

MINUTE ITEM

This Calendar Item No. 17
was approved as Minute Item
No. 17 by the State Lands
Commission by a vote of 3
0 at its 4-29-81
meeting.

MINUTE ITEM

4/29/81
Pinson
G 09-02.2
W 7227

17. CITY OF NEWPORT BEACH DEVELOPMENT OF OIL AND GAS RESOURCES
ON TIDE AND SUBMERGED LANDS GRANTED IN TRUST

During consideration of Calendar Item 17 attached, Mr. Harley Pinson, Staff Counsel, summarized the transaction. He stated it was the staff's recommendation that the Commission approve the Joint Powers Agreement.

Mr. Joel Kuperberg, Law firm of Rutan & Tucker, representing the City of Newport Beach, appeared and stated that the City had unanimously adopted a resolution authorizing the Agreement.

Mr. Robert Buchanan, representing Armstrong Petroleum Company, appeared in opposition to the staff's recommendation. It was their belief that 1) since there is litigation pending on this matter, the appropriate place for this issue to be settled is in the courts; and 2) because legislation is currently pending to address this problem, this proposed action is improper and perhaps illegal.

Mr. Richard Del Gercio, attorney representing Armstrong Petroleum Company, appeared in opposition. His main purpose in appearing was to allege some legal problems with the Agreement:

1. The City does not have the power to independently do what it seeks to accomplish under the Agreement;
2. There are serious questions with respect to the authority of the State Lands Commission to condemn property in connection with the production of crude oil from the lands which have been granted to the City.

In addition to the above legal points, Mr. Del Gercio stated the Commission would be setting a precedent in allowing a grantee to engage in production activities.

Commission-Alternate David Ackerman pointed out that it was never the intent of the State or the City to actually operate the facilities on a long-term basis, but that the operation would be leased out. He indicated Assemblywoman Marian Bergeson was receptive to amending her legislation to specifically include language that would clarify that understanding. It was only suggested that the City or the State would operate the facilities on an interim basis pending the resolution of this dispute. The Commission, therefore, instructed the staff to meet with Assemblywoman Bergeson and the City to clarify that understanding and report back to the Commission.

A 74
S 36

DATE	4/29/81
MINUTE PAGE	8/0

MINUTE ITEM NO. 17 (CONTD)

Mr. Del Gercio suggested that a formal written opinion from the Attorney General's Office be written to ascertain whether or not the Joint Powers Agreement is valid when one of the parties involved does not have the power that is sought to be jointly exercised. However, Mr. Cory stated even if the Attorney General's Office issued a formal opinion, the question would still have to be resolved through the courts.

At the conclusion of the discussion, Mr. N. Gregory Taylor, Assistant Attorney General, pointed out that the descriptions of the property in the complaint overlap an area claimed to be granted to the City, and it would therefore be necessary to amend the Commission's understanding with the City to make sure those issues are presented in that litigation. He stated many of the rights Mr. Armstrong claims to hold may already be owned by the City.

In light of Mr. Del Gercio's contentions, Commission-Alternate Suzanne Morgan asked the staff if they felt they had the power to condemn the property. Mr. Pinson indicated it was their opinion they did. Based on that advice, Ms. Morgan moved and Mr. Ackerman seconded that the resolution as presented in Calendar Item 17 was adopted by a vote of 2-0.

CALENDAR ITEM

4/81
G C9-02.2
Pinson

17

CITY OF NEWPORT BEACH
DEVELOPMENT OF OIL AND GAS RESOURCES
ON TIDE AND SUBMERGED LANDS GRANTED IN TRUST

At the March 5, 1981 meeting the Commission acted on a number of recommendations concerning development of oil and gas resources under granted tide and submerged lands offshore of Newport Beach. The City of Newport Beach is the trustee for these public lands. Extraction of oil and gas from the offshore lands had ceased January 25, 1981 at the expiration of a contract between the City and Armstrong Petroleum Company.

The Commission authorized the staff, the office of the Attorney General and the City of Newport Beach (as Trustee for the State) to take such steps as are necessary to acquire interests in certain parcels which abut the City boundary (Recommendation 3, Calendar Item 25). Counsel for the Commission and Counsel for the City have drafted a Joint Powers Agreement for the Acquisition and Construction of Tidelands Oil Pumping and Storage Facilities. The City Council approved the Agreement at its regular meeting on April 13, 1981.

