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STUDENT PAPERS IN MARINE RESOURCE MANAGEMENT

COMMUNITY DECISION-MAKING AND ENERGY EXPLORATION: THE PACIFIC PALISADES CONFLICT

Michael J. Briggs

and

Mitchell L. Moss

December 1973

USC-SG7-73

UNIVERSITY OF SOUTHERN CALIFORNIA • SEA GRANT PROGRAM • LOS ANGELES, CALIFORNIA 90007

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ABSTRACT

The "energy crisis" is beginning to affect us all. One way to ease this fuel shortage is to discover more new domestic supplies of oil and gas. Since most new sources will probably be in populated areas, it will be necessary to carefully evaluate the environmental and social costs versus the demand. It is at the local community level where the environmental costs of energy exploration will be most acutely felt; and thus, where opposition to proposals for energy exploration and development, is likely to be most vigorously articulated. In this paper we examine the capacity of local governmental units to make decisions dealing with energy exploration. The conflict which emerged from the proposal to undertake oil drilling and exploration in the Pacific Palisades section of Los Angeles provides an ideal opportunity to examine community decision-making in local energy exploration. The various environmental, economic, geological, social, aesthetic, political, and legal aspects of this conflict are examined in detail and suggestions are offered which, hopefully, will increase the effectiveness of the local governmental agency in the future.

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1. INTRODUCTION

The task of providing sufficient sources of energy to meet the increasing demands for energy generated by our large urban populations has triggered an extensive debate at the local, state, and federal levels. Most discussions regarding the growing demand for energy have focused on one of two approaches to the issue: 1) how can we identify and develop new sources of energy, or 2) how can we limit the consumption of energy resources by our urban populations.

The importance of these two policy questions cannot be over-estimated. However, it's equally important to examine another set of issues that relate to the process by which such policy questions are resolved. In this paper we examine the capacity of local governmental units to make decisions dealing with energy exploration. The question of how we can improve our local political institutions' ability to make decisions related to energy resources has received very little attention. However, it is at the local level where the environmental costs of energy exploration are most acutely felt, and thus, where opposition to proposals for energy exploration and development, is likely to be most vigorously articulated.

The conflict which emerged from the proposal to undertake oil drilling and exploration in the Pacific Palisades section of Los Angeles provides an ideal opportunity to examine the role of local government in allocating coastal resources in highly urbanized portions of the coastal zone.

In April, 1972, Occidental Petroleum Corporation filed for the creation of three urbanized oil drilling districts in Pacific Palisades, a coastal, residential community in Los Angeles near Santa Monica, California. These three districts were approved by the Los Angeles City Council on October 17, 1972. Subsequent procedural appeals by the Center for Law in the Public Interest have resulted in a temporary stay of construction being granted February 7, 1973 pending the outcome of appeal in the courts of the State of California. The outcome of this appeal should end the adjudication process in this case which began on September 15, 1970, a period of over three years.

The origin of the Pacific Palisades dispute began in 1966 with the discovery of oil and gas in the Riviera oilfield beneath the Santa Monica Mountains. This exploratory well, the "Marquez" core hole, was located across from the Canyon Elementary School in Santa Monica Canyon. The well was drilled to a total depth of 9721' and formation evaluation logs were run. They revealed a number of potentially commercial oil and gas sands between 8950-9382'.

Presently, Occidental plans to drill two core holes, to be drilled within 90 days, to confirm the presence of oil and gas and furnish further geological information on the Riviera oilfield. If these wells indicate commercial quantities of petroleum deposits, then amendatory ordinances must be obtained from the City to allow production.

The Pacific Palisades dispute, involving the establishment of oil drilling districts and the ultimate production of oil and gas, is one which we will increasingly encounter in our desire to obtain new domestic oil and gas reserves in an environmentally acceptable way. It is more than a localized dispute involving anti-oil and anti-development radicals trying to protect their own interests. Rather, it is a case of the local decision-making process with its capacity to respond to environmental values, and the role of the courts in resolving these disputes and revising the deficient administrative processes.

The site of the proposed oil drilling district, the Pacific Palisades, is a very environmentally sensitive portion of the coastal zone. The local city administrative and decision-making process, although functioning well in the past in less environmentally sensitive areas, has proved inadequate in the Palisades area. The City oil regulatory agency, the Offices of the City Administrative Officer and the City Petroleum Administrator, do not have the jurisdictional responsibility to respond to the type of environmental considerations which are of concern to the local residents. The City of Los Angeles' regulatory process considers only minor environmental aspects, such as visibility and camouflaging of the drilling and production operations. The programs of oil well drilling have been handled by the State Department of Oil and Gas. Their jurisdiction, however, has involved very little environmental regulation except as regards adequate blowout prevention equipment, fresh water sands isolation, and record keeping.

The citizens, however, are beginning to demand cost-benefit analyses be made considering all externalities and spill-over effects of a proposed development project which could significantly affect the environment. Thus, because the City's views of environmental protection are not concomitant with those of the citizenry, they have sought recourse through the courts.

In order to examine this dispute and all its ramifications, this report is divided into the following main sections: Oil Development and Regulation in Los Angeles, Description of the Proposed Project, Environmental Description of Pacific Palisades, Assessment of the Environmental Impact of the Proposal, Adjudication Process, Interpretative Chronology, and Summary and Conclusions.

II. OIL DEVELOPMENT AND REGULATION IN LOS ANGELES

The Pacific Palisades dispute has evolved, to a great extent, out of the local decision-making process dealing with oil development and regulation in Los Angeles. In order to understand this oil development and regulation process, it is necessary to examine the City's oil development history, oil regulation history, and current decision making process.

Oil Development History

Oil development in Los Angeles began 83 years ago in the 1890's when commercial oil was discovered in the heart of Los Angeles. As of the 1900's, more than 1,000 wells were producing more than 5,000 barrels of oil per day. Since then many fields have been discovered in the Los Angeles Basin area. Table I lists most of these fields and the dates of their discovery. Since 1953 over 120 million barrels of oil have been produced within the City of Los Angeles.

Oil production reached a peak of 26 million barrels per year from 19 fields in 1968-69 in Los Angeles. Over 80% of this production came from urbanized drilling districts.[1] Figure 1 illustrates these urban oil drilling districts. In the total Los Angeles Basin, more than 55 fields were producing greater than 6 billion barrels of oil per year. This was enough to rank the Basin area as a producer of 1/13 of the total oil produced in the United States during 1969.[2]

This oil production has resulted in an average of $2.75 million per year in revenue being generated for the City of Los Angeles since 1960, or over $30 million in total revenue since 1953. In addition, the County of Los Angeles has received more than $20 million in property taxes on mining rights to reserves within the City.[3] Table II shows the oil

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[1] Petroleum Administration, Fiscal Year 1968-69,

[2] Position Paper on Urban Oil Operation, p. 4.

[3] Branch, Oil Extraction Urban Environment, and City Planning, p. 141.

TABLE I

OIL DEVELOPMENT IN LOS ANGELES

Discovery Date	Oilfield Discovered
1890's	Los Angeles City
1902	Salt Lake Oilfield
1902	Beverly Hills
1920's	Athens
1930	Venice Pool
1936	Wilmington
1955	Beverly Hills - Deep Miocene
1957	Boyle Heights
1960	Cheviot Hills
1961	Salt Lake - Deep
1961	Los Cienegas
1965	Los Angeles - Downtown
1966	E. Beverly Hills
1967	Crescent Hts.
1967	Venice Beach
1968	Union Station
1968	Salt Lake - San Vicente

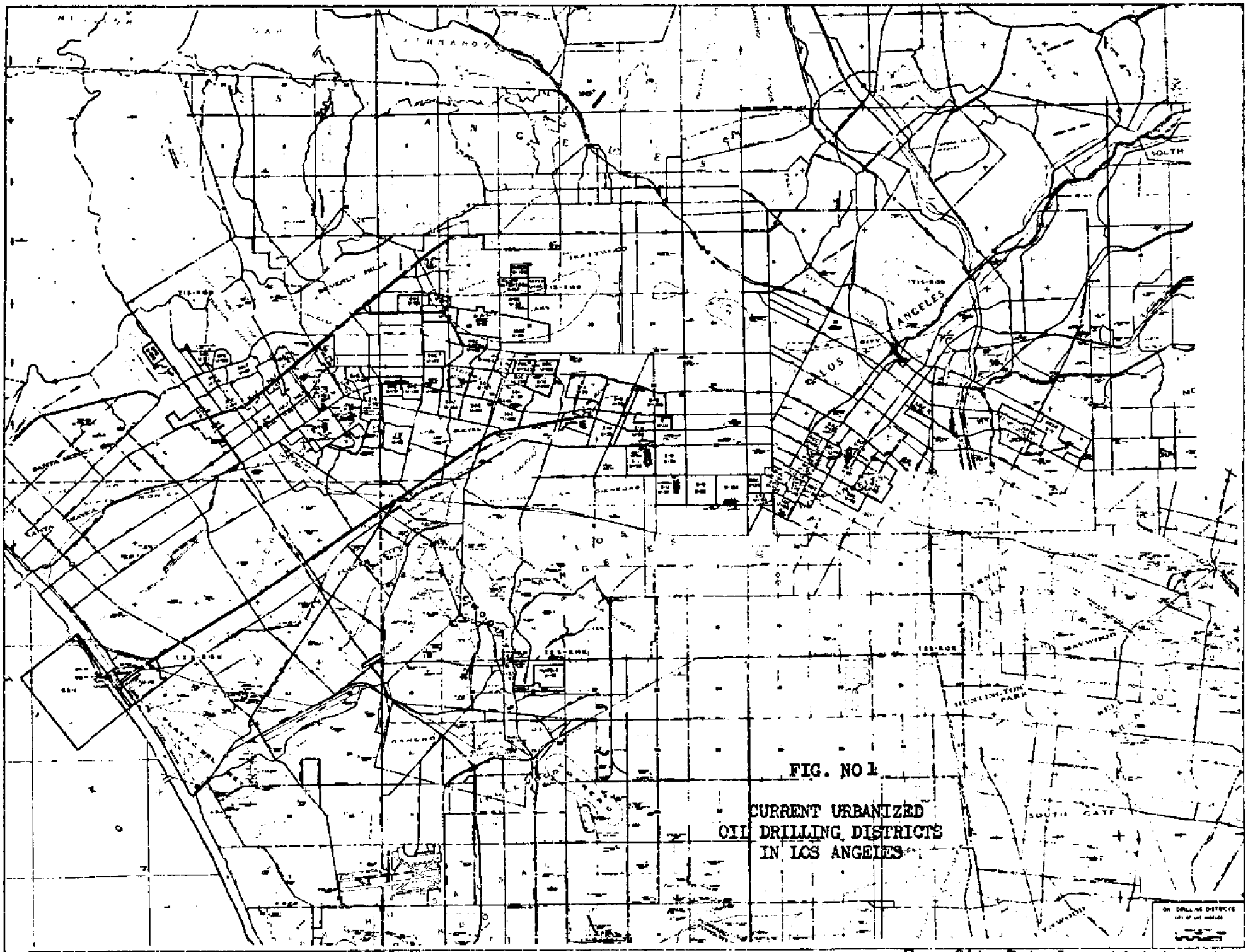

FIG. NO 1

CURRENT URBANIZED
OIL DRILLING DISTRICTS
IN LOS ANGELES

From City Petroleum Administrator

TABLE II

LOS ANGELES OIL AND GAS PRODUCTION
1968-1972

Fiscal Year	Oil Production Per Year, Million Barrels	Oil Production Per Day, Thousand Barrels	Gas Production Per Year, Million MCF	Number Oil Fields	Number Producing Wells
1968-1969	25.87	71	45.82	19	1837
1969-1970	24.55	67	43.64	19	1817
1970-1971	20.57	56	33.48	19	1795
1971-1972	18.73	51	24.44	20	1795
Currently	-----	45	-----	--	----

TABLE III

LOS ANGELES OIL DERIVED REVENUE
1967-1972
MILLION DOLLARS

Fiscal Year	Lease, Bonus Rental, & Royalty	Permit & Application Fees	Taxes	Total Revenue
1968-1969	1.00	0.11	1.26	2.37
1969-1970	0.81	0.10	1.10	2.01
1970-1971	0.85	0.09	1.04	1.98
1971-1972	0.45	0.18	1.07	1.70

and gas production in Los Angeles for the past four years. Table III lists the oil derived revenue that the City has received in the last five year period. From these tables, it is obvious that production and revenue have been declining since 1968-69; the last year showing an increase in production following a 10 year span of consecutive increases. Total revenue was $5.16 million in the fiscal year 1967-68.

Oil Regulation History

In the early days of oil exploration before the 1920's, no controls were in force. In 1920 the first zoning ordinance was passed. Although it had no provision for drilling, variances to drill could be obtained. In 1930 a new zoning system was introduced. Again, drilling was prohibited except by variance and the first soundproofed derrick was used. In 1946, the Comprehensive Zoning Plan was adopted and after World War II Sections 13.00 and 13.01 of the Los Angeles Municipal Code were ratified, amending the procedure for establishment of oil drilling districts. Regulations for aesthetic considerations were first considered at this time to include soundproofing and camouflaging. In 1957 the City Petroleum Administrator's Office was created to coordinate, administer, and make recommendations on drilling operations in the City. Finally, in 1963 Section 12.24 of the Los Angeles Municipal Code amended procedures for the drilling of temporary exploratory core holes in order to stimulate exploration. Since then, over 135 core holes have confirmed an oil reserve of over 200 million barrels.[4]

Current Decision Making Process

In order to examine the current decision making process regulating oil development in Los Angeles it is necessary to look at the departments involved, the oil derived revenue structure, the relevant sections of the Los Angeles Municipal Code, the procedure for approval of oil drilling districts, and some examples of operation.

Departments Involved. Table IV lists the hierarchy of people and Departments involved in regulation of oil development in Los Angeles. They are listed according to their relative heirarchy with their respective roles, powers, and duties described. Notice that the Planning Committee of the City Council reports to the Council, the City Petroleum

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[4] Loc. Cit.

Administrator reports to the City Administrative Officer, and the City Planning Commission and the Planning Examiner are within the City Planning Department. The City Council and the following Departments, although not actively involved in oil regulation in Los Angeles, do receive royalties from the production of oil and gas. They are the Department of Recreation and Parks, the Department of Public Works, the Harbor Department, the Department of Water and Power, the Library Fund, and the Off Street Parking Fund.

Oil-Derived Revenue Structure. Table V shows the types of oil-derived revenue and the Departments which receive the revenue. The three basic types of revenue are (1) lease, bonus, rental, and royalty income, (2) permit and application fees, and (3) taxes. The permit and application fees are further divided by department, and the taxes are divided into city and city's share of county taxes.

Relevant Sections of the Los Angeles Municipal Code. The relevant sections of the Los Angeles Municipal Code are Sections 13.01, 13.01 - D2 (c), and 13.01 - D4. The provisions of these sections are summarized in Table VI.

Section 13.01 - D2 (c) and 13.01 - D4 are the most important. Section 13.01 - D2 (c) requires the size of an urban drilling district to be at least 40 acres in size so as to prevent having many small districts each with its own drillsite(s). It also states that 75% of the landowners must be under lease to the applicant as an expression of substantial approval of oil exploration and development. One drawback to these criteria is the fact that the applicant has spent considerable amounts of money obtaining leases before application is ever made to the City. This would appear to make it difficult for the City to disapprove an application once this money had been invested. Also, this procedure does not guarantee a one to one representation of local residents as large landowners can control the final outcome. For instance, a group of four large landowners representing 102 Ac out of a total of 298 Ac in District A signed leases. This would mistakenly lead one to presume that over a third of the people are in favor of the drilling districts; when, in fact, only four have indicated their preference. In fact, of the 75% of property owners in District A who have signed

TABLE IV

CITY GOVERNMENT DEPARTMENTS INVOLVED IN REGULATION OF OIL DEVELOPMENT IN LOS ANGELES

1.	Office of the Mayor	Has final veto power.
2.	City Council	Has voting power to approve or disapprove and holds public hearings.
	Planning Committee	Discusses, holds public hearings, and reports to Council.
3.	City Administrative Officer	Approves or disapproves of drilling district proposal based on report of City Petroleum Administrator.
	City Petroleum Administrator	Examines drilling district proposal and reports to City Administrative Officer on basis of compactness of district boundaries, drillsite desirability from engineering viewpoint, and geologic justification for anticipating oil.
4.	Office of Zoning Administration	Approves or disapproves of a permit for a particular drillsite once drilling district has been approved and formulates specific standards and conditions which oil operations must meet in order to minimize the effects of oil drilling and production on the surrounding community. Holds public hearing.
5.	Board of Zoning Appeals	Agency for appealing of decision of Office of Zoning Administration on drillsite location. Holds public hearing.

6.	City Attorney	Advises on legal matters, drafts ordinances for approval or disapproval of a drilling district.
7.	City Planning Department	Reviews and makes recommendation for approval or disapproval based on physical-spatial land use aspects and master city plan.
	City Planning Commission	Reviews staff report of Planning Examiner and City Planning Department and holds public hearing.
	Planning Examiner (Commission Hearing Examiner)	Holds public hearing and prepares staff report with City Planning Department.
8.	Fire Department	Grants permits for fire safety and prevention.

