government under the public trust doctrine. A profile of some of the Acts of Congress and Supreme Court rulings that have defined the public trust doctrine include:…..”

http://nrpa.com/magna_carta.htm “magna carta”

http://www.waterscape.org/pubs/factsheet_waterrights/FS_CaliforniaWaterRights.htm “Fact Sheet #005-01; California Water Rights and the Public Trust Doctrine” helps sort out & delineate CA rights set forth in case history back to 535 A.D., the oldest environmental book of law

http://www.slc.ca.gov/Policy_Statements/Public_Trust_Home_Page.html “Public Trust” links to CA State Lands Commission reports and policy statements on The Public Trust Doctrine
Assistant Attorney, Jan Stevens’ wrote this which was previously published in print media, lays out CA the Public Trust history as it pertains to water and lands thereby submerged

“Reflecting on the private resistance to public discussion, retired California appellate judge William Newsom once remarked to me, "I share your apprehensions over the erosion of the Public Trust Doctrine, but have had real trouble generating any confidence that, as our political system continues to degenerate into a mere formula for enriching those rich enough to pay for further enrichment, there is any real hope."

Notes A PUBLIC TRUST ARGUMENT FOR PUBLIC ACCESS TO PRIVATE CONSERVATION LAND but the PDF version is better:

http://works.bepress.com/cgi/viewcontent.cgi?article=1000&context=james_huffman “page title is the same as the URL” 69 pages of data on Public Trust Doctrine including the flaw in that the doctrine is based on mythic principles due to the fact that current conditions exists which were (obviously) not present when the policy originated. Lengthy, yet interesting.

“American Whitewater - -California’s Public Right to Float”

“The purpose of this summary is to inform the readers, especially boaters, riparian landowners, and government officials, about the public’s right to legally navigate, use, and enjoy the creeks and rivers of California, as is guaranteed by Federal and State law. It is also the intent of this summary to prevent misunderstandings of the law and to reduce conflict, animosity, and expensive legal proceedings relating to the interrelated issues of riparian private property trespass, restrictive municipal regulation, and recreational small-craft navigation on California’s inland waterways.” Copyright 2003.