The Agreement provides for the City to act as the Joint Powers Agency to conduct an eminent domain action. The action would be brought pursuant to the Commission's power under Section 6808 of the Public Resources Code. The purpose of the action would be to acquire and construct certain upland surface facilities for the drilling for, production, storage and transportation of oil, gas or other hydrocarbon substances from the public trust area.

The City would conduct all legal proceedings, subject to prior consultation with the Commission's Chief Counsel; would act as lead Agency under CEQA; would bear the entire cost of administering the agreement; and would indemnify and hold the Commission harmless from all claims, damages and costs. The City Treasurer would serve as treasurer for the purpose of administering the Agreement.

The Commission would assume no liability for any costs incurred in the administration of the Agreement.

-1-

A 74

S 36

CALENDAR PAGE	075
MINUTE PAGE	812

CALENDAR ITEM NO. 17 (CONTD)

Title to any interests condemned by the Joint Powers Agency would be taken in the name of the Joint Powers Agency which thereafter would convey title to the City. By a separate letter of understanding these interests will become a trust asset and be subject to the terms of the State's grant to the City.

The Agreement would remain in effect until the acquisition and construction of the described surface facilities is completed.

- EXHIBITS:
- A. Site Map.
 - B. Parcel Map and Legal Descriptions.

IT IS RECOMMENDED THAT THE COMMISSION:

1. APPROVE THE JOINT POWERS AGREEMENT ON FILE IN THE OFFICE OF THE COMMISSION.
2. AUTHORIZE EXECUTION OF THE AGREEMENT.
3. AUTHORIZE THE STAFF TO TAKE SUCH ACTION CONSISTENT WITH THE AGREEMENT AS MAY BE NECESSARY FOR ITS IMPLEMENTATION.

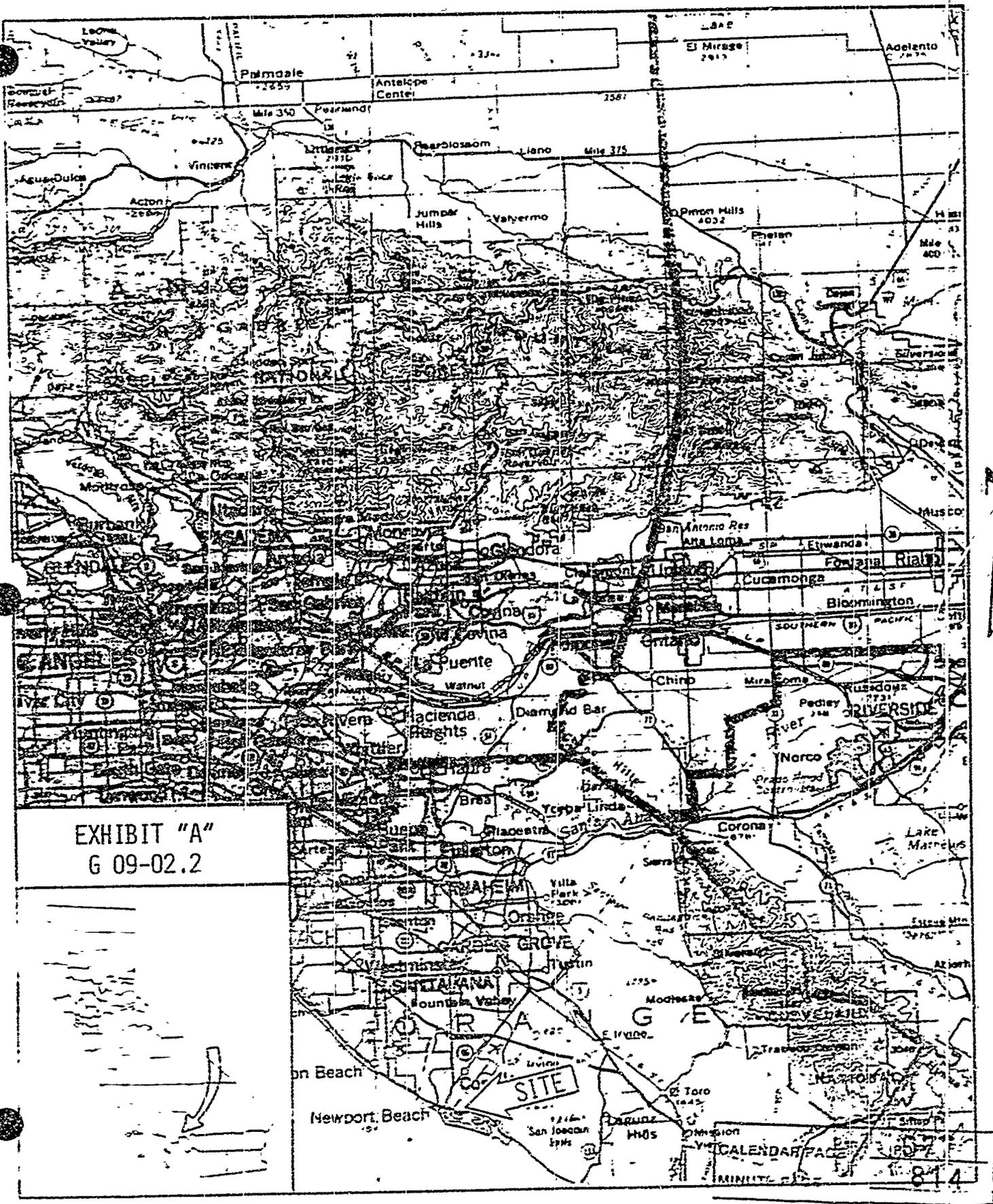
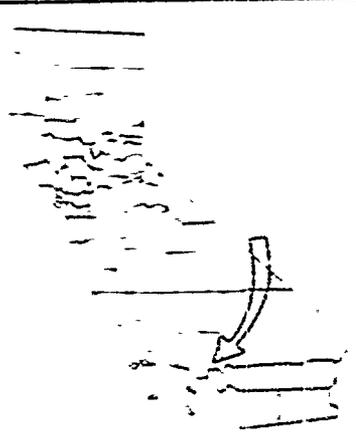