TABLE V

TYPE OF OIL DERIVED REVENUE AND
DEPARTMENTS RECEIVING IN LOS ANGELES

Lease, Bonus, Rental, and Royalty Income

Department Receiving
City Council
Harbor
Library
Off-Street Parking (beginning 1969-1970)
Recreation and Parks
Water and Power
Public Works

Permit and Application Fees

Department Receiving	Type of Permit or Fee
Fire	Original Drilling Permits Operational Permits Redrilling Permits Core Hole Permits
Planning	Conditional Use Permits Oil Drilling Permits

Taxes

Source	Type of Tax
City	Business License Tax
County Property (City's Share - 20%)	Mining Rights Tax Improvements Tax

TABLE VI

PERTINENT SECTIONS OF LAMC
CONCERNING URBAN OIL DEVELOPMENT

Section	Provision
13.01	Provides for formation of 3 types of Supplementary Use Districts: (1) sand & gravel (2) slaughter house (3) oil drilling
13.01-D2 (C)	Requires a proposed oil drilling district to be: (1) at least 40 acres in size (2) more than or equal to 75% of the landowners under lease (O & G) to the applicant.
13.01-D4	Requires City Administrative Officer, City Petroleum Administrator, to consider 3 aspects of a proposed oil drilling district application: (1) proposed district boundaries for compactness (2) desirability of the drillsites from engineering viewpoint (3) the geologic justification for anticipating oil production.

leases, only a maximum of 43% can be individual home owners.[5] The remainder must be larger property owners. The Municipal Code has based the determination of rights within a proposed drilling district on percentage of land ownership. This principle of voting by land ownership has been opposed since the founding of this country. The Supreme Court recently restated this position in the Avery decision.[6] Therefore, procedure should be made available for the local resident's views to be represented in an early stage of the planning process on a one resident/one voice basis while leases are still being gathered.

Section 13.01 - D4 states the duties of the City Administrative Officer and the City Petroleum Administrator. There are three aspects within his realm of jurisdiction which he must consider regarding a proposed oil drilling district. These are (1) an examination of the district boundaries for compactness, (2) desirability of the drillsite from an engineering viewpoint, and (3) geologic justification for anticipating oil production. He does not appraise drillsites for qualities which fall within the jurisdiction of other City government agencies or the State Department of Oil and Gas. It is the only agency which receives a complete proposed drilling program: the drilling procedure, the directional drilling objectives, the drilling fluid program, the bit and hole size program, the testing and logging procedure, the economics, the projected drilling time, and the employee work schedule. It is their responsibility to rule on the adequacy of the proposed drilling program. The City Petroleum Administrator's office has no authority to decide on these aspects of a drilling district proposal.

Procedure for Approval of Oil Drilling Districts. Following approval by the City Petroleum Administrator, the proposal goes through a chain of review comprising the City Planning Department, the City Council, and the Mayor. This sequence is listed in Table VII. The process of complete approval usually requires 6-8 months. Only one case has ever been denied so far, and that was due to unacceptable form of the application.

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[5] Shirley Solomon telephone conversation 8-23-73.

[6] Recommendation of Commission Hearing Examiner on Urbanized Oil Drilling District Request, p. 40.

Once the oil drilling district has been established, a second application must be made for approval of a particular drillsite to the Office of Zoning Administration. The City Petroleum Administrator has only recommended a drillsite, according to his narrow jurisdictional view, he has not approved one. The Zoning Administrator will select the drillsite recommended or another on the basis of drilling safety, fewest adverse effects on nearby properties, least impairment of urban environment, and greatest conformity with the master City plan.[7] However, once oil drilling districts have been established, although the exact drillsite location is not known, drilling is virtually a certainty. This second application is only a ministerial action which is not subject to new environmental legislation.

Examples of Operation. A total of 170 urbanized oil drilling districts have been established by the City of Los Angeles using the above described procedure. These districts have been created in residential and commercially zoned property with little or no property devaluation or inconvenience to the citizens.[8] Over 300 wells have been completed in densely populated regions of Los Angeles during the past 15 years. This development has been worth hundreds of millions of dollars to the greater Los Angeles community.

In the East Beverly Hills Field in the West Pico area of West Los Angeles, Occidental won a Los Angeles Beautiful Award for the structure they erected at Pico Blvd. and Doheny Dr. to conceal the drilling operations. This was the first architecturally designed drilling structure ever constructed in Los Angeles or the United States.

Ordinance No. 133,633, passed in 1966, provided that all oil wells as of January, 1972 be aesthetically treated or modified to adapt to the environmental circumstances of an area or be abandoned. In the Venice pool of Playa del Rey Field only six (6) wells in the field had complied and the City was taking steps to enforce this ordinance. In the Los Angeles City Field, a field which dates back to the turn of the century, 17 wells have been abandoned and more will soon be as costs of operating these shallow marginal wells will exceed the revenue.

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[7]Branch, p. 144.

[8]Position Paper on Urban ..., p. 2.

TABLE VII

CITY GOVERNMENT PROCEDURE FOR APPROVAL OF URBANIZED OIL DRILLING DISTRICT IN LOS ANGELES

Step	Procedure
1.	Applicant files application for establishment of oil drilling district.
2.	City Administrative Officer through City Petroleum Administrator considers permit application.
3.	The Planning Examiner of the City Planning Department holds first public hearing.
4.	Planning Examiner prepares staff report with concurrence of Director City Planning Department.
5.	City Planning Department reviews and makes recommendations.
6.	City Planning Commission reviews staff report (usually approves) and holds second public hearing.
7.	If approved, goes to City Council for discussion by Planning Committee of the Council & third public hearing.
8.	Planning Committee of the Council prepares report for the City Council.
9.	Council holds fourth public hearing and if Council approves, City Council adopts ordinance creating oil drilling district.

10. Ordinance goes to Mayor for signature.

11. City Clerk has Ordinance printed & published in some daily newspaper in the county.

With the passage of Chapter 1046 of the Statutes of 1970 (SB 278), the State authorized the spending of revenue on lands held in statutory trust by the City for beach improvements and development rather than commerce, navigation, and fishery as was required by that statutory trust. The City endorsed this legislation. As of June 30, 1971 almost $5.25 million was in this fund.

Thus, we can see that although the regulatory process is quite elaborate, effective in discharging its narrow responsibilities, and available for public participation in the decision-making process through as many as four public hearings, it has two serious flaws which are now becoming evident. The first is that nowhere in the City regulatory structure is there a procedure for consideration by the City of cost-benefit analysis of environmental factors other than drillsite visibility and traffic flow. The second is the separation of drillsite and drilling program specifics (realizing, of course, that the drilling program will vary slightly as a function of a particular drillsite) from the application for the drilling district. The resulting ministerial action for a particular drillsite presents legal difficulties to adequate consideration of all environmental factors. Both of these flaws are interrelated to a certain extent. The citizenry is demanding more environmental protection than just a camouflaging of drillsites and an assurance of limited traffic congestion. The separation of drillsite and drilling program considerations from the initial application for a drilling district contributes to the lack of proper environmental analysis. The opportunities for citizens to express their views are in the four public hearings in the preliminary drilling district establishment phase. However, as the facts concerning drillsite selection and the drilling program, which pose the greatest potential for environmental harm, are not required during the process for establishment of the drilling districts, these public hearings are of little real value. Finally, since the approval or disapproval of a drillsite is a ministerial action, the citizenry has no recourse to the decision-making process here either. Therefore, since the establishment of a drilling district presumes the drilling of wells and all of its environmental ramifications, it appears necessary to make certain changes in the local city government structure concerning the establishment of these drilling districts in coastal zones. The subsequent action to designate a proposed drillsite should be either a non-ministerial action or part of the original drilling district establishment process.

The Petroleum Administrator's Office has unsuccessfully tried to initiate action to consider the drillsite at the outset of a proposed drilling district establishment process. Melville C. Branch has also strongly advocated these types of changes for early consideration of drillsites in the drilling district approval process. Also, the pertinent aspects of a proposed drilling program which could affect the environment should be considered in the preliminary process. Amendments of local and State laws would accomplish this. In this way, the citizens would be able to participate in the decision-making process more fully without having to resort to the court system to obtain satisfaction. As Melville C. Branch has stated: "City planning generally, as well as with respect to oil, must be up-to-date and constantly alert. It must conduct continuous master planning, and not merely produce the occasional delusory grand master plan which has made city planning so ineffective for the past half-century."

III. DESCRIPTION OF THE PROPOSED PROJECT

A description of the proposed project involves an examination of the boundaries of the three oil drilling districts, the location of the drillsite, and the proposed drilling program.

Boundaries

The three urbanized oil drilling districts proposed by Occidental Petroleum Corporation involve a total of 594 acres (Ac) in Pacific Palisades. The three districts were established by the Los Angeles City Council by passage of three separate ordinances on October 17, 1972. These ordinances, creating Districts U-171 (A), U-172 (B), and U-173 (C), describe districts with an areal extent of 298, 152, and 144 Ac respectively. Figure 2 illustrates approximate boundaries of the districts superimposed on a topographic map of the Palisades area. Figure 3 is a map view of the proposed districts illustrating the surface street boundaries. Figures 4 and 5 are aerial photos of the proposed districts for district A, and district B and C respectively. Finally, Table VIII lists the exact boundaries of each drilling district.

Some comments on these boundaries are necessary. It is normal procedure to follow the centerlines of streets and include only the expected reservoir limits within the oil drilling district boundaries. However, the City Administrative Office has stated that because of the rugged, irregular topography of the area; some boundaries follow the property boundaries, and the southerly boundaries of Districts B and C lie beyond the expected southerly limits of the reservoir.

Location

The location of the proposed drillsite, the Highway drillsite, is situated 150' from the bluffs of the Pacific Palisades and 200' from Will Rodgers State Beach on Santa Monica Bay. This is approximately midway between Temescal Canyon on the West and Potrero Canyon on the East. The Pacific Coast Highway separates it from the beach area. The drillsite is northwest of the old Cliff House Motel, which has been fenced along the highway from public use for a number of years because of landslide dangers. Figures 2 and 3 illustrate the location of this drillsite.

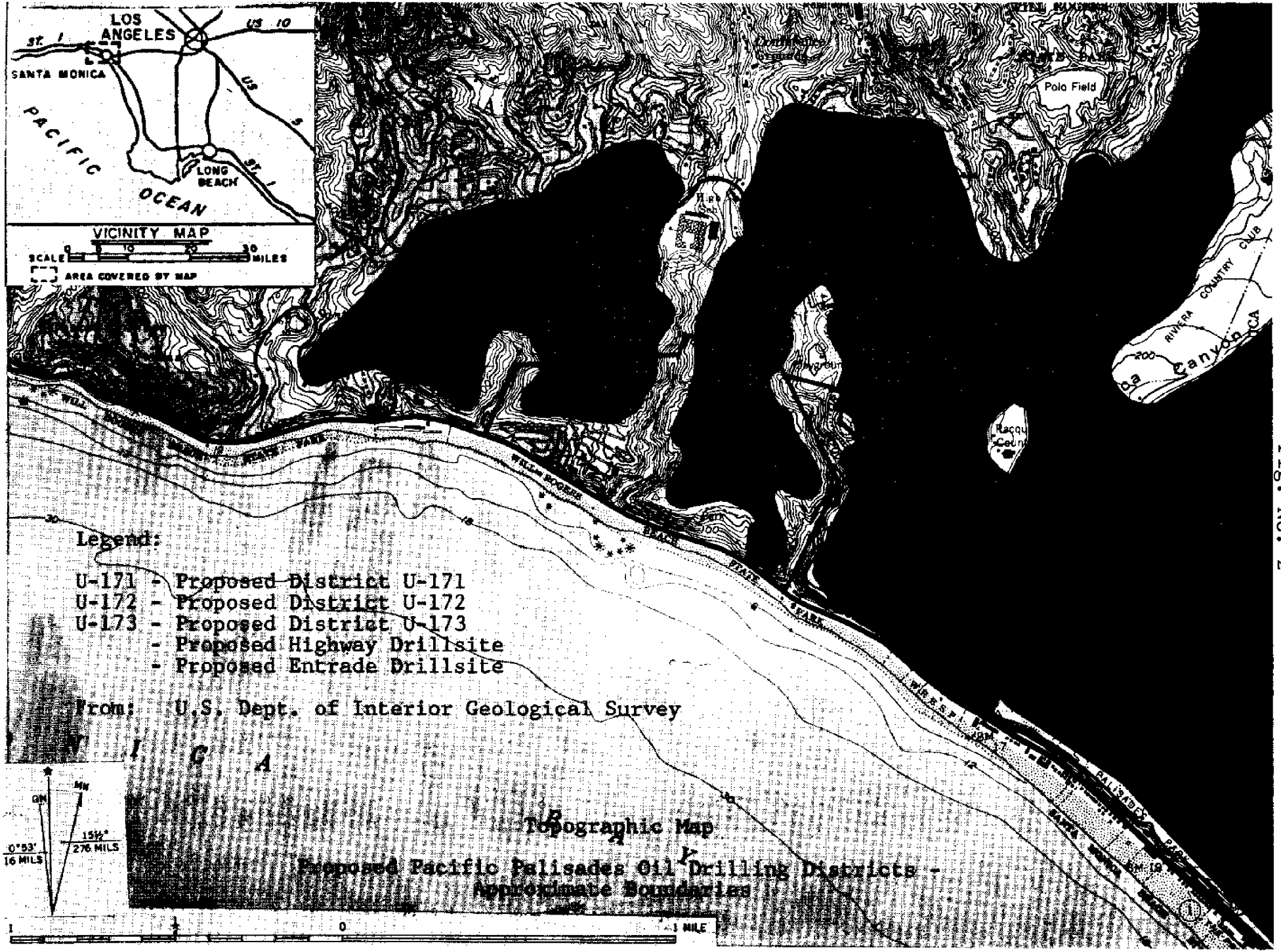
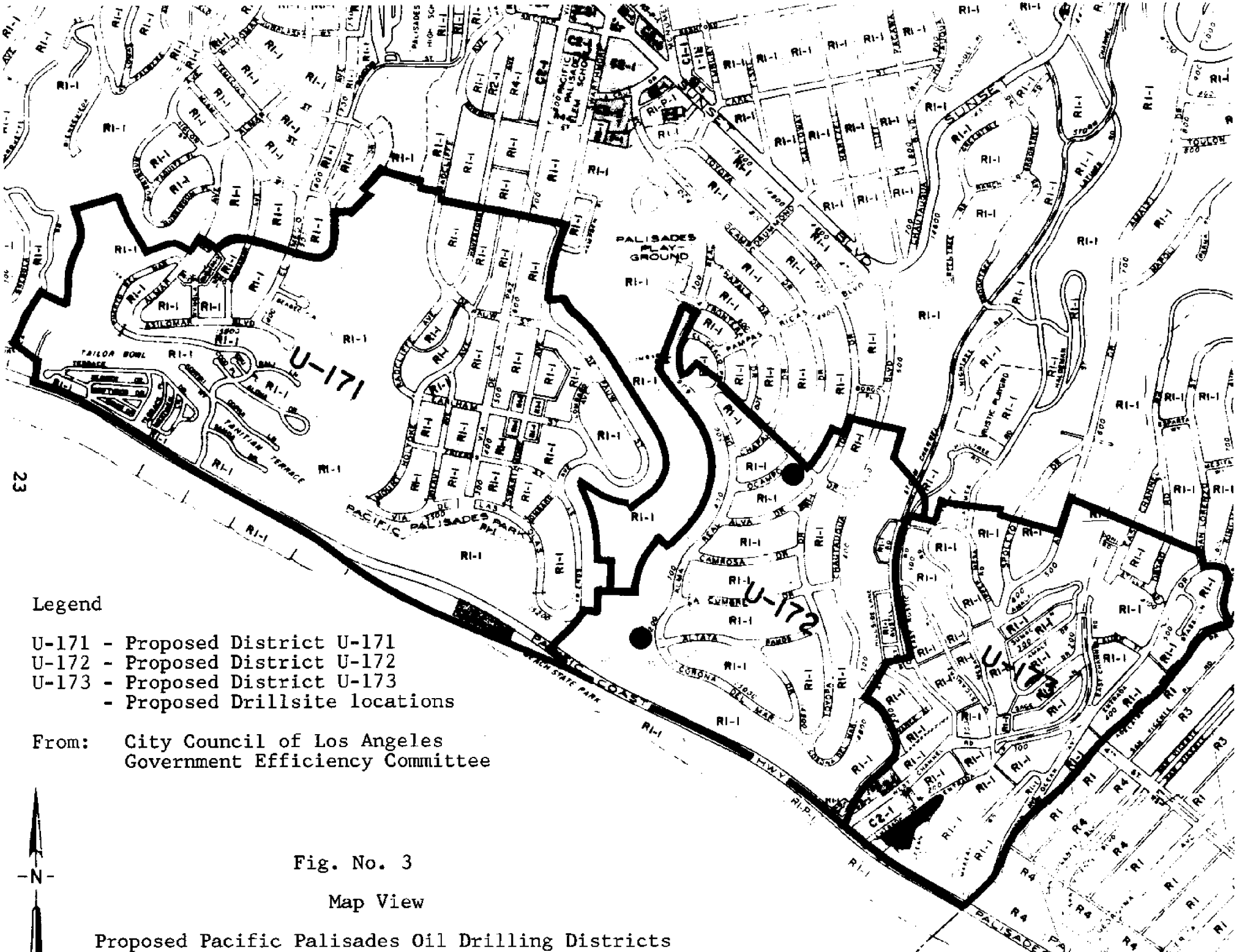


Fig. No. 2

Topographic Map

Proposed Pacific Palisades Oil Drilling Districts - Approximate Boundaries



Legend

U-171 - Proposed District U-171
U-172 - Proposed District U-172
U-173 - Proposed District U-173
- Proposed Drillsite locations