EXHIBIT "A"
G 09-02.2



CALENDAR PAGE 814

ROBERT BEIN, WILLIAM FROST & ASSOCIATES
1401 Quail Street
Newport Beach, California 92663

March 31, 1981
JN 20552
Page 1 of 3

DESCRIPTION

Oxbow Oil Production Condemnation

All those certain lands situated partly in the City of Newport Beach and partly in the unincorporated territory of the County of Orange, State of California, more particularly described as follows:

PARCEL "A-1":

Beginning at the northerly terminus of that certain course in the existing Newport Beach City Boundary shown as "South 4°31'33" East 439.65 feet" on a map filed in Book 65, Pages 31 through 36 of Records of Surveys in the Office of the County Recorder of said County; thence South 77°00'03" West 81.09 feet to the centerline of the Santa Ana River as per Superior Court Case No. 22797 as shown on said map filed in Book 65, Pages 31 through 36 of Records of Surveys; thence along said centerline South 1°38'10" West 511.88 feet and South 10°47'51" East 116.83 feet to a point on a non-tangent curve in the northerly line of West Coast Highway concave northerly and having a radius of 950.00 feet, a radial line from said point bears North 19°21'27" East; thence easterly along said curve and northerly line 205.31 feet through a central angle of 12°22'57" to the boundary line of the land described in the parcel entitled "EXHIBIT II TO SUBSURFACE EASEMENT" recorded in Book 2627, Page 86 of Official Records of said County; thence non-tangent from said curve along said boundary line South 20°11'42" East 100.94 feet to the northwesterly terminus of the course shown as "North 60°26'28" West 576.24 feet" and entitled "North line of Mean High Tide, Rec. 9/19/28, BK. 201-253, O.R., Ora. Co. Sup. Court Case No. 23686" on a map filed in Book 27, Page 47 of Records of Surveys in the Office of the County Recorder of Orange County, California; thence along said aforementioned course and boundary line South 60°28'13" West 352.53 feet; thence leaving said course and boundary line North 12°59'57" West 441.33 feet; thence South 77°00'03" West, 60.00 feet; thence North 12°59'57" West, 599.49 feet to a line which bears North 77°00'03" East from the POINT OF BEGINNING; thence South 77°00'03" West, 181.43 feet to the POINT OF BEGINNING.