From: City Council of Los Angeles
Government Efficiency Committee

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Fig. No. 3

Map View

Proposed Pacific Palisades Oil Drilling Districts

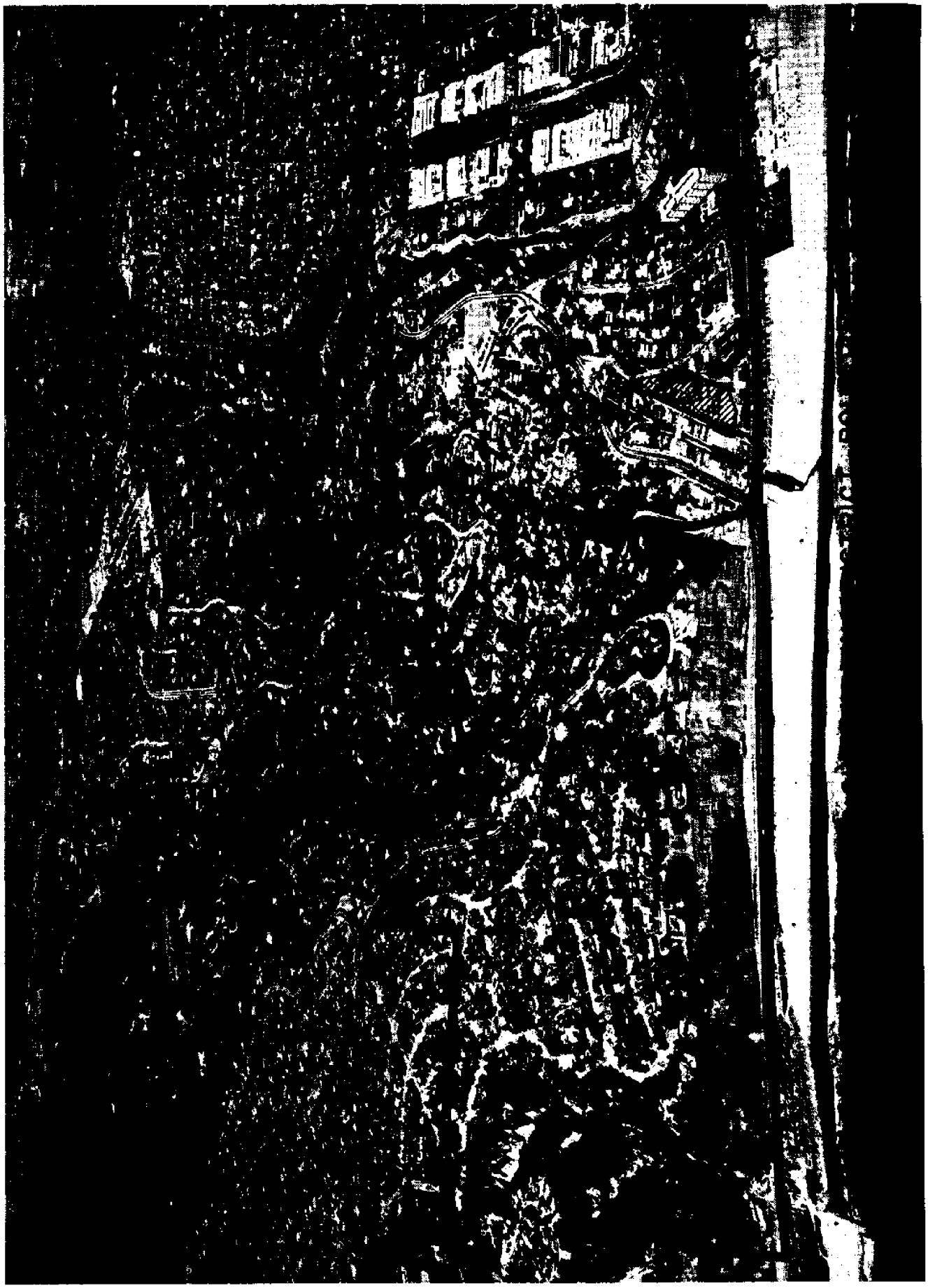
Fig. No. 4

Aerial Photo

Proposed Pacific Palisades Oil Drilling District A (U-171)

From City Council of Los Angeles
Government Efficiency Committee

Fig. No. 5



Aerial Photo

Proposed Pacific Palisades Oil Drilling Districts B and C (U-172 and U-173)

From Los Angeles City Council
Government Efficiency Committee

TABLE VIII

PROPOSED URBANIZED OIL DRILLING DISTRICT BOUNDARIES
PACIFIC PALISADES

District A - Oil Drilling District U-171, City Ordinance No. 144020, 297.7 Ac

Southwesterly Boundary - Pacific Coast Highway

Northwesterly Boundary - Selected property boundaries southeasterly of Pintoresca Drive and the easterly line of Pintoresca Drive

Northerly Boundary - Selected property boundaries southwesterly and southerly of Muskingum Avenue, the centerline of Wynola Street and Erskine Drive, selected property boundaries easterly of Erskine Drive, and the centerline of Carthage Street

Easterly Boundary - The centerline of Swathmore Avenue to approximately De Paul Street, thence southeasterly along selected property boundaries easterly of De Paul Street, Earlham Street, and Friends Street

District B - Oil Drilling District U-172, City Ordinance No. 144021, 151.9 Ac

Southwesterly Boundary - Pacific Coast Highway

Northwesterly Boundary - Potrero Canyon and selected property boundaries westerly of Alma Real Drive

Northeasterly Boundary - Alma Real Drive - Almoloya Drive; thence along selected property boundaries between Ocampo Drive and Toyopa Drive; thence easterly along selected property boundaries to the Los Angeles County Flood Control Channel in Rustic Road.

Southeasterly Boundary - Los Angeles County Flood Control Channel in Rustic Road; thence southerly in the westerly segment of Vance Street; thence southerly along the centerline of Chautauqua Boulevard to Pacific Coast Highway.

District C - Oil Drilling District U-173, City Ordinance No. 144022, 144.3 Ac

Northwesterly Boundary - Same as the southeasterly boundary of District B

Northeasterly Boundary - Selected property boundaries between the northerly terminus of east Rustic Road to Entrada Drive and the boundary between the Cities of Los Angeles and Santa Monica

Southeasterly Boundary - The common boundary between the Cities of Los Angeles and Santa Monica

Southwesterly Boundary - Pacific Coast Highway.

Proposed Drilling Program

A proposed casing and hole size program was submitted by Occidental on November 24, 1972, incorporating suggestions made by the City Administrative Officer two days earlier. This casing program is shown in Figure 6.

The drilling is to be done from a central site using directional drilling techniques. This is similar to standard operating procedure in offshore areas from fixed or floating platforms. Initially, two core holes are to be drilled within 90 days to confirm the presence of oil and gas in commercial quantities as indicated by the "Marquez" core hole. Any abandonment or completion will require further time. If they are successful, an application must be made to allow production however. These temporary core holes will be surrounded by a solid painted fence; protective earthen berms; drilling rig, drillstring, and equipment vibration dampening; vibration monitoring; acoustical insulation; soil stability monitoring; odor control; blowout preventors; and electric power. A permanent site designed to camouflage the drilling area as a Spanish Mission will then be erected.[9] (See Figure 7). Care should be exercised that this Spanish Mission design and effect is not artificial or garish, but blends in harmoniously with the natural environment of the area.

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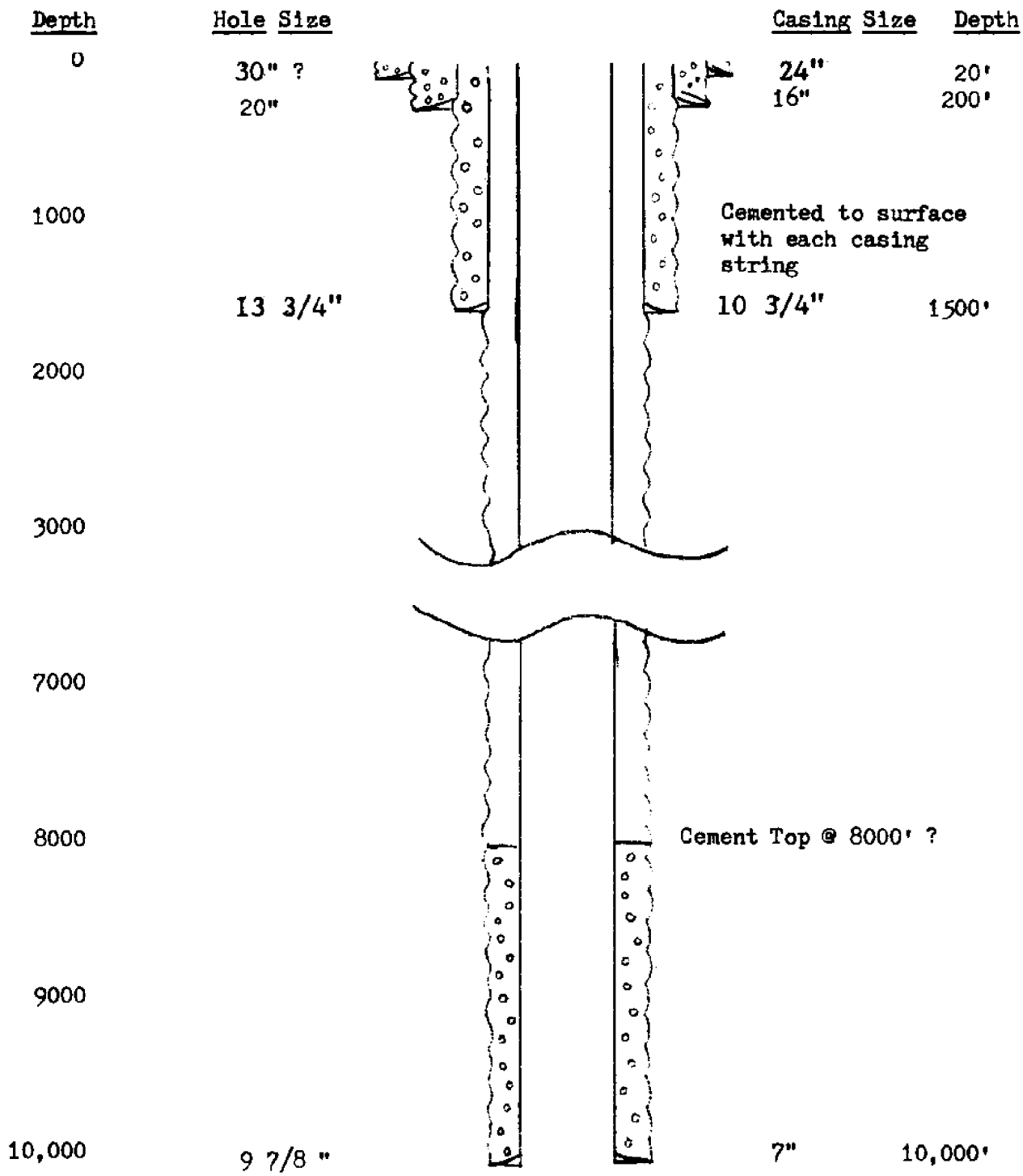
[9] Background Data on Pacific Palisades Drilling Project.

FIG. NO. 6

PROPOSED CASING PROGRAM - COMMERCIAL WELL
PACIFIC PALISADES



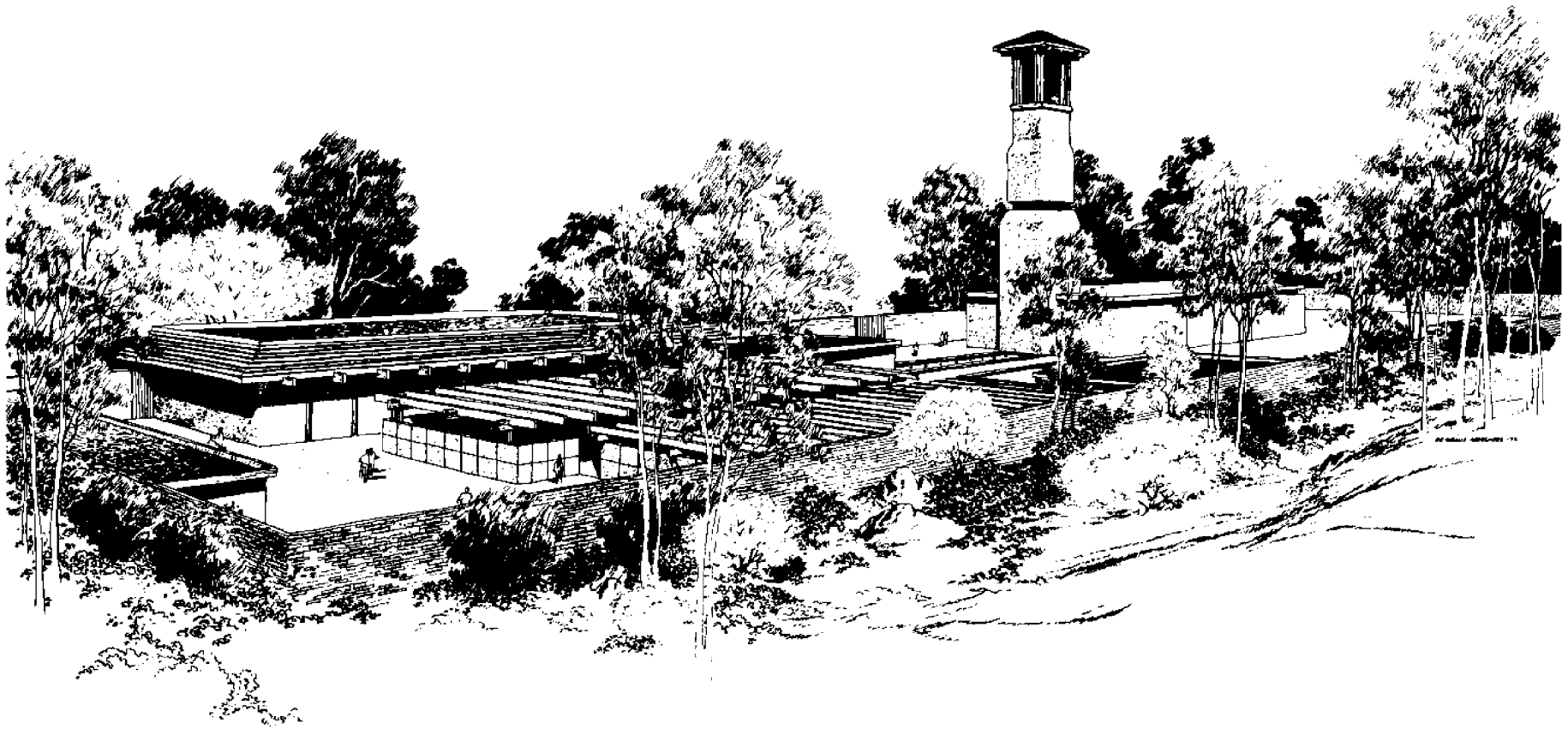


Fig. No. 7

Proposed Spanish Mission Style Drillsite
For Pacific Palisades

From Occidental Petroleum Corporation

IV. ENVIRONMENTAL DESCRIPTION OF PACIFIC PALISADES

An environmental description of Pacific Palisades involves an understanding of the geologic nature and socio-economic status of the area.

Geologic Description

As was mentioned in the previous section, Pacific Palisades is characterized by a rough, irregular topography. The Pacific Palisades are composed of plateau-like blocks, approximately 230' above sea level, which are separated by deep, steeply walled canyons formed during recent geologic time by drainage, oceanic erosion, and landslides. Most streets are not interconnected between individual blocks. The Pacific Ocean is some 300' south, and pictures taken in 1921 indicate that the Palisade bluffs bordered the ocean at that time. Due to erosion and landsliding, the cliffs have receded to their present position.

Pacific Palisades was once a marine terrace. However, tectonic forces which created the Santa Monica Mountains, also uplifted these marine, sedimentary deposits to form the bluffs of Pacific Palisades. This tectonic force was provided through the sliding and displacement of the Santa Monica-Hollywood Fault, which underlies the area. It is the prime geologic element responsible for the believed entrapment of oil and gas beneath Pacific Palisades.

According to Occidental geologists, the subsurface structure is a continuation and extension of the trends evident in the easterly portions of the Los Angeles Basin. An anticlinal structure exists beneath the fault whose axis is orientated in a northwest-southeast direction. This folded, stratified rock is a typical structure for entrainment of oil and gas. Similar structures exist in the Sawtell oilfield to the east. Upper Miocene sandstone, which is productive in the Sawtell, Beverly Hills, and Cheviot Hills oilfields, is expected in the Palisades also. Several hundred feet of these sandstones were found in the "Marquez" core hole. It outcrops to the north but not to the south of the area. Therefore, it should dip to the south and underlie the Palisades.

The postulated oilfield lies in the same direction as the axis of the anticline and has limits as follows: on the northwest, the Santa Monica-Hollywood Fault truncates the sandstone; on the southeast, stratigraphic changes occur as the sandstones are absent; on the northeast and southwest, down dip water saturation on the limbs of the anticline meets the oil saturation.10

Socio-Economic Description

In order to describe the socio-economic aspects of the Pacific Palisades area, data were taken from the 1970 County Tax Assessor's File and the 1970 United States Census of Population and Housing. The proposed oil drilling districts, A, B, and C are within census tracts 262701, 262702, and 262800. Oil district A is within census tract 262701 which is bordered by Sunset and Temescal Canyon Blvds. Part of drilling district A and all of B are within census tract 262702 which has street boundaries of Sunset and Chautauqua Blvds. Finally, proposed drilling district C is within census tract 262800 which is bordered by Sunset Blvd., Chautauqua Blvd., Adelida Dr., and Rockingham St.

The Pacific Palisades is a highly prized residential and recreational area with little or no commercialization and industrialization. Approximately 85% of the three census tracts, which the proposed drilling districts are within, are single family residences. Only about 2% of the total parcels are commercial or industrial. The major portion of the remaining parcels, comprising 6.7-12.9% or an average of 9.9% in the three census tracts, is vacant, unimproved land.11

Pacific Palisades is a coastal community composed of middle and upper middle class residents, many of whom have oceanic views from the top of the bluffs. The mean income of all families in the three census tracts is $16,966 in tract 262701, $23,270 in tract 262702, and $35,419 in tract 262800. Most of this income is from wage or self-employment income with negligible farm or welfare income. The percentage of families with incomes below the poverty

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10 Spaulding, Proposed Establishment of Three Urbanized Oil Drilling Districts in the Pacific Palisades Area, p. 9.

11 1970 County Tax Assessor's File.

level is only 5.8% in tract 262701, 2.8% in tract 262702, and 3.8% in 262800. Finally, many families have outside sources of income in addition to wage and self-employment income.[12]

The Palisades population mainly consists of property or home owners with well landscaped, California stucco homes. Its residents are 99% white, with an average of 74% of the homes owner occupied and 24% renter occupied. The median home values for the owner occupied units is $43,100, $50,000+, and $50,000+ in the three census tracts 262701, 262702, and 262800 respectively.[13]

Finally, the land values and resultant property taxes are generally high in the area. According to the 1969 County Assessor's File, the average land value of the residential, single family unit parcels is $21,404 for census tracts 262701, 262702, and $29,304 for tract 262800.

Thus, we can see that due to Pacific Palisades residents proximity to the coast, relative affluence, and consequential large leisure time; they are more easily predisposed to participate in environmental conflicts which may affect them. Their main fear is that creation of oil drilling districts and subsequent oil well drilling in Pacific Palisades will have an adverse effect on the environment. This effect could come about as the result of blowouts, landslides, encroaching industrialization, lowering of property values, or loss of aesthetic appeal of the area. Some of the residents are similar to the Santa Barbara residents in the aspect that they share no affinity for oil drilling in their neighborhood.

Those that signed leases, of which there are many, view the oil development as a means of outside income to help meet the high cost of taxes.

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[12] 1970 United States Census of Population and Housing, p. 481 (Vol. I) and p. 76 (Vol. II)

[13] Loc. Cit.

V. ASSESSMENT OF THE ENVIRONMENTAL IMPACT OF THE PROPOSAL

In order to properly assess the potential environmental impact of oil well drilling and production in the Pacific Palisades area, certain key issues should be investigated. These involve those of a physical nature pertaining to the oil well drilling and production, the economics of Pacific Palisades oil development, the effect of this development on the "Energy Crisis", the social-aesthetic aspects of oil development, and the political-legal ramifications.

Physical

Those physical issues which relate to oil drilling in Pacific Palisades involve the possibility of landslide, the possibility of oil well blowout, the possibility of subsidence, and alternative drillsite locations.

Possibility of Landslide. The Highway drillsite is located 100' southeasterly of the toe of the Via De Las Olas Landslide. Figures 8 and 9 illustrate this relationship.

This area has a record of massive landslide failures which historically date back to the 1880's. There have been 11 landslides in the past 52 years and the most recent important movement occurred in 1958 and resulted in the death of a State engineer and important relocation of the Pacific Coast Highway to the south. This area is considered to be an "active landslide" area by the City of Los Angeles Department of Building and Safety and an "area of critical concern" by the Office of Planning and Research of the State of California. According to George Tauxe, a qualified expert on soil mechanics, the bluffs are unstable and subject to sliding because of the steep slopes, the incompetent soil formation, and the high moisture content. The water table is also exceedingly high in these bluffs. Thus, there is great controversy over the possibility of oil well drilling reactivating the Via De Las Olas Slide, prematurely resulting in possible loss of lives, property, aesthetic appeal, and blowout protection.

A brief explanation of slide theory will give a clearer understanding. The Via De Las Olas Landslide has moved in order to achieve a position of stability and equilibrium. This stability is a function of the water content, the soil content, and the steepness of the slopes. Once a position of equilibrium is reached, the landslide conditions are no longer present. However, if any or all of the conditions are altered, then conditions are ripe to reactivate the landslide. Therefore, it is necessary to have adequate drainage of excess water, and no removal or alteration of the slide mass at the toe of the slide, which is now supporting the base rock at the head of the slide.

Fig. No. 8

Relationship of Highway Drillsite to Via De Las Olas
Landslide - Looking West

Fig. No. 9

Relationship of Highway Drillsite to Via De Las Olas
Landslide - Looking South

From Shirley Solomon

Mr. Yelverton, a geologist for the Department of Building and Safety of the City of Los Angeles, testified in the October 17, 1972 public hearing that the Via De Las Olas landslide has undergone three major rainstorm periods since 1958 with no movement. However, this should not be construed to mean that the slide is permanently stable. Future rainstorms or seismic activity could reactivate the slide.

Aside from the fact that Occidental will take steps to remove excess water and that no slide mass will be removed from the toe without extensive geological survey, there is controversy over the effect of drilling vibrations on the slide area. Studies conducted by Occidental have shown that drilling vibrations will be less than those caused by the normal Pacific Coast Highway traffic.[14] Also, surf vibrations are normally present and add to the ambient vibration level. The vibrations 150' away from the drillsite would be imperceptible to humans. In fact, David Leeds, an engineering seismologist, suggested in behalf of Occidental during a trial in Superior Court, that the ambient vibrations just outside the courtroom door at the time were 5-10 times greater than those measured 150' from the drillsite once drilling had begun.

As a mitigation measure, Occidental will be required to spring-mount drilling equipment which will reduce vibrations by 5-8 fold. Standard Oil Company used this type of shock absorbing springs on its drilling equipment while drilling 50'from an instrument manufacturing plant. The calibration of the highly sensitive galvanometers which were produced was not affected.[15]

Possibility of Oil Well Blowout. Since 1953 more than 500 oil wells and core holes have been drilled in urban Los Angeles with an accident frequency of only 0.2% (1 out of 500).[16] According to David Chenot, engineer for Occidental, the "Marquez" core hole was drilled with no departures from expected conditions, encountered normal subsurface pressures, and developed no incidents while drilling.

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[14] Background Data ...

[15] Spaulding, Proposed Establishment of Three Urbanized ..., p. 7.

[16] Spaulding, Oil and Los Angeles--An Environmental Triumph.

Since this well was drilled in the similar structure as the Highway drillsite wells will encounter, there appears to be no cause for alarm. The casing program for these proposed wells (see Figure 6) is substantially more than adequate for these types of expected conditions. Finally, no valid comparison can be made with the Santa Barbara blowout of 1969, since in this case, the expected reservoir is considerably deeper, the caprock is harder and better cemented, the casing program is more protective, and the wells are not offshore.

Certain mitigation measures are required to insure against blowouts. It is common practice on oil wells to have numerous blowout preventers stacked one upon the other to meet any and all occurrences. Protective berms will be constructed around the drillsite to contain any oil in the unlikely event that a blowout would occur. The land is sufficiently flat to allow this. Subsurface valves will be installed in all producing wells in the event that production is permitted to insure automatic shutoff in the event that a drastic reduction in surface pressure is sensed. This mitigation measure is required in all urban drilling districts to protect against failure of surface equipment, flowline leak, etc.

Possibility of Subsidence. Although Mr. T. L. Bear, a registered geologist in the State of California, has testified that negligible subsidence will result from the production of oil and gas from this type of reservoir, the City of Los Angeles has required as a mitigation measure that suitable surveys be conducted to provide data on changes in surface elevations. If there is subsidence and if water injection is begun following primary recovery, it is possible that "rebounding" as evidenced in Long Beach, might even occur (subsidence of 20-30' in some places had occured).

Plaintiffs, however, have questioned the desireability of repressurization by water injection as a means of combating subsidence. They state that this could lead to increased seismic activity along the fault planes of the Santa Monica and Malibu faults which are in close proximity to the proposed Riviera oilfield. The possibility of a hydraulic connection between one of the injector wells and a fault plane could result in abnormally high fluid pressures on the fault plane which could trigger earthquakes and landslides. Although chances of this happening are fairly remote, there is documented evidence that this type of mechanism is possible as evidenced in the Denver Arsenal Well and the U.S. Geological Survey's Rangely, Colorado oilfield experiment.[17] Also, it has been postulated that a dam at a

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[17] Recommendation of Commission Hearing Examiner ..., p. 38.

reservoir in Baldwin Hills failed as a result of repressurization of the oilfield there. Finally, the California Division of Mines and Geology has stated that subsidence may occur in otherwise stable oilfields because of their presence in an earthquake area.[18]

Alternative Drill Site Locations. Only two drillsites were suggested by Occidental from which the City was to choose the one most favorable. These were the Highway site and the Entrada site. The Highway site is the one we have been discussing since the city initially chose that one. The Entrada site is located near Ted's Grill on the eastside of Entrada Dr. between the Pacific Coast Highway and the confluence of Entrada Dr. and Ocean Way. This site is shown in Figures 2 and 5.

One of the main reasons why the Highway site was preferred to the Entrada site, even though the Entrada site presented no landslide difficulties, was the reduction in directional drilling problems attendant with the Highway site. In order to reach the most distant part of the reservoir from the Highway drillsite, an average angle of 43 degrees would be required to reach the objective reservoir at a 9000' depth with a lateral stepout of 6000'.[19] For the Entrada site, an average angle of 53 degrees would be required to reach the 9000' target depth with an 8000' stepout.[20] Thus, the Highway site was recommended so as to minimize directional drilling problems.

Directional drilling can be and usually is very costly, especially so as the hole angle increases. Sometimes, the only way to achieve the desired objective is through numerous plugbacks and sidetracks. It is not always easy to control a string of drill pipe almost 2 miles long. It is hard to estimate the additional cost that would be necessitated by maintaining a 53 degree versus a 43 degree hole angle, but it seems that some estimation should be made by Occidental and the City in order to better evaluate the drillsites. If this would relieve the landslide fear, however unreasonable it may become, then it would be money well spent.

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[18] Branch, p. 147.

[19] Spaulding, Proposed Establishment of Three Urbanized ..., p. 6.

[20] Loc. cit.

Other very important factors which influenced the decision are the larger, remote, flat nature of the Highway drillsite. It is less residential and access is much easier from Pacific Coast Highway.

A question that comes to mind is the possibility of other drillsites besides the two mentioned. According to Mr. Spaulding, consideration was given to other sites on Sunset Blvd. Certainly, drillsite selection by an oil company is a function of many variables. Sites are generally chosen to minimize the total of site cost, site preparation costs, drilling costs; and maximize ease of entrance, ease of reaching the target objectives in the reservoirs, and rate of production. Now, however, other environmental considerations must be balanced against these objectives in order to obtain the optimum drillsite.

Economics of Pacific Palisades Oil Development

If oil is discovered beneath Pacific Palisades, Occidental Petroleum Corporation, the City of Los Angeles, and the residents will receive revenue.

Occidental Petroleum Corporation. Occidental stands to develop a 60 million barrel (20 million conservatively) oilfield based on the Sawtelle Field (100,000 barrels of oil per acre) as a model.[21] Based on an average $4.75 per barrel of oil, less operating expenses, 16-2/3% royalties, and taxes; they would receive a profit as high as $95 million (present day value of future net income).

Occidental has spent greater than $329,000 in rental payments to landowners since February 28, 1970 acquiring Oil and Gas Leases. As of November, 1972, they had spent approximately $2,355,087 in oil lease rentals, lease acquisition costs, core hole costs, drillsite acquisition costs, engineering costs, geological costs, etc.[22] They hold over 2927 leases covering approximately 1138 Ac within all of Pacific Palisades.[23] This represents about 79% of the property owners (separately owned parcels), both large and small, and 77% of the acreage.[24] The 1138 Ac, however, includes many leases which are not in the confines of the three proposed oil drilling districts (594 Ac total).

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[21] Ibid., p. 11.

[22] Morton, Answering Brief of Respondent Occidental Petroleum Corporation, p. 12.

[23] Ibid. p. 13

[24] Conversation with Edward Renwick, 9-7-73.

City of Los Angeles. The City of Los Angeles owns approximately 65 Ac within or near the boundaries of the proposed oil drilling districts. This is composed of 24.112 Ac in the southeast corner of District A and 41.32 Ac between Districts A and B in the form of Pacific Palisades Park. Based on the Sawtelle Field, a 16-2/3% royalty rate, and a price of $3.50 per barrel; the City could receive about $4 million in royalty income over the life of the oilfield.[25] The City would gain other revenue in the form of fees and taxes also.

The Pacific Palisades Park could be an oil drilling district by itself. This would yield the greatest capital return for the City, but would put the City in competitive drilling and development work with Occidental. Also, part of the surface of the Park would have to be used for a drillsite, a policy decision which the City must make weighing the integrity of the Park against the greater economic benefits of competing operations. The question might arise, does the Park have any more integrity than a residential neighborhood.

Residents of Pacific Palisades. The property owners in Pacific Palisades would receive a 16-2/3% royalty if they enter into a lease agreement with Occidental. If they do not chose to participate by entering into a lease agreement from the outset, they have a five year grace period during which royalties normally accruing to them are impounded. This royalty is distributed to all the residents in a drilling district in proportion to the amount of land leased by the individual lessor. Based on the West Pico Field, the average townlot leaseholder in Pacific Palisades would receive approximately $975 per year.[26] In 1971, lessors throughout the City received over $83 million in royalties with the maximum royalty per townlot equal to approximately $5900 per year.

Occidental has pledged 5% of the net income from Pacific Palisades oil production for stabilization of the Pacific Palisades bluffs.[27] This money is to go to the City of Los Angeles,

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[25]Spaulding, Proposed Establishment of Three Urbanized ..., p. 11.

[26]Position Paper on Urban ..., p. 5.

[27]Letter Draft to Residents of Pacific Palisades.

$100,000 is to be advanced the day the drillsite is approved. This stabilization could involve construction of hydraugered drains, catch basins, drainage tunnels, discharge pipe, paved gutter, and underdrainage system amounting to almost a $1 million on the Via De Las Olas Landslide alone.[28] This money would make it possible to remove the excess water that accumulates and strengthen the bluffs; whereas, nothing is being done now.

Effect of Development on the Energy Crisis

Whether or not there is an "Energy Crisis" is open to some debate. According to most sources, there is petroleum family fuel adequacy for 100-200 years hence and coal fuel supplies for 300-400 years. The 11 OPEC countries, which account for 85% of the Free World reserves and 90% of the world oil exports, have readily available supply. Thus, the energy crisis appears not to be due to a lack of reserves or supplies. Rather it is a complicated web of national and international political and economic policies. On the national level, a combination of import controls, tax treatment, proration, and government policies have exacerbated the problem. On the international level, it has been postulated by M. A. Adelman that the United States State Department failure to understand petroleum economics has resulted in a non-competitive environment.[29]

At any rate, it appears that the United States is going to have to become more self-reliant in meeting her energy needs. The flow of dollars into the Persian Gulf is making that area the biggest, richest empire to come along since Croesus according to James Akins of the State Department.[30] This dollar drain is having and will continue to have serious economic, political, and military consequences. Since 1970 the price the producing countries have received has risen 72% and a 10% price hike will go into effect during each of the next two years. The fact that this price increase is founded on a low base price is somewhat irrelevant; the fact

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[28]Williams, Yelverton, and Fratt, Letter from Department of Building and Safety to Department of General Services.

[29]Adelman, Is the Oil Shortage Real, p. 71.

[30]Herrera, Golden, and Doerner, The Energy Crisis: Time for Action, p. 44.

still remains that the price for this foreign oil is going up. This year $8 billion in imports have been realized and by 1980 this figure could go to $17 billion annually. That amounts to $250 billion going to the Middle East and North African countries by 1980.[31]

In the United States, our demand for energy has doubled in the past 20 years and it is expected to double again by 1985 and triple by 2000. Greater than 75% of our energy is supplied by petroleum family products, and by 1985 this figure will rise even more. Energy demand has been predicted to increase by 3.4-4.4% to 1985 and then 2.8-3.4% to the year 2000.[32]

Today there is an energy gap of 82 million barrels of oil per year in the United States and 225,000 barrels per year in California alone that must be met by imports. This represents approximately 12% of our total demand with this figure expected to be within the range of 11-38% by 1985.[33] No one expects that we can or will do completely without imports by 1985, but the lower limit of 11% is certainly a lot easier to live with than the 38% upper boundary. In order to achieve this level, we will have to make up the difference by domestic supplies, by implementing energy conserving measures to cut the expected rate of growth, or by developing other sources of energy. It is necessary to effectuate all three alternatives, but of the three, increasing the domestic energy supply seems to be the most readily attainable by 1985 to obtain significant results.

In California, there have been no new significant oilfield discoveries in several years. A 60 million barrel oilfield, such as Riviera promises to be, will certainly not put much of a dent in the domestic energy supply picture. However, it is numerous fields such as this which must be discovered and produced within some future time if we are to increase the domestic energy supply. In addition, the proposed Riviera oilfield promises to consist of clean-burning, low sulphur oil and natural gas (0.7%) which is needed to meet air quality standards. High sulphur content fuel oil, which yields considerable air pollutants in the

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[31] Ibid., p. 42.

[32] Guide to National Petroleum Council Report on United States Energy Outlook, p. 2.

[33] Ibid., p. 4.

form of sulphur dioxide, has been banned from the South Coast Air Basin since 1969. Since low sulphur fuel oil is in short supply and heavy demand, new deposits are eagerly sought. Desulphurization of high sulphur oil is projected within several years to relieve some of the pressure for low sulphur oil reserves, but reserves such as this are needed to meet all future projected needs.

Social-Aesthetic Aspects of Oil Development

Of the State of California population, 85% lives within 30 miles of the coastline. Almost half of this population is concentrated in the three southern California coastal counties of Ventura, Los Angeles, and Orange. Attendant with this population concentration has been the gobbling up of most of the available open space within this 30 mile strip along the coast. Many areas have become increasingly industrialized.