CONTAINING 6.889 Acres, more or less

CALENDAR PAGE	079
MINUTE PAGE	816

PARCEL "B-1":

Beginning at a point in that certain course in the existing Newport Beach City Boundary shown as "South 68°22'45" East 756.00 feet" on a map filed in Book 65, Pages 31 through 36 of Records of Surveys in the Office of the County Recorder of said County distant thereon South 68°22'45" East 280.00 feet from the northwesterly terminus thereof; thence South 21°37'15" West 61.43 feet to the centerline of the Santa Ana River as per Superior Court Case No. 22797 as shown on said map filed in Book 65, Pages 31 through 36 of Records of Surveys; thence along said centerline South 56°42'20" East 400.17 feet; thence leaving said centerline North 21°37'15" East 323.11 feet; thence North 68°22'45" West, 400.00 feet to a line which bears North 21°37'15" East from the POINT OF BEGINNING; thence South 21°37'15" West 250.00 feet to the POINT OF BEGINNING.

CONTAINING 2.913 Acres, more or less

PARCEL "C-1":

A strip of land 30.00 feet in width, the centerline of which is described as follows:

Beginning at a point in that certain course in the centerline of a 30.00 foot easement for sewer and road purposes per Superior Court Case No. 24769 shown as "North 76°32'23" West, 1596.18 feet" on a map filed in Book 65, Pages 31 through 36 of Records of Surveys in the Office of the County Recorder of said County distant thereon South 76°32'23" East 148.00 feet from the northwesterly terminus thereof; thence along said centerline as shown on said record of survey map through the following courses: South 76°32'23" East 1448.18 feet; thence South 32°55'45" East 521.40 feet; thence South 27°15'15" East 595.00 feet; thence South 14°36'45" East 264.00 feet; thence South 5°33'45" West 217.00 feet; thence South 12°59'57" East 585.03 feet to the northwesterly line of the hereinabove described Parcel "A-1".

CONTAINING 2.500 Acres, more or less

PARCEL "D":

A strip of land 30.00 feet in width, the centerline of which is described as follows:

Beginning at a point in that certain course in the centerline of a 30.00 foot easement for sewer and road purposes per Superior Court Case No. 24769 shown as "North 76°32'23" West 1596.18 feet" on a map filed in Book 65, Pages 31 through 36 of Records of Surveys in the Office of the County Recorder of said County distant thereon South 76°32'23" East

CALENDAR PAGE	080
MINUTE PAGE	817

168.16 feet from the northwesterly terminus thereof: thence South $3^{\circ}18'27''$ East 303.61 feet to a tangent curve concave westerly and having a radius of 515.00 feet; thence southerly along said curve 202.03 feet through a central angle of $22^{\circ}28'37''$; thence tangent from said curve South $19^{\circ}10'10''$ West 445.35 feet to the northeasterly line of the hereinabove described Parcel "E".

The sidelines of said strip of land shall be lengthened or shortened so as to terminate northerly in the southwesterly line of said 30.00 foot easement for sewer and road purposes and southerly in said northeasterly line of the hereinabove described Parcel "B".

CONTAINING 0.644 Acres, more or less

PARCEL "E":

A strip of land 30.00 feet in width, the centerline of which is described as follows:

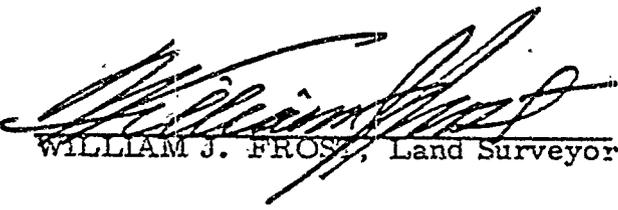
Beginning at the southeasterly terminus of a course in the centerline of a 30.00 foot easement for sewer and road purposes per Superior Court Case No. 24769 shown as "North $76^{\circ}32'23''$ West 1596.18 feet" on a map filed in Book 65, Pages 31 through 36 of Records of Surveys in the Office of the County Recorder of said Orange County; thence North $28^{\circ}40'56''$ West 481.09 feet to a tangent curve concave easterly and having a radius of 280.00 feet; thence northwesterly along said curve 173.49 feet through a central angle of $35^{\circ}30'00''$.

The sidelines of said strip of land shall be lengthened or shortened so as to terminate southerly in the northeasterly line of said 30.00 foot easement for sewer and road purposes.

CONTAINING 0.451 Acres, more or less

SUBJECT TO all Covenants, Rights, Rights-of-Way and Easements of Record.

EXHIBIT "B" attached and by this reference made a part hereof.


WILLIAM J. FROST, Land Surveyor

CALENDAR PAGE	081
MINUTE PAGE	818