Pacific Palisades is a residential and recreational area with low commercialization and industrialization. Some of the residents view oil development as a type of heavy industrialization which is incompatible with their use. They view their area as one of the last remaining unindustrialized areas in southern California. They wish to preserve the character of their neighborhood and do not wish to accept compromise on other drillsite locations, or economic participation. Specifically, regarding oil development, they are opposed to such negative aspects as blowout and its pollution potential, landslide possibility, truck noises, traffic congestion, drilling noises, oil odors, scenic changes, and shift in the character of the neighborhood resulting in falling property values. They regard these conditions as having an environmental impact on the area and requiring consideration with other possible impacts.

Occidental has stated that the drillsite will be landscaped, architecturally designed to resemble a Spanish Mission, odorless, and soundproofed. Only the first two bore holes will be seen by the public, and for only a limited period. They say it would be nice if you could choose every drillsite in an isolated area resembling West Texas, but you cannot and must drill wherever the geology indicates a likely presence. They point out that two modern urban drillsites exist within the confines of two recreational facilities in Los Angeles. These are the Hillcrest Country Club and the Rancho Park Golf Course. These sites are fairly well camouflaged. However, it is hard to convince people when they can

look around Los Angeles and see examples of marginal or stripper wells allowed to pump with attendant oil, dirt, smell, and ugliness of the well and tanks greatly depressing nearby property values directly and the neighborhood character indirectly. Although the City is trying to apply certain minimum environmental standards to these wells now, this is enough to make Palisades residents wonder if this could happen to the Riviera oilfield in 20 years. Thus, most of the residents' substantive objections can be resolved by mitigation measures, properly enforced.

Finally, there is another group of residents that are indifferent or view the oil development as beneficial. They stand to gain royalty income from production as a result of signing oil and gas leases, or see the oil revenue as helping to stabilize the cliffs and landslide areas.

Political-Legal Ramifications

Some of the political and legal questions which have arisen concerning oil development in Pacific Palisades involve liability, possibility of more oil drilling districts, and offshore oil development in Santa Monica Bay.

Liability. The City Council of Los Angeles imposed a condition in the ordinances establishing the oil drilling districts covering liability of the applicant for any damage which may be associated with its operation in a drilling district. This liability clause includes even misfortune that may result from an act of God which may arise from drilling, production, storage, or transportation of hydrocarbons. This liability then pretty well covers damage caused by blowout, pipeline leak, landslide, etc.

Possibility of More Oil Drilling Districts. It can be expected that applications will be filed for creation of more drilling districts if oil and gas are discovered in commercial quantities. Standard Oil Company of California holds oil and gas leases with property owners located northerly of the proposed districts. An environmental impact report should consider now this impact for future growth and industrialization of the area if oil is discovered in commercial quantities.

Offshore Oil Development in Santa Monica Bay. There is some question over the possibility of drilling in Santa Monica Bay. Section 6872, Subdivision B, of the Public Resources Code of the State of California strictly forbids

oil drilling in Santa Monica Bay from offshore platforms. It states in part "... the drilling for oil and gas deposits is to be done by means of slant drilling from an upland site."

Occidental does not plan to engage in offshore drilling in the Bay. They do not plan to drill from the beaches. In fact, they have never held offshore leases in California. Geologists believe that the potential oil in place beneath Santa Monica Bay does not even warrant construction of onshore drilling facilities. If, however, the State was to claim drainage from proven oil reserves in Santa Monica Bay, then a Compensatory Royalty Agreement would be worked out between the State and Occidental in lieu of offshore drilling. In this agreement Occidental would pay the State a royalty from onshore production to cover any drainage of State lands.[34]

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[34]Letter Draft to Residents ...

VI. ADJUDICATION PROCESS

In this section we shall look at some of the legal and political issues generated by the Pacific Palisades oil development dispute. We will (1) describe the organizations and persons involved and their reasons for involvement, (2) examine the relevant environmental law which has recently been enacted, and (3) briefly summarize the litigation sequence to date. Finally, a close look at some of the different procedural questions which have evolved will be made.

Organizations and Persons Involved

Those organizations and persons involved in this conflict are aligned in the pro-development faction and the anti-development faction. The former is composed of the local city government structure, Occidental Petroleum Corporation, and private individuals. The anti-development faction is composed of No Oil, Inc., which has retained the Center for Law in the Public Interest, and other concerned citizens. Many of the individuals in this group are in it because of the legal miscarriages they believe have occurred in the process of the dispute. Table IX summarizes these two groups and their reasons for involvement.

Pro Development Faction. The local City government structure is composed as explained in a previous section. The City supports industrialization in order to maximize revenues and public benefit and minimize public costs. Also, more than 75% of the property owners in the districts have signed leases. In 1974 it is expected that 80% of the City's energy needs will be met by oil; whereas, 70% of the energy need is now supplied by cleaner burning natural gas.[35]

In the past two years, gas production in the City and County has declined because of the inability to drill and develop new reserves. The City wishes to acquire more low sulphur natural gas in order to prevent additional air pollution in the coming years because of the national shortage of natural gas.

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[35]Williams, Yelverton, and Fratt.

TABLE IX

ORGANIZATIONS AND INDIVIDUALS INVOLVED
IN THE PACIFIC PALISADES DISPUTE

Organization or Office	Individual(s)	Reason for Involvement
	Pro Development	
Office of the Mayor of Los Angeles	Sam Yorty	Signed the three ordinances establishing drilling districts.
City Council of Los Angeles (as a body)	John Ferraro John S. Gibson Gilbert W. Lindsay Donald D. Lorenzen Billy G. Mills Louis R. Nowell Arthur K. Synder Robert M. Wilkerson	Voted for ordinances establishing three drilling districts. First group of eight, from Ferraro to Wilkerson voted for the ordinances.
	Ernarni Bernardi Thomas Bradley Marvin Braude Edmund D. Edelman Pat Russel Robert J. Stevenson Joel Wachs	Second group of seven, from Bernardi to Wachs, voted against the ordinances.
City Administrative Officer	C. Erwin Piper	Recommended approval of the three drilling districts
City Petroleum Administrator	A. O. Spaulding	Recommended approval of the three drilling districts
City Planning Commission		Recommended approval of the three drilling districts
Office of Zoning Administration	Rowland Rudser	Approved Conditional Use Permit to drill temporary core hole on 2 Ac parcel

TABLE IX

ORGANIZATIONS AND INDIVIDUALS INVOLVED
IN THE PACIFIC PALISADES DISPUTE

Organization or Office	Individual(s)	Reason for Involvement
City Department of Recreation and Parks	W. Frederickson, Jr. Mrs. H. C. Morton	Land swap with Occidental of 2 Ac parcel for 4.5 Ac parcel in Potrero Canyon
Occidental Petroleum Corporation	Dr. A. Hammer Stanford Eschner David Chenot	Proposal to drill for oil beneath Pacific Palisades
Seismologist, expert on soil dynamics	David Leeds	Testified that vibrations from drilling would have little effect on the bluffs of Pacific Palisades
Consulting Petroleum Geologist	Ted Bear	Testified that no possibility of blow-out if proposed drilling program adhered to and no human or mechanical failures
Property owners in Pacific Palisades		76% of the land-owners in Pacific Palisades entered into O & G lease with Occidental Petroleum

TABLE IX (Cont.)

ORGANIZATIONS AND INDIVIDUALS INVOLVED
IN THE PACIFIC PALISADES DISPUTE

Organization or Office	Individual(s)	Reason for Involvement
	Anti Development	
No Oil, Inc.	Larry L. Hoffman Larry Moss Shirley Solomon and many more	Non-profit California corporation supported by residents and non-residents
Pacific Palisades Property Owners Assoc.		Non-profit California corporation composed of property owners in Pacific Palisades
Santa Monica Canyon Civic Association		Non-profit California corporation representing residents in Santa Monica Canyon
Homeowners Association of Rustic Canyon		Non-profit California corporation representing homeowners in Rustic Canyon
Center for Law in the Public Interest	Brent N. Rushforth Carlyle W. Hall, Jr. Mary D. Nichols John R. Phillips F. P. Sutherland	Develop caselaw interpreting CEQA and what projects require EIR
Hearing Examiner Department of City Planning	Roy W. Bundick	Recommended disapproval of three drilling districts

TABLE IX (Cont.)

ORGANIZATIONS AND INDIVIDUALS INVOLVED
IN THE PACIFIC PALISADES DISPUTE

Organization or Office	Individual(s)	Reason for Involvement
Commission Chief Examiner Department of City Planning		Concurred with Hearing Examiner disapproval of drilling districts
Soil Mechanics Expert	George Tauxe	Testified that bluffs in Pacific Palisades were unstable
Professor Geologic Engineering, UC Berkeley	Dr. P. Witherspoon	Testified that it was a possibility that a blowout could occur if drilling crew and blowout prevention equipment malfunctions

Occidental Petroleum Corporation wants to maximize their profits for their stockholders. Since 1964 they have been one of the leading exploration and development companies in Los Angeles. Their safe drilling of 44 exploratory wells, including 15 redrills on 30 separate prospects, has resulted in the discovery of two major oil and gas fields from La Habra to Pacific Palisades on the west and Costa Mesa to San Fernando on the north. They have acquired over 26,000 O & G Leases on lands totaling over 13,700 Ac within the urban area in this time paying over $14 million in royalties. A total of over $41 million has been spent in exploration and development, exclusive of operating costs. In 1971 taxes greater than $1.1 million were paid.[36]

Private individuals include paid consultants, David Leeds and Ted Bear, who have testified for Occidental and residents of Pacific Palisades who have signed Oil and Gas Leases totaling over 75% of the property owners. Los Angeles City Councilmen Ferraro, Gibson, Lindsay, Lorenzen, Mills, Nowell, Synder, and Wilkerson have indicated their support during various City Council Meetings.

Anti Development Faction. No Oil, Inc. is composed of an environmental activist lawyer, Larry Hoffman, Larry Moss, Shirley Solomon, and many other residents and nonresidents of Pacific Palisades. Their original motive for involvement was protecting their neighborhood from encroaching industrialization, landslide, and blowout hazards. Various Pacific Palisades property owners and civic association groups are supporting No Oil.

The Center for Law in the Public Interest is a tax exempt, environmental law practice which is funded by Ford Foundation monies. Their interest in the Palisades dispute is to develop caselaw interpreting CEQA.

Various other private individuals have testified in their behalf. Many noted individuals such as Attorney General Younger, Senator Cranston, Senator Tunney, Congressman Bell, Assemblyman Priolo, Los Angeles City Councilmen Bradley, Braude, Edelman, Russel, Stevenson, and Wachs have sided with the anti-development faction. In addition, some 11% of the lessors have reason

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[36] Position Paper on Urban ..., p. 1.

to contest the original presentations of the lease agreements by Occidental on the basis of misrepresentation.[37]

Relevant Environmental Law

In order to understand the significance of some of the procedural questions which have been asked, it is necessary to examine the relevant environmental law. This law is composed of (1) The National Environmental Policy Act of 1970, (2) the California Environmental Quality Act of 1970 and its Revisions of 1972, (3) the Friends of Mammoth vs. Mono County Board of Supervisors Court Case of 1972, (4) Environmental Defense Fund vs. Coastside County Water District Case of 1972, (5) the California Coastal Zone Conservation Act of 1972 - Proposition 20, and (6) the California State Office of Planning and Research Guidelines of 1972 for Implementation of CEQA. Table X gives a summary of these laws and their major relevance to the Pacific Palisades dispute.

National Environmental Policy Act of 1970: The National Environmental Policy Act (NEPA) was created in 1970 by Congress to require Environmental Impact Reports (EIR) as a forum for resolution of substantive questions in administrative agency decision making. It was created to preserve and conserve the essential features of the coastal zone for continued use by man and required that all reasonable alternatives be defined and evaluated.

California Environmental Quality Act of 1970. The California Environmental Quality Act of 1972 (CEQA) was created on November 23, 1970 to require that an EIR be prepared if a project "may significantly affect" the environment. If a project may not have a significant effect, then, no EIR is required prior to project approval.

In 1972, revisions were made which exempted "ministerial" functions from the EIR requirements provided by CEQA.

Friends of Mammoth v. Mono County Board of Supervisors. The Friends of Mammoth v. Mono County Board of Supervisors' case was decided by the California Supreme Court on September 21, 1972. The Friends of Mammoth Case involved an injunction against a proposed private condominium project on Mammoth Mountain. The case was based solely on procedural grounds involved in the interpretation of CEQA. The decision meant that local government could not approve a private project which could have a "significant effect" on the environment of the state until the local government either prepares and submits an EIR or finds the proposed project is in compliance with the conservation element of the General Plan.

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[37]Conversation with Shirley Solomon.

TABLE X

MAJOR ENVIRONMENTAL LAW RELEVANT
TO PACIFIC PALISADES DISPUTE

Environmental Law	Major Finding	Relevance
National Environmental Policy Act of 1970 (NEPA)	Requires an EIR for resolution of substantive questions in development	Are there more substantive questions to be answered yet?
California Environmental Quality Act of 1970 (CEQA)	Ministerial functions exempted from EIR requirements	Once an oil drilling district is established, drillsite permit is ministerial
Friends of Mammoth v. Mono County Board of Supervisors	Private projects must comply with the provisions of CEQA regarding "potential" significant effect and EIR or compliance with the conservation element of the General Plan must be demonstrated if significant effect exists	Is oil well drilling in Pacific Palisades likely to have a significant effect on the environment?
Environmental Defense Fund v. Coastside County Water District	Provides for Writ of Supersedes and further defines CEQA	Writ of Supersedes was granted by California Supreme Court
California Coastal Zone Conservation Act of 1972-Proposition 20	Any development within the coastal zone permit area (1000 yd inland and 3 mi offshore) between November 8, 1972 and February 1, 1977 must be approved by Regional Commission	Proposed Pacific Palisades oil drilling districts are within this permit area and no construction began before November 8, 1972.
State Office of Planning and Research Guidelines for Implementation of CEQA	Guidelines and definitions for interpretation of CEQA and preparation of EIR	Los Angeles City Council and Superior Court of Los Angeles County have apparently ignored this piece of legislation.

The Court further stated "the courts will not countenance abuse of the significant effect qualification to excuse the making of impact reports otherwise required by the act." The statutory language made it explicit that a significant effect must be found if the project has merely the "potential to degrade the quality of the environment." Further, the Court stated that the role of the Environmental Impact Statement (EIR), as required by either NEPA or CEQA, is now integral to coastal planning and resource allocation.

Finally, only those projects, such as individual dwellings and small businesses, are exempted from the EIR requirement if a potential for significant environmental effect exists.

Environmental Defense Fund vs. Coastside County Water District. The second court case interpreting CEQA, the Environmental Defense Fund vs. Coastside County Water District Case of 1972 decision, was rendered by the California Court of Appeal providing for the issuance of a Writ of Supersedes. The Writ of Supersedes is a stay or injunction preventing construction to continue and be substantially completed by the time a court ruling could be made in an appeal which would overturn the construction. This decision further stated that "environmental ramifications, be they apparent or covert, must be investigated by the agencies of government." It also noted that the NEPA and CEQA are very parallel in content and nearly identical in words. Therefore, judicial interpretation in the federal law can be applied to the state statute.

The Court also stated regarding the importance of EIR's:

> The impact report provides evidence that the decision-making has in fact been made and it allows those who are removed from the initial process to evaluate and balance the reported factors in their own judgment.[38]

The EIR must be a formal document and the Court requires that "... whatever is required to be considered in an EIR must be in that formal report; what any official might have known from other writings or oral presentations cannot supply what is lacking in the report."[39]

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[38]Rushforth, Hall, Nichols, Phillips, and Sutherland, Petition for Hearing by the Supreme Court and Petition for Writ of Supersedes or Other Appropriate Writs.

[39]Ibid.

Finally, the Court stated that there was no requirement for all data to be known with absolute certainty before it can be determined whether an EIR is necessary. And if the project is multistaged by division into several phases, an EIR must be required to cover all phases of development if the composite effect on the environment would require one.

California Coastal Zone Conservation Act of 1972 - Proposition 20. The California Coastal Zone Conservation Act of 1972 (Proposition 20) was passed by 55% of the States' voters on November 7, 1972. Although, there is some legal action in process now over the effective date; November 8, 1972, was the original date. With the passage of this Act, the voters of California signified their desire to have regulation and cost-benefit analysis of further development within the coastal zone.

The major provisions of this Act are to develop a plan for the "Coastal Zone" before 1977 and, in the meantime, to establish a permit area with boundaries, and exemptions. The permit area in the interim period, until February 1, 1977, consists of the strip 1,000 yards inland and 3 miles offshore. The coastal zone may run inland 5 miles or to the top of the first coastal mountain range, whichever is shorter. Any development taking place within this coastal zone permit area must be approved by a permit granted by the coastal zone commission. Exemptions can be granted for projects already underway as of February 1, 1973. They must be claimed and granted, however, they do not just exist. Also, projects well underway before April 1, 1972, and others started between April 1, 1972 and November 8, 1972, may be exempted so long as no changes have occurred.

California State Office of Planning and Research Guidelines of 1972 for Implementation of CEQA. The final piece of major environmental law, the California State Office of Planning and Research Guidelines of 1972 was adopted by the Secretary of Resources December 19, 1972 and authorized by AB 889 with the Governor's signature on December 5, 1972. Its purpose is to provide public agencies with the necessary information to prepare and evaluate EIR's. It was responsible for the preparation and development of objectives, criteria, and procedures for the implementation of CEQA. All public agencies have the responsibility for administering CEQA according to these guidelines, and they must develop their own guidelines consistent with the intent of these. In this way, every public agency and citizen in the State of California will be able to take all action necessary to protect, rehabilitate, and enhance the environment.

One of the basic purposes of this document was to provide workable definitions of such controversial environmental terms as: environment, Environmental Impact Report (EIR), significant effect, Negative Declaration, project, and ministerial.

1. Environment. The environment was defined as, "The physical conditions of an area including land, air, water, minerals, flora, fauna, ambient noise, objects of historic or aesthetic value."

2. Environmental Impact Report (EIR). An EIR was defined as:

> A written statement which identifies and analyzes in detail the possible environmental effects of a proposed project, as specified in Section 21100 of the CEQA. It must include a description of the project, and a description of the environment existing before commencement of the project. The term environmental impact report is interchangeable with the term environmental impact statement (EIS).

It further states that an EIR is an informational document, designed to inform the public decision-makers on environmental effects of proposed projects. In its attempt to balance environmental objectives with economic and social objectives it should: (1) assess the potential impact on the environment, (2) identify adverse effects, (3) note mitigation measures which would minimize adverse effects, (4) examine feasible alternatives, (5) show the relationship between local short term and long term productivity, (6) list irreversible environmental changes, and (7) indicate the growth inducing impact of the proposed project. The report must then be made available for public comment through public hearings.

Finally, an EIR is required if a proposed project is in an "area of critical concern." An "area of critical concern" is defined by the State of California Environmental Goals and Policy as (1) those areas with a geologic problem severity of three or 'high' and (2) those areas of high fire hazard.

3. Significant Effect. The Guidelines defined significant effect as:

> A degree of impact upon the environment by a proposed project, as stipulated in Part B, Section 1 of these Guidelines, where a proposed project may degrade the quality of the environment, curtail

> the range of uses of the environment, reduce the diversity in the environment, achieve short term to the detriment of long term environmental goals, or have substantially adverse effects on human beings, either directly or indirectly. Consideration must be given to impacts of a project which are individually limited but cumulatively significant.

The Guidelines further state that significant effect may vary from place to place. Examples of this significant effect which apply to the Pacific Palisades case are if the project: (1) has substantial impact on natural, ecological, recreational, or scenic resources, (2) has substantial aesthetic or visual effect, (3) is subject to major geologic hazards, (4) induces substantial growth, and (5) causes serious adverse public reaction based on environmental issues. If any of these conditions are found to exist, as a result of the proposed project, then a significant effect ruling must be found.

A proposed project will have a significant effect on the environment if the potential to degrade the quality of the environment exists or the project is within an "area of critical concern," as defined by the Guidelines.

4. Negative Declaration. If the proposed project is found to have no significant effect on the environment, then the sponsor must prepare a Negative Declaration instead of an EIR. The Guidelines defines Negative Declaration as:

> A statement by the sponsor that the project in question will not have a significant effect on the environment. A Negative Declaration must include a description of the project as proposed, a description of the environment existing before commencement of the project, and detailed information supporting the contention that the project will not have a significant effect on the environment.

The Negative Declaration must be filed with the County Clerk about 30 days prior to approval of the proposed project.

5. Project. A project, for purposes of the Pacific Palisades case, was defined as, "an activity undertaken by a non-governmental entity or person, involving a public agency lease, permit, license, certificate, or other entitlement for use, enactment, and amendment of zoning ordinances." A project does not include activities over which the public agency has only ministerial authority.

Furthermore, an ongoing project was defined as any project approved before the effective date of CEQA, November 23, 1970. This type of project does not require an EIR or Negative Declaration.

6. Ministerial. As amended by the CEQA Revisions of 1972, a ministerial project is not required to comply with the EIR provisions of CEQA. A ministerial project is defined by the Guidelines as:

> A project where the law prescribes and defines the duties to be performed with such precision and certainty as to leave nothing to the exercise of discretion or independent judgment by the public agency or official; but where the project to be performed involves the exercise of discretion or judgment, it is not to be deemed merely ministerial.

Litigation Sequence to Date

The litigation sequence to date is summarized in Table XI. The case has involved administrative and legal review with the Board of Zoning Appeals and Superior Court of the County of Los Angeles respectively. An appeal decision should be made sometime in late Fall of this year from the Appellate Court of the State of California. It is expected by the plaintiffs that thecase will be appealed to the Supreme Court of the State of California before a final decision is reached.

Procedural Questions

Based on the litigation sequence and the environmental law discussed in the previous sections, the arena of dispute has shifted from purely substantive grounds to procedural grounds. Those procedural questions which have arisen have evolved around (1) the need for a Writ of Supersedes, (2) the interpretation of significant effect, (3) the legality of the Superior Court remand procedure, (4) the exclusion of controversy as a basis for EIR, (5) the erroneous consideration of mitigation measures by the Superior Court, (6) the failure of the City Council to consider the proposed drilling program, (7) the failure of the Superior Court to consider oil production and the nature of ministerial functions, (8) the failure of the City Council to submit a Negative Declaration, (9) the failure of the project to comply with Proposition 20, (10) the failures of the local city government procedure, and (11) the legality of the State-City-Occidental land swap.

TABLE XI

LITIGATION SEQUENCE IN THE PACIFIC PALISADES DISPUTE

Date	Court	Ruling
September 15, 1970	Board of Zoning Appeals of the City of Los Angeles (administrative action)	Conditional Use Permit to drill temporary exploratory core hole disallowed on appeal
December 6, 1972 to January 15, 1973	Superior Court of the State of California for the County of Los Angeles	Found establishment of urban oil drilling districts would have no significant effect on the environment.
January 30, 1973	Court of Appeals, Second Appellate District of the State of California	Denied petitioners' request for Writ of Supersedes and temporary stay
February 1, 1973	Superior Court of the State of California for the County of Los Angeles	Suit filed that oil drilling districts must comply with the provisions of Proposition 20
February 7, 1973	Supreme Court of the State of California	Writ of Supersedes and temporary stay granted on appeal
Fall, 1973	Appellate Court of the State of California	Decision on appeal of Pacific Palisades dispute

Writ of Supersedes. Petitioners filed for a Writ of Supersedes to stay construction of the proposed project until their appeal could be considered. Consideration and granting of this writ was first refused by the Court of Appeals of the State of California and then granted by the California Supreme Court. This Court applied the same reasoning they had used in The People v. The Town of Emeryville case of 1968 that "... where substantial questions of laws may be raised in appeal and the fruits of a reversal will be irreversibly lost unless the status quo is maintained, justice requires an Appellate Court to issue a stay order."

Interpretation of Significant Effect. The Pacific Palisades case, if nothing else, seems to present a misinterpretation of the significant effect interpretation given by the Friends of Mammoth, supra case, AB 889, and the Guidelines of the Office of Planning and Research. To some, it is hard to see how a significant effect on the environment can be avoided by the drilling of two wildcat wells in the coastal zone near a State Beach and an active landslide.[40]

Judge Eagleson ruled in the Superior Court on December 29, 1972 on the meaning of significant affect as:

> The word 'significant' means important and momentous and in the context of the act would seem to connote a degree of permanency. Notice that this is a two part test. I can think of examples of projects where even if there is an effect on the environment it is not significant, and I can think of projects where the impact would be significant, the impact would be so significant there would be no question about that, but it is so remote as to happening, that it would not rise to the dignity of being likely to happen. So it is a two part test. I think the test legally stated is whether there is a reasonable possibility that the project will have a momentous or important effect of a permanent or long enduring nature.

Thus, such words as "important" or "momentous" and "long enduring" or "permanent" are clearly antithetical to the Friends of Mammoth, supra case.

The City Administrative Officer's interpretation of significant effect on the environment involves only the possibility of blowout. Surely, such things as the project

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[40]Ibid, p.1.

impact on the neighborhood (short and long term), aesthetic values, and the proximity to an active landslide would have some significant effect on the area. Melville C. Branch has advocated as a minimum requirement for oil development that a ban be included on any oil operations that would disrupt the established character of the neighborhood or plans for its future. He further states that state, regional, or federal standards for urban oil extraction could assure minimum environmental safety and compatibility.

A significant effect finding and an EIR is required if a project is in an "area of critical concern." According to the Planning and Research Guidelines, the Pacific Palisades project would fall within three of the categories covering "areas of critical concern." These are coastal zone management, open space near metropolitan areas, and geologically hazardous areas. The City of Los Angeles argues, however, that these guidelines do not apply in this case.

Occidental and the City of Los Angeles argue that Public Resources Code Section 21188.5 (added by 1972 Stats. Ch 1154) states that the "City Council determination must be sustained if (1) the City Council proceeded in a manner required by law and (2) if the determination of the City Council is supported by substantial evidence in light of the whole record." They further claim that this case revolves around the use of the "substantial evidence" test versus the "independent judgment" test. They cite Boreta Enterprises, Inc. v. Department of Alcoholic Beverage Control (1970), Bixby v. Pierno (1971), and the Stanford Law Review in support of their contention that the substantial evidence test applies here. The Supreme Court described the substantial evidence test in Boreta Enterprises, Inc., supra as follows:

> ... the reviewing court is not entitled to exercise its independent judgment on the effect or weight of the evidence but is simply called upon to determine whether the findings are supported by substantial evidence in the light of the whole record.

Defendent's next contention involves the semantics debate over the real meanings of "may" and "significant." They argue that "may" means "reasonable possibility" versus appellants' "theoretical possibility"; and that "significant" means "a momentous or important effect of a permanent or long enduring nature" versus appellants' "meaningful" or "deserving to be considered." As previously stated, the Friends of Mammoth, supra case clearly states that a significant effect ruling must be made if the project has merely "the potential to degrade the quality of the environment."

Legality of Remand Procedure. The Superior Court, when faced with the prospect of making a decision, decided to remand authority back to the City Council to determine if enough substantive evidence was in the administrative record as of January 8, 1973. Then the Court would make a final ruling. In effect, Plaintiffs argue, this allowed the City Council to make a post hoc rationalization of whether the past substantive decision they had made was correct.

The Superior Court stated, concerning CEQA and the finding of a significant effect on the environment, "From the standpoint of effectuating the purpose of the Act, it makes no difference when you make the decision."

To Petitioners this is clearly not the intent of Friends of Mammoth, supra and AB 889 which state that a finding must be made on a possible significant effect of a project prior to approval of that project. Furthermore, the finding must be in writing. The decision for an EIR must be made prior to approval also. In Calvert Cliffs v. United States Atomic Energy Commission, the Court rules that if the proper procedures are not followed; then approval must be set aside. Defendents argue that the concept of remanding a case to the appropriate administrative agency is not at all unique and well established in the law of California. They cite County of Amador v. State Board of Equalization (1966) in this regard. The Superior Court stated on December 29, 1972 that it was remanding the case back to the City Council because it could not tell from the record the basis upon which the City Council had approved the drilling districts. Yet, defendents' whole argument seems to be that the whole administrative record is or was sufficiently clear to enable the "substantial evidence" test to be applied and a formal Negative Declaration to be waived. Thus, in remanding this decision back to the City Council, the Superior Court made a major procedural error.

Exclusion of Controversy. The Superior Court refused to consider controversy as an aspect for determining whether an EIR must be prepared.

Defendents state that the use of the word "should" in 14 California Administrative Code Section 15081 and the Guidelines for Federal Agencies Under the National Environmental Policy Act as issued by the Council on Environmental Quality implies that an EIR is not required wherever there is controversy. They also argue that the whole question here is whether a particular effect will occur at all and not whether it is controversial. However, this interpretation is completely contrary to the intended meaning given by the Federal Interim Guidelines, federal cases interpreting NEPA, and the State Office of Planning and Research Guidelines.

The Federal Interim Guidelines prepared by the Council on Environmental Quality first incorporated "controversy" as a criterion for preparation of an EIR. Federal cases interpreting NEPA have always included the controversy factor as an aspect in decision-making. The State Office of Planning and Research Guidelines also requires that controversy be considered as a cause for application of CEQA and an EIR. Again, the City claims that the guidelines were not in effect at this time.

Controversy can be within the project's community, among experts, or among government decision-makers. Surely, all of these types of controversy were generated by the Palisades project to drill for oil. Controversy in government decision-making is nothing new. There have always been vocal minorities opposed to the majority's will. However, this does not seem to be the case in this project. Occidental claims that they have leases for 77% of the acreage and 79% of the property owners in the three proposed districts.[41] These figures would suggest that they have the greater majority of the will of the people within the districts in favor of drilling. However, several surveys taken before the July 20, 1972 public hearing indicate that this is not necessarily true. One survey by No Oil, Inc. involving signed questionnaires from 1246 residents within the district and a 300' radius around them indicated that 65.4% do not favor oil drilling.[42] A total of 57% of the leased homeowners, 76% of the 223 homeowners who bought homes with leases already attached, and 92% of the 297 non-leased homeowners are against the oil drilling.[43] The Palisadian Post conducted a newspaper survey which indicated that 83.5% of their readers are opposed to the drilling. Furthermore, a survey conducted by Occidental on a verbal basis indicated that only 49.4% of the people polled are in favor of drilling. How do these conflicting results reconcile with the 79% of property owners which Occidental has claimed to sign. The answers appear to be in the possible misrepresentation of leases by Occidental, a fact that was earlier brought out. Also, the districts appear to be

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[41] Conversation with Edward Renwick.

[42] Recommendation Commission Hearing Examiner ..., p. 39.

[43] Ibid. p. 39.

gerrymandered to a certain extent to eliminate non-signers and include all those who have signed the leases. Some non-signers find that their property is directly above the oil reservoir, yet they are not within the boundaries of the districts.[44] Thus, the conditions for a ruling of controversy appear to be clearly present.

Erroneous Consideration of Mitigation Measures. Petitioners contend that the Superior Court committed another possible procedural error when it considered the project with mitigation measures included rather than the original project sans mitigation measures. When the drilling districts were originally approved in October of 1972, they were without certain mitigation measures which were added by the time the case came to the Superior Court. Some of these mitigation measures were the use of shock absorbers, better casing program, preventive maintenance of the landslide area, etc. The mitigation measures should be considered by themselves. The project should be viewed by itself. Then, the combined total considered in an EIR open to public scrutiny.

Defendents state that the Natural Resource Defense Council v. Grant (E.D.N.C. 1972) does not necessarily stand for the "proposition that the determination of whether an EIR is required must be made without regard to any features which could be categorized as mitigation measures" as argued by appellants. Instead they contend that the project is a "tightly regulated modern urban drilling project." It is in fact true that some of the mitigation measures cited are routinely used in modern drilling techniques and modern urban drilling. Shock absorbers for drilling rig vibration dampening have been used routinely since 1962 according to Arthur Spaulding.

Defendents also argue that the federal scope of review, as intended by Natural Resource Defense Council, supra, is much broader than the California scope of review. However, Environmental Defense Fund, supra, noted the similarity between NEPA and CEQA and noted that judicial interpretation in the federal law can be applied to state statutes.

Failure to Consider a Drilling Program. Because the governmental process of the City does not require the determination of a drillsite prior to approval of a drilling district (as this requires another permit), no drilling program was ever submitted or considered by the City Council.

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[44] Ibid. p. 40.

Since a drilling program depends on a particular location, the drillsite location is such a controversial issue in this case, and the outcome of any determination of significant effect is dependent on the drillsite location; it is apparent that the City Council never had a complete description of the proposed project. Occidental continually presented a drillsite for City Council consideration, but submitted no drilling program. Defendents claim, however, that a drilling program, although not before the City Council on October 10 and 17, 1972, was before them on January 8, 1973. They also contend that the drilling program was not essential for an educated Council decision but was considered by the City staff. The question is, however, should the drilling program have been available to the plaintiffs and the public for scrutiny. Thus, because of the local city government procedure, the City Council was never able to consider the effect of the total project-drilling district, drillsite, and drilling program.

Failure to Consider Oil Production and the Nature of Ministerial Functions. Since the granting of a permit to drill in a particular drillsite is a ministerial function as prescribed by the Planning and Research Guidelines, once a drilling district has been established; the consequences of oil production were never considered by the trial court. Oil production requires the passage of additional amendatory ordinances. Also, the establishment of the drilling districts was considered as a preliminary part of a larger multiple (multistaged) project to establish oil production by the plaintiffs. Defendents, however, contend that the rule involving phased projects has no applicability here whatsoever. Therefore, it was reasoned that the two exploratory wells should be drilled and further information collected before a decision on significant effect and an EIR was made. However, considering the investment of $1 million for the exploratory wells, it is imperative that this declaration be made prior to the investing of such substantial capital. Defendents claim that taking this first step of drilling the two exploratory core holes and investing the additional $1 million does not necessarily commit either the City or Occidental to the second step of production. Moreover, the Environmental Defense Fund, supra case ruled that not all the data need be known with certainty on a multiple project before a judgment on significant effect should be rendered on the entire project as then known.

Failure to Sumit a Negative Declaration. According to the Planning and Research Guidelines, a Negative Declaration is necessary if a project will not have a significant effect on the environment. Prior to approval of the drilling district ordinances on October 17, 1972, the City Council did not make the proper Negative Declaration. To Petitioners the City Council finding on January 8, 1973 does not constitute an adequate Negative Declaration, as a drilling program was never considered by the City Council. Finally, the January 2, 1973 letter from the City Administrative Officer does not constitute a Negative Declaration because it does not meet the standards defined by the Planning and Research Guidelines. Petitioners point out the three flaws it possesses are that (1) it was not designated as a Negative Declaration, (2) it has no information on factors used in reaching the decision or describing the existing environment, and (3) it is based on the Superior Court's erroneous test of significant effect.

Respondents contest the whole concept of a Negative Declaration as described by the Planning and Research Guidelines. Their interpretation of the Friends of Mammoth, supra decision is that "the correct rule does not require detailed findings of fact but does require a sufficiently complete administrative record to allow for proper judicial review."

Failure to Comply with Proposition 20. Since construction on the project was not begun before November 8, 1972, the project may be subject to the provisions of Proposition 20. A suit was filed February 1, 1973 claiming this fact. The outcome is yet to be determined. Also, there is some legislation underway regarding the effective date of this Act; Occidental has argued that the Palisades project was "Grandfathered" in before the effective date due to the approval of the drilling districts by City ordinances on October 17, 1973 and the amount of investment in the project before the effective date. The outcome of this action will have to await the decision of the Courts on this matter.

Failure of the Local Government Procedure. Some of the inadequacies of the local government procedure have already been enumerated. Others which bear comment will be discussed here. On October 17, 1972 the City Council voted to defeat a 30 day continuance, proposed by Councilman Wachs, to develop standards and procedures for the City to comply with the Friends of Mammoth, supra decision. This action was perpetrated despite the fact that the City Attorney stated that the City had no standards or guidelines by which to determine whether a project may have significant effect on the environment so as to cause preparation of an EIR.

Thus, while other cities were being ultracautious in their dealings with the Friends of Mammoth, supra decision, Los Angeles was not even concerned. After defeating the motion without any discussion, the Council then proceeded to approve the three drilling district ordinances by an 8-6 margin.

The Office of Planning and Research Guidelines was received by the plaintiffs and the City Council on January 4, 1973. This legislation, providing interpretation of CEQA, was subsequently ignored by the City Council, acting on advise from the City Attorney's office, in their opportunity to redeem themselves through the remand procedure meeting on January 8, 1973.

The City Attorney listed the three alternatives prescribed by Judge Eagleson for the City Council to consider in the January 8 meeting. These three motions stated that the project (1) had no significant effect, (2) had a significant effect, but that the City Council evidence to date constituted an EIR, and (3) had significant effect, but that the City Council evidence to date plus supplements constituted an EIR. A fourth and discretionary alternative would have stated that the City Council was wrong in their previous decisions and had, indeed, violated the legal intent of CEQA. Instead of this type of motion and subsequent actions to clear themselves, they voted for the motion stating that a significant effect did not even exist. They declared that their minds were made up; and therefore made no new investigation considering a drilling program, the geologic hazard of the area, or the controversy involved. They did not even prepare an adequate Negative Declaration.

Based on the recreational and aesthetic nature of the coast and the passing of Proposition 20, it is imperative to realize the difference between the coast and inland areas. Because the environment is different, the impact is different. You cannot use inland permits, in less environmentally sensitive areas, as precedent for coastal areas. The City government process must recognize this in future coastal dealings and take corrective action where necessary (amending of laws) in the decision-making process.

Legality of the State-City-Occidental Land Swap. The Land Swap involves the sale of 2 Ac (Highway Drillsite) of surplus park property from the State of California to the City of Los Angeles for $34,000 and the exchange of this land and $175,000 with Occidental Petroleum Corporation for a 4.5 Ac parcel (Anderton parcel) desired by the City for parkland. This transaction raises questions among opponents of the project of the propriety and legality of the entire land swap whereby the City and some of its employees may have

acted as agents for Occidental in acquiring the 2 Ac parcel from the State for a fraction of its market value, without public notice and competitive bidding. Furthermore, to the plaintiffs, the City engaged in a highly irregular and costly procedure to exchange the 2 Ac parcel with Occidental for a 4.5 Ac parcel which it probably could have had by condemnation. All in all, it can be argued that both the City and Occidental appear to have benefited from the land swap at the expense of the State, which may have been robbed to the tune of at least $100,000.

Defendents contend that the highest and best use for the Anderton (4.5 Ac) parcel and the subsequent Highway Drillsite (2 Ac) are as part of the surface and subsurface rights to the Riviera Oilfield. They say that severance damages, whereby the value of the sum of properties as a whole is greater than the value of the sum of properties individually, would have made condemnation of the Anderton parcel economically prohibitive. The City estimated that condemnation proceedings on the 4.5 Ac parcel (Anderton parcel) would involve a cost to the City of surface ($225,000) and subsurface ($13 million for the fair market value of the Riviera oilfield) values. The $13 million figure is derived based on 20 million recoverable barrels of oil (conservative estimate) valued at $95 million and discounted over a 20 year recovery period to $50 million. Land acquisition, drilling, and operating expenses are estimated at $43 million and discounted to $33 million. Thus, the discounted net profit of $17 million and fair market value of $13 million was derived. This cost must be imputed to one of the possible drillsites as the reservoir is worthless unless the oil and gas can be removed through a suitable surface drillsite. Obviously, the City did not want to have to pay this entire cost for the Anderton 4.5 Ac parcel through condemnation proceedings. At the time that the City was originally pursuing condemnation proceedings on the Anderton parcel before Occidental purchased it, the Entrada Drillsite and other possible drillsites were not available. Thus, the Anderton site was considered the only means of access to the Riviera Oilfield, and condemnation proceedings by the City were cancelled. But now, however, in light of all the facts, there does not appear to be any reason to believe that the City must pay this amount for the Anderton parcel. Occidental will still have access to the Riviera Oilfield through the other drillsites. They can still repurchase the 2 Ac drillsite, which thery were preparing to drill from before the Court injunction

forced them to cease operations, by submitting a bid in a competitive public bidding as is normal practice. Finally, only $284,000 was bid for the Anderton 4.5 Ac parcel by the Crane Development Corporation (an agent of Occidental Petroleum Corporation) even when Occidental planned to use the land as a drillsite.

Other procedural violations were committed also. Of special significance is the possibility that one of the major reasons why the eight City Councilmen voted for approval of the drilling districts was because they felt they had a moral obligation to Occidental because of this land swap and its consequential deed restrictions which the City Council had unanimously approved on October 10, 1969. Therefore, had this action and these deed restrictions not have been present, then maybe the Council would not have been so compelled to approve the drilling districts.

Table XII lists the cast of characters involved in this land swap. Of particular interest are William Frederickson, Jr., General Manager of the Department of Recreation and Parks of the City of Los Angeles; William Penn Mott, Jr., Director of the State Department of Parks and Recreation; and Mrs. Harold C. Morton, member of the Board of Recreation and Park Commissioners of the City of Los Angeles. Plaintiffs contend that Mr. Frederickson continually misrepresented the purpose of the 2 Ac parcel to the State, the Board of Recreation and Parks Commissioners, and the City Council as being for a parking lot. This misrepresentation resulted in the State selling the land to the City for a value almost $100,000 below market value. Mr. Richard Weisman of Century Properties (a member of No Oil, Inc.) testified that his firm would have bid at least $130,000 for the 2 Ac parcel as a drillsite. Also, an earlier evaluation made by the State in 1963 for a 6.3 Ac parcel which contained the 2 Ac parcel, placed a value of $800,000 on the land. The additional 4.3 Ac in this evaluation is mostly rugged terrain and not flat as the 2 Ac parcel. The State, at Mr. Frederickson's insistence, included a deed restriction limiting the property to non-recreational and park purposes (i.e., oil drilling site) in the Quitclaim Deed to the City from the State. Defendents claim that the State did this to prevent the City from changing the type of development (i.e., condominiums) once it had acquired the property. However, neither an oil drilling site or condominiums is concomitant with proper municipal purposes of beach improvements required of funds from the City's Beach Improvement Capital Account which were used to purchase the 2 Ac parcel from the State. Thus, the property should never have been allowed to be used for anything other than recreation and park purposes. Mr. Penn Mott, Jr. was responsible for the State

TABLE XII

CAST OF CHARACTERS - LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES,
AND OCCIDENTAL PETROLEUM CORPORATION

Individual	Affiliation
	State of California
Phillip J. Cronin	Land Agent, Department of General Services
Andrew Lolli	Department of General Services
Thomas C. Lynch	Attorney General
Donald Miller	Senior Land Agent, Department of General Services
John Morris	Deputy Attorney General
William Penn Mott, Jr.	Director Department of Parks and Recreation
Paul Priolo	Chairman, Assembly Committee on Planning and Land Use
Gordon Smith	Director of Finance
Stanley Yorshis	Supervising Land Agent, Department of General Services
	City of Los Angeles
Richard Aitkin	Staff member, Real Estate Department
Roger Arnebergh	City Attorney
City Council Members	City Council
Jack M. Fratt	Chief of Building Bureau, Department of Building and Safety
William Frederickson, Jr.	General Manager, Department of Recreation and Parks

TABLE XII (Cont.)

CAST OF CHARACTERS - LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES,
AND OCCIDENTAL PETROLEUM CORPORATION

Individual	Affiliation
Mrs. Harold C. Morton	Member Board of Recreation and Parks Commissioners
Gary Netzer	Deputy City Attorney
Ernest Noya	Principal Title Examiner, Department of Right of Way and Land
Norman L. Roberts	Deputy City Attorney
Arthur O. Spaulding	Petroleum Administrator for the City Administrative Officer
Jack Williams	Staff member, Real Estate Department
R. J. Williams	Superintendent of Building, Department of Building and and Safety
Charles A. Yelverton	Geologist, Department of Building and Safety

Occidental Petroleum Corporation

Robert Bruce	Representative
Crane Development Corporation	Agent
E. F. Reid	Representative

TABLE XII (Cont.)

CAST OF CHARACTERS - LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES,
AND OCCIDENTAL PETROLEUM CORPORATION

Individual	Affiliation
	Private Sector
Nina Anderton	Owner of 4.5 Ac parcel at mouth of Potrero Canyon
Robert D. Jackson, A.S.A.	Independent Land Appraiser, appraised 4.5 Ac parcel at $225,000
Thomas Mason	Independent Land Appraiser, appraised 6.3 Ac parcel (of which 2 Ac was a part) on October 1, 1963 for $800,000
Dean Swift	Assistant Division Counsel for Title Insurance Company
United California Bank	Deeded 2 Ac to the State for recreation and park purposes
Richard Weisman	Testified that his firm, Century Properties, would have bid at least $130,000 for the 2 Ac parcel as a drilling site

selling the 2 Ac parcel to the City, knowing full well that it would not be used for recreation and park purposes. Knowing of the land's intended use as a drillsite, he then did not have it reappraised. Mrs. Morton voted for the acquisition of the 2 Ac parcel from the State as a member of the Board. Owing to the fact that her husband's law firm, of which he is a senior partner, does the tax and legal work for Occidental; she should have disqualified herself from the proceedings because of her conflict of interest. At least, this is the course of action prescribed by the City Attorney in similar actions.[45] However, defendents claim that this argument is not germain as the Morton law firm at this time had only done previous work for Occidental valued at $750; a sum which would hardly create conflicts of interest.

Table XIII lists the legislation and Ordinances pertaining to the land swap. Of interest are Assembly Bill 1643, the City Charter of Los Angeles, and the City Building Code. Assembly Bill 1643 states that the State should dispose of surplus park property for current market values with proper public notice being given. The City Charter delineates the power and responsibility of the Department of Recreation and Parks. Finally, the City Building Code describes certain areas, of which the 2 Ac drillsite location is one, as being unsuitable for construction without stabilization measures being taken for the slide mass. Each of these Acts appears to have been violated in the process of the land swap.

The next table, Table XIV, gives the chronology of events in the land swap.

The Land Swap issue was investigated by the County Grand Jury at the request of Councilman Wachs and found to contain no impropriety in the exchange. However, the investigation report was written for the Grand Jury by the very same people who were supposed to be investigated. Thus, Assemblyman Priolo and the State Attorney General are now holding hearings which have uncovered some new findings of impropriety. The Los Angeles City Council Government Efficiency Committee has begun investigating the Land Swap issue. They are holding public hearings which began on November 1, 1973. The purpose of these hearings is to determine if certain City employees acted impropitiously; and if so, to formulate reforms in the local government structure to prevent such questionable events from occurring in the future. The last of this issue has definitely not been heard of yet.

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[45] Arnebergh, Prohibited Interest of Planning Commission in an Application for a Zone Change in CPC KOS 23583 and 23584.

TABLE XIII

LEGISLATION PERTAINING TO THE LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES, AND
OCCIDENTAL PETROLEUM CORPORATION

Legislation	Pertinent Sections
Property Transfer Deed of 1931	Transferred property from United California Bank to State of California with deed restrictions for recreation and park purposes
State Constitution, Article 13, Section 25	Prohibits the State from making a gift of State funds or property to a municipality
Assembly Bill 1643, Statutes of 1965, Chapter 1526	Authorizes the State to dispose of surplus State property for current market value. Section 4 requires that prior to sale of property, notice must be posted and published in the County in which the property is situated
City Charter of Los Angeles Section 170 (a) and 170 (b), Article 16	Delineates the City Department of Recreation and Parks power and authority
City Building Code of Los Angeles, Section 91.3011	States that areas of active landslides, such as the Via De Las Olas Landslide, are unsuitable for construction of buildings or any permanent structure unless stabilization of entire slide can be satisfactorily demonstrated
Ordinance No. 130,714 February 19, 1965	Authorized condemnation proceedings on 10.5 Ac parcel southwesterly end of Potrero Canyon and between 26.5 Ac and Pacific Coast Highway
Ordinance No. 133,351 October 27, 1966	Amended Ordinance No. 130,714 by describing additional parcels for acquisition by the City

TABLE XIII (Cont.)

LEGISLATION PERTAINING TO THE LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES, AND
OCCIDENTAL PETROLEUM CORPORATION

Legislation	Pertinent Sections
Ordinance No. 139,405 October 10, 1969	Authorized land swap with Occidental and the City. Required conveyance of 2 Ac parcel to Occidental without notice of sale or advertisement for bids
Ordinance No. 56,887, Section 7.27, Los Angeles Administrative Code	Permitted sale of 2 Ac without notice of sale or advertisement for bids
Superior Court Case No. 960878, January 15, 1970	Ruled that 1931 deed restriction that 2 Ac could only be used for recreation and park purposes could be removed

TABLE XIV

CHRONOLOGY OF THE LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES,
AND OCCIDENTAL PETROLEUM CORPORATION

Date	Occurrence
May 26, 1931	6.3 Ac parcel lying between abandoned portion of Pacific Coast Highway and relocated portion of Highway deeded to the State for park and recreation purposes by United California Bank
1964	City acquires 26.5 Ac in Potrero Canyon adjacent to Pacific Palisades Recreation Center by condemnation proceedings utilizing 1957 City Recreation and Park Department bonds
December 31, 1964	Recreation and Park Commissioners authorize City Attorney to commence condemnation action for 10.5 Ac southwesterly end of Potrero Canyon between 26.5 Ac and Pacific Coast Highway. Resolution No. 5068
February 19, 1965	City Council approves condemnation Resolution No. 5068
March 11, 1965	Resolution No. 5144 for independent appraisal of 10.5 Ac and acquisition by City Council
August 16, 1965	Condemnation ordinance, No. 130,714, approved by City Council
January, 1966	Appraisal of 4.5 Ac parcel owned by Mrs. Nina Anderton at $225,000, including land and improvements, transmitted by Robert D. Jackson, A.S.A. to City. No value given for mineral rights or drillsite potential for oil production in this valuation
May 25, 1966	State approves City application to obtain 10.5 Ac at entrance to Potrero Canyon with $320,000 of State funds by process of condemnation

TABLE XIV (Cont.)

CHRONOLOGY OF THE LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES,
AND OCCIDENTAL PETROLEUM CORPORATION

Date	Occurrence
November, 1966	Crane Development Corporation, an agent for Occidental, secures an option to purchase 4.5 Ac parcel from Mrs. Nina Anderton
Early 1967 Before February 27,1967	E. F. Reid and Robert Bruce, representatives of Occidental discuss with William Frederickson, Jr., Jack Williams, and Richard Aitkin, Occidental's option to purchase 4.5 Ac Anderton parcel. Discuss with Arthur Spaulding possibility using as drillsite and additional value of $20 million being added to option price. City to investigate possibility of using 6.5 Ac parcel northwesterly of Anderton parcel as drillsite in exchange for Anderton parcel
February, 1967	City Attorney orders Department of Public Works Right of Way and Land to cease negotiations for sale of Anderton parcel to the City
March 17, 1967	Frederickson addresses letter to Gordon Smith, Director of Finance, requesting information on terms of sale of 6.5 Ac parcel to City from State
April 4, 1967	Reply from Department of General Services that no current appraisal available on 6.5 Ac parcel
November 10, 1967	Phillip Cronin appraises 6.5 Ac parcel at a fair market value of $37,000 as a parking lot
December 26, 1967	Department of General Services replys that an appraisal of the 6.5 Ac parcel had been completed

TABLE XIV (Cont.)

CHRONOLOGY OF THE LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES
AND OCCIDENTAL PETROLEUM CORPORATION

Date	Occurrence
February 14, 1968	State advises that price for 6.5 Ac parcel was $37,000 without mineral rights and restricted to recreation and park purposes
March 11, 1968	City files action to condemn 10.5 Ac which included 4.5 Ac Anderton parcel
March 28, 1968	Crane Development Corporation secures grant deed to 4.5 Ac Anderton property for $284,000. Occidental acquires from Crane
April 22, 1968	HUD approves application by City for $320,000 for 10.5 Ac parcel at entrance to Potrero Canyon by condemnation proceedings. Other half of funds came from the State on May 25, 1966
April 25, 1968	Recreation and Park Commissioners make allocation of $38,000 by Report No. 709 to complete purchase of 6.5 Ac from State
June 27, 1968	Gary Netzer, Deputy City Attorney, discusses with Stanley Yorshis, Supervising Land Agent of City's desire to convey 6.5 Ac parcel to Occidental as a potential drillsite in exchange for the 4.5 Ac Anderton parcel owned now by Occidental
August 29, 1968	Phillip Cronin, Land Agent, submits revised appraisal for only 2 Ac of the 6.5 Ac parcel to Donald Miller, Senior Land Agent
September 18, 1968	Department of General Services agrees to sell 2 Ac of 6.5 Ac (only level portion) to City for $34,400 with usage restricted to oil exploration and production

TABLE XIV (Cont.)

CHRONOLOGY OF THE LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES
AND OCCIDENTAL PETROLEUM CORPORATION

Date	Occurrence
October 15, 1968	Andrew Lolli, Department of General Services, executes Quitclaim Deed, SSL-043, transferring 2 Ac to the City
November 21, 1968	Board of Recreation and Park Commissioners appropriate $35,000 to purchase 2 Ac parcel from the Beach Improvement Fund
December 3, 1968	William Frederickson asks Board to authorize acquisition of 2 Ac which was not used for recreation and park purposes in exchange for 4.5 Ac parcel from Occidental
December 5, 1968	Report No. 372 adopted by the Board to authorize acquisition of 2 Ac without reference to dedication of land as park property
January 7, 1969	Deed for 2 Ac parcel from State recorded with restriction for oil drilling and production
February 20, 1969	Gary Netzer and Jack Williams travel to Bakersfield to discuss acquisition of 4.5 Ac parcel from Occidental in exchange for 2 Ac and $175,000. Possible elimination of habendum clause relating to park and playground purposes in 2 Ac deed of 1931
March 17, 1969	Norman Roberts, Deputy City Attorney, addresses letter to John Morris, Deputy Attorney General, concerning removal of habendum clause
April 3, 1969	William Frederickson recommends "quiet title" action to remove habendum clause

TABLE XIV (Cont.)

CHRONOLOGY OF THE LAND SWAP
STATE OF CALIFORNIA, CITY OF LOS ANGELES
AND OCCIDENTAL PETROLEUM CORPORATION

Date	Occurrence
July 31, 1969	Recreation and Parks Commissioners adopt resolution authorizing land swap with Occidental
September 3, 1969	Recreation and Parks Commissioners recommend approval of land swap and City Attorney prepares ordinance and acquires City Planning Commission approval
September 11, 1969	Summons issued in Superior Court in Case No. 96078 to obtain permission to convey property (2 Ac) free of restriction for park and playground purposes
September 25, 1969	Draft of ordinance transmitted to Planning Commission
October 2, 1969	Director of Planning recommends approval of ordinance. Ordinance transmitted to City Council by City Attorney
October 10, 1969	City Council approves land swap with Occidental by Ordinance No. 139,405
October 17, 1969	Ordinance No. 139,405 approved by Mayor
January 15, 1970	Superior Court renders judgment that habendum clause can be eliminated
February 19, 1970	Contract for land swap executed between City and Occidental. Signed by Mrs. Morton for Recreation and Park Commissioners
April 4, 1970	Deed for 2 Ac parcel made

VII. INTERPRETATIVE CHRONOLOGY

Table XV presents the chronology of events in the Pacific Palisades dispute. This table lists the date and significance of each occurrence. The events are divided into 8 phases. These are (1) the last landslide occurrence, (2) the first exploratory core hole, (3) the land swap, (4) application for a Conditional Use Permit, (5) approval of the three urbanized drilling districts, (6) first stage of the appeal with the Superior Court, (7) filing for stay of construction, and (8) the second stage of appeals respectively.

TABLE XV

CHRONOLOGY OF THE PACIFIC PALISADES
OIL DEVELOPMENT DISPUTE

Date	Occurrence	Significance
Phase 1		
1958	Via De Las Olas Landslide	Last time slide occurred. Killed a State Engineer 150' from proposed drillsite
Phase 2		
August, 1966	Marquez core hole drilled	Indicated possibility of oil and gas beneath Pacific Palisades
Phase 3		
March 28, 1968	Occidental acquisition by Grant Deed of 4.5 Ac at entrance to Potrero Canyon	Potential drillsite, land wanted by the City for park purpose
January 7, 1969	City acquired 2 Ac parcel West Potrero Canyon from State for $35,000	City acquired land for possible land swap with Occidental Deed expressly provides for drilling and production
February, 1969	Occidental proposal of O & G Lease for 24 Ac City owned land between Temescal and Potrero Canyons and North Pacific Coast Highway	City said no, Policy does not allow leasing parcel less than 30 Ac until oil drilling districts established
December 6, 1969	Land swap approval by City Council by Ordinance No. 139,405 and Mayor's signature	Transferred 4.5 Ac parcel to City Department of Recreation and Parks in exchange for 2 Ac parcel to Occidental. 4.5 Ac parcel to be a link between Will Rodgers State Beach and Pacific Palisades Park. 2 Ac to be used as a drillsite. $175,000 in compensation to Occidental

TABLE XV (Cont.)

CHRONOLOGY OF THE PACIFIC PALISADES
OIL DEVELOPMENT DISPUTE

Date	Occurrence	Significance
May 7, 1970	Escrow on land swap culminated	
Phase 4		
May 28, 1970	Occidental files for Conditional Use Permit with Office of Zoning Administration to drill temporary core hole on newly acquired 2 Ac	Occidental announces plans to explore for oil and gas beneath Pacific Palisades
July 24, 1970	Permit approved by Rowland Rudser Associate Zoning Administrator of Office of Zoning Administration following 10 hour public hearing	Allowed drilling to commence
September 15, 1970	No Oil, Inc. wins appeal from Board of Zoning Appeals on grounds Highway drillsite presents environmental hazards following 8 hour public hearing	Environmental effects not understood to everyone's satisfaction. Conflict of expert testimony on landslide, blowout, and industrial hazards
Phase 5		
	Occidental makes survey of alternative drillsites	Allows City to choose between one other now
April, 1972	Occidental files for establishment of three urbanized oil drilling districts in Pacific Palisades	Proposes City select one of two possible drillsites, original Highway site and Entrada site
May 12, 1972	City Administrative Officer C. Erwin Piper, recommended approval of three drilling districts	Approval of drillsite based on his scope of jurisdiction

TABLE XV (Cont.)

CHRONOLOGY OF THE PACIFIC PALISADES
OIL DEVELOPMENT DISPUTE

Date	Occurrence	Significance
June 20, 1972	Environmental impact question raised by Hearing Examiner of Department of City Planning, recommended disapproval following 10 hour public hearing because he believed production of oil and gas might have adverse environmental effects	Commission Chief Examiner and the Director of Planning concurred with this judgment. Instead of recommending disapproval, however, the Commission Chief Examiner and the Director of Planning recommended that the drilling districts be approved but that the ordinances be withheld from presentation to the Council until Occidental had obtained a permit for and drilled two temporary geological exploratory core holes to obtain additional information
July 20, 1972	Planning Commission recommended drilling districts with special conditions following a public hearing. Only two core holes within the districts and no oil produced without further approval	Reaction to Hearing Examiner and environmental impact question
September 12, 1972	Planning Committee of the City Council drilling districts 2-1 with special conditions following 4 hour public hearing	Does not satisfy environmental impact requirements

TABLE XV (Cont.)

CHRONOLOGY OF THE PACIFIC PALISADES
OIL DEVELOPMENT DISPUTE

Date	Occurrence	Significance
September 21, 1972	Friends of Mammoth v. Mono County Board of Supervisors' decision by California Supreme Court	EIR required if project will have a significant effect on the environment
October 10, 1972	City Council approved three oil drilling districts with special conditions by vote of 8-7 following public hearing	Councilman Wachs' motion for continuance pending an EIR which satisfied Friends of Mammoth, supra was ruled out of order.
October 17, 1972	City Council defeats motion for 30 day continuance to develop standards and procedures for City to apply results of Friends of Mammoth supra case by 8-6 margin Approves Ordinances Nos. 144020, 144021, and 144022 by 8-6 vote following public hearing	Reaffirmed approval of three drilling districts. Does not feel that City has to be concerned about Friends of Mammoth supra court decision
October 20, 1972	Mayor Yorty signed ordinance establishing three drilling districts in Pacific Palisades	
Phase 6		
October 27, 1972	Center for Law in the Public Interest entered the dispute and filed the lawsuit	
November 7, 1972	California Coastal Zone Conservation Act of 1972, Proposition 20, passed by 55% of California voters	Permit area extends 1000 yds inland and 3 mi offshore, all projects occurring between November 8,

TABLE XV (Cont.)

CHRONOLOGY OF THE PACIFIC PALISADES
OIL DEVELOPMENT DISPUTE

Date	Occurrence	Significance
		1972 and February 1, 1977 must be approved. Exceptions, projects well underway before April 1, 1972
November 24, 1972	Occidental filed for Determination of Conditions and Methods of Operation permit with Office of Zoning Administration	Contained Occidental's drilling plan (casing program) and means of evaluating prospects
November 28, 1972	State Attorney General, Eville Younger, appraises land swap	Questions of legality and propriety raised
December 4, 1972	State Assembly Committe Hearing by Paul Priolo on land swap	
December 6, 1972	Center for Law in the Public Interest began appeal in Superior Court of the County of Los Angeles on grounds permit procedure has violated CEQA	Conflicting expert testimony. Environmental Evaluation Committee of Planning Commission noted that project would not have significant effect on geology or traffic patterns
December 29, 1972	Interim ruling by Superior Court stated that City Council failed to make an express finding on significant effect and consequential EIR. Remanded back to City Council for purpose clarifying its position	Actions of City Council concerning environmental effect were "vague and equivocal"

TABLE XV (Cont.)

CHRONOLOGY OF THE PACIFIC PALISADES
OIL DEVELOPMENT DISPUTE

Date	Occurrence	Significance
January 4, 1973	Office of Planning and Research Guidelines received by City Council	City now has no excuse for not interpreting CEQA and Friends of Mammoth supra case correctly
January 8, 1973	City Council finds drilling districts would have no significant effect on environment, voted 8-7 favor drilling districts based on Planning Commission recommendation following public hearing. Adopted resolution	City Council able to make decision which covers their own tracks, possible procedural error in government process
January 9, 1973	Trial in Superior Court reconvenes	
January 15, 1973	Superior Court finds no significant effect on environment by creation of drilling districts	Denied petitioners preliminary and permanent relief requested
Phase 7		
January 19, 1973	Petitioners filed Notice of Appeal to Court of Appeal of State of California, Second Appellate District	
January 23, 1973	Notice of Appeal served on Defendents	
January 29, 1973	Occidental filed letter with Court of Appeals stating petitioners appeal is premature	
January 30, 1973	Court of Appeals denies petitioners request for Writ of Supersedes and temporary stay of construction	

TABLE XV (Cont.)

CHRONOLOGY OF THE PACIFIC PALISADES
OIL DEVELOPMENT DISPUTE

Date	Occurrence	Significance
January 31, 1973	Petitioners filed for Writ of Supersedes and other appropriate writs in Supreme Court of the State of California	Final stage of appeal
February 1, 1973	Suit filed in Superior Court that Pacific Palisades oil drilling districts must comply with provisions of Proposition 20	Plaintiffs now have two court action cases pending
February 5, 1973	Regional Coastal Commission voted against James Hayes proposal for intervention	Did not believe they should become involved
February 7, 1973	State Coastal Commission voted to order Occidental to cease operations within 72 hours or have Attorney General intervene. Also, Supreme Court granted Writ of Supersedes and temporary stay	State Commission believed drilling districts establishment falls within provisions of Proposition 20. Construction of drilling site halted pending outcome of appeal
February 12, 1973	Regional Coastal Commission voted to approve State Coastal Commission actions of February 7	Had second thoughts about relevance for drilling districts of Proposition 20
February 15 - March 7, 1973	Attorney General, Evelle Younger, enters EIR and significant effect appeal case as friend of the court and the Proposition 20 case as co-plaintiff	Gives strength to plaintiffs' cases

TABLE XV (Cont.)

CHRONOLOGY OF THE PACIFIC PALISADES
OIL DEVELOPMENT DISPUTE

Date	Occurrence	Significance
February 27, 1973	Findings of Fact and Conclusion of Law signed following trial in Superior Court	List Superior Court's findings
March 1, 1973	Supreme Court extended restraining order against Occidental until the legal issues are resolved and returned the EIR appeal case to the Appellate Court	
March 27, 1973	Assembly Committee Hearings by Paul Priolo of land swap	Examining legality of land swap more closely
April 5, 1973	Occidental and other defendents filed counter-suit against Regional Coastal Commission claiming that they have vested rights and do not need a permit	Function of money and time invested in project prior to Proposition 20's effective date
Late Fall, 1973	Appeal regarding EIR and significant effect case to begin in Appellate Court	Probably go on to Supreme Court following decision
November, 1973	Los Angeles City Council Government Efficiency Committee to investigate Land Swap issue for possible impropriety and indication of needed reform in City government	

VIII. SUMMARY AND CONCLUSIONS

The nature of the Pacific Palisades dispute has shifted from a purely substantive question on the establishment of three urbanized drilling districts in Pacific Palisades to one of a procedural nature. This dispute has gone full cycle, from the local administrative agency to the courts in order to insure that the people's views are reflected in the final decision-making. The local citizens have used NEPA, CEQA, and the Friends of Mammoth, supra case as the principal environmental legislation for challenging the proposed drilling districts in the courts. The litigation sequence to date has involved five separate actions by the Board of Zoning Appeals of the City of Los Angeles (administrative action), the Superior Court of the State of California, the Court of Appeals Second Appellate District, the Superior Court of the State of California, and the Supreme Court of the State of California. The case is presently before the Appellate Court and final appeal may be expected to return the case to the California Supreme Court before settlement is reached.

Occidental claims to have spent almost $2.5 million so far on the Pacific Palisades Riviera oilfield. The oil business, however, is a high risk business and $2.5 million is hardly more than a drop in the bucket compared to a potential profit of $95 million (present value). They also claim that plaintiffs' motives for continued appeal is political. They reason that if the districts are not allowed and they must reapply, they will lose on veto of the Mayor, Tom Bradley, who has been opposed to the drilling districts. This argument is preposterous if you consider that plaintiffs have been protesting the districts since September 15, 1970. Did they know that Tom Bradley would be the new Mayor at that time?

It seems certain that the Petitioner's appeal will prevail. Substantive considerations such as landslide, blowout, subsidence, aesthetic appeal, noise, odors, etc. can be satisfactorily resolved by mitigation measures. However, such miscarriages of justice by the Los Angeles City Council (i.e., failure to consider CEQA and Friends of Mammoth, supra.), the Superior Court of the County of Los Angeles (i.e., interpretation of "significant effect," the remand procedure), and the Department of Recreation and Parks of the City of Los Angeles (i.e., the land swap participation) are difficult to overlook. It is necessary to point out that no one party or parties is necessarily the "villian" in a case of this sort. Rather, in applying and interpreting new legislation and rulings, it has been the role of the courts in our "checks and balances" system to correct errant decisions and actions of administrative agencies. As Melville C. Branch

has stated "Present regulations are the result of a long struggle by the City Planning Department to make oil production compatible with orderly urban development and a desirable community environment."

It is difficult to conceive of how a "significant effect" ruling could be so misinterpreted. The Friends of Mammoth, supra decision, Assembly Bill 889, and the State Office of Planning and Research Guidelines all define this term and were available to the City and the courts. Also, the City Building Code defined the Via De Las Olas landslide in such ways as to require a significant effect ruling before any construction could be approved. Finally, a great deal of controversy has obviously been aroused which has been simply ignored.

Therefore, an Environmental Impact Report may eventually be required before approval of the project. Surely, with all the information gathered to date through the litigation, this report will not be hard to prepare. In retrospect, it certainly would have been more effective for Occidental Petroleum Corporation to have prepared an EIR in such an environmentally sensitive area as this. Chances are that an EIR, when one is finally prepared with the proper mitigation measures, will be approved and the drilling and production of oil will be allowed. This, however, is up to the courts now. It is possible that the drilling districts will be set aside and Occidental will have to begin anew.

Other procedural questions involve (1) the need for changes and revisions in the policy regulating the creation of oil drilling districts, (2) local government procedure to require proper environmental cost-benefit analysis in preliminary decision-making, and (3) local government procedure to incorporate guidelines and procedures in order to comply with CEQA. In the first question, the "ministerial action" nature of drillsite selection once a drilling district has been established must be satisfactorily resolved to allow local environmental concerns to be heard and considered. A decision must be made on how to adequately reflect resident's views. Do you do this on a property ownership basis or a one man one vote criterion. Also, the proposed drillsite and drilling program and their possible effects on the environment should be considered simultaneously with the drilling district establishment. In the second precedural question to be resolved, a cost-benefit analysis must be made during the preliminary stages of decision-making to insure that all aspects of the proposed project have been properly considered. This analysis should include more than just drillsite camouflage and traffic congestion problems. Finally, to resolve the third question, the provisions of CEQA, the Friends of Mammoth, supra case, Proposition 20, and the State Office of Planning and Research

guidelines must be incorporated into the City governing procedure. Hopefully, such changes will make the city oil regulatory agency more concerned with spillover effectives of oil drilling and environmental issues in general and thus more responsive to the citizens who will bear the environmental costs of oil exploration.

The land swap issue will probably result in a voiding of the land exchanges among the State, City, and Occidental and a re-sale of the property with proper evaluation and public notice. Individuals involved in any impropriety should be subject to appropriate legal proceedings.

It is highly probable that future proposals for oil drilling and exploration in highly urbanized regions are likely to encounter substantial opposition from citizens who live within close proximity to drilling sites. Such citizens may consider the potential spillover effects generated by oil drilling activity to be a serious threat to the character of the community in which they live. Negative spillover effects may include specific concerns such as increased noise and traffic and modification of the visual environment; however, opposition to oil exploration may also be based on a more generalized position which opposes the intrusion of any large-scale industrial activity in residential neighborhoods. If local citizens have the resources, in time, skills, and money, to organize themselves into an effective political group, then major community conflicts are likely to develop. Where local administrative units are unable to respond to the environmental concerns of such citizens' groups, the presence of new environmental law provides such citizens' groups with an opportunity to gain access to the decision-making process through the courts. In such cases, therefore, the courts then become the forum for resolving environmental disputes. The Pacific Palisades conflict has demonstrated that local governmental units must substantially alter their administrative and regulatory procedures in order to take environmental issues into account in their decision-making processes, so that the concerns of citizens who must bear the costs of oil exploration activity are fully weighed and considered in local decisional processes.

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