



BOARD OF SUPERVISORS  
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors  
105 E. Anapamu Street, Suite 407  
Santa Barbara, CA 93101  
(805) 568-2240

**Department Name:** General Services  
**Department No.:** 063  
**For Agenda Of:** September 19, 2017  
**Placement:** Administrative  
**Estimated Time:**  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** Majority

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**TO:** Board of Supervisors  
**FROM:** General Services Janette D. Pell, Director (805) 560-1011  
Contact Info: Skip Grey, Assistant Director, General Services (805) 568-3083  
**SUBJECT:** SWEPI, LP, Guadalupe Dunes Lease Termination Agreement (003680); Third District

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**County Counsel Concurrence**

As to form: Yes

**Auditor-Controller Concurrence**

As to form: Yes

**Other Concurrence:** Planning & Development

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Approve and authorize the Chair to execute the attached original and duplicate original Lease Termination Agreement (Attachment 1) between the County of Santa Barbara and SWEPI, LP (SWEPI), regarding certain Lease Agreements (“Leases”) between the County and SWEPI for property at Guadalupe Dunes County Park, each dated December 15, 1974, with the termination to be effective upon the issuance by County to SWEPI of a zoning clearance for the property, in accordance with the Shell Guadalupe Dunes Gravel Remediation In-Lieu Proposal Project (Board File #16-00671) (“Zoning Clearance”);
- b) Approve and authorize the Director of General Services, only in the event that the Zoning Clearance is issued, to execute a Certificate of Acceptance in a form substantially similar to the attached (Attachment 2), accepting title conveyed from SWEPI, pursuant to a Quitclaim Deed in a form substantially similar to the attached (Attachment 3), for the property known as Guadalupe Dunes County Park, consisting of Assessor Parcel Numbers 113-020-011, -012, -013, -020 & -021;
- c) Direct staff, upon receipt of the Three Million Dollars (\$3,000,000) in lieu fee from SWEPI, to deposit the funds into a designated segregated fund where it shall be used for the purpose of acquiring property to mitigate the recreational impact of leaving in place gravel remaining from a

drilling operation on the property in accordance with the conditions of approval for the Coastal Development Permit 14CDP-00000-00072, as approved by the Board of Supervisors on September 20, 2016; and

- d) Find that pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162, there are no substantial changes proposed in the Shell Guadalupe Dunes Gravel Remediation In-Lieu Proposal project which will require major revisions to the Supplement (13EIR-00000-00005) to the Environmental Impact Report (82-EIR-11) certified by the Board of Supervisors on September 20, 2016; no substantial changes to the project have occurred with respect to the circumstances under which the project is undertaken; and there is no new information of substantial importance and therefore, pursuant to CEQA Section 15162, the recommended actions are within the scope of the project covered by the previously certified Supplemental Environmental Impact Report (SEIR), and no new environmental document is required.

**Summary Text:**

This item is being presented to the Board in order to request the approval of a Lease Termination Agreement (hereinafter "Agreement") between the County and SWEPI that will terminate SWEPI's Leases at Guadalupe Dunes County Park and facilitate SWEPI's payment to the County of an in-lieu mitigation fee as required by a Coastal Development Permit ("CDP") (14CDP-0000000072) and a revised Conditional Use Permit ("CUP") (13RVP-00000-00119). The Board is also requested to authorize the acceptance and recording of a Quitclaim Deed conveyed from SWEPI to the County, releasing any and all interests held by SWEPI for the entire Guadalupe Dunes County Park property. The Leases will not terminate pursuant to the Agreement and the Quitclaim Deed will not be accepted and recorded unless and until the conditions of the CDP and revised CUP are satisfied and a Zoning Clearance is issued. The CDP requires the County to acquire certain mitigation property that will mitigate the recreational impact of SWEPI's leaving in place the remaining gravel from an old access road constructed on Park property pursuant to a Conditional Use Permit issued in 1983. Pursuant to the Agreement, SWEPI will submit an in-lieu fee of Three Million Dollars (\$3,000,000.00) to the County, paid in one installment, for the purposes of facilitating acquisition of mitigation property.

**Background:**

In 1974, prior to County ownership, portions of the Guadalupe Dunes County Park ("Park") were leased out for oil and gas exploration and production, pursuant to the Leases, which were subsequently assigned to SWEPI. In 1983, SWEPI's predecessor, Husky Oil Company, obtained a Conditional Use Permit ("CUP"), as required for its operations on the property. Under the terms of the CUP, once drilling operations were terminated, SWEPI was required to remove all introduced material on or near the surface, to a depth of 15 feet, including gravel used to construct an access road across the property to the drilling sites. The County acquired the property from Union Sugar in 1987, and became the Lessor under the Leases. SWEPI's predecessor ceased operations in 1989 and commenced abandonment and reclamation to restore the site under a Coastal Development Permit ("CDP"), as required by the County. With the exception of remnant gravel, all production wells and infrastructure were removed and site reclamation was otherwise completed in 1997, in compliance with regulations of the County and California State Department of Oil, Gas, and Geothermal Resources ("DOGGR"). SWEPI's predecessor performed site assessments which confirmed that no hazardous levels of any materials were present in local soils or groundwater. A portion of the gravel used for road base and some asphaltic materials were removed in 1997; however, sand impacted by gravel was left in place because the gravel occurred at depths much greater than anticipated. The total surface area currently impacted by gravel is approximately 18.9 acres.

SWEPI proposed to leave the sand impacted by remnant gravel in place and amend the CUP to remove the remediation requirement. In exchange for leaving the gravel in place, SWEPI proposed to provide an

in-lieu fee of Three Million Dollars (\$3,000,000) to the County to be used for acquisition of property for public recreational or open space purposes as mitigation for any residual environmental impacts of leaving the remaining gravel in place. The mitigation property must be at least 56.7 acres, which is at a mitigation ratio of not less than 3:1 (56.7 acres of mitigation for 18.9 acres of disturbance). The 3:1 ratio is consistent with standard mitigation practices used by the County and the California Coastal Commission. Acquisition of the mitigation property by the County, another public agency, or a qualified non-profit entity would be required prior to final permit issuance.

The County prepared a Supplemental Environmental Impact Report (“SEIR”) to evaluate the proposal to make payment to the County in lieu of completing the required remediation. The SEIR concluded the impacts from leaving gravel in place would be mitigated through payment of a mitigation fee that would be used to obtain coastal property of similar quality.

At the September 20, 2016 hearing, the Board of Supervisors approved the Shell Guadalupe Dunes Gravel Remediation In-Lieu Proposal Project (Board File #16-00671). Specifically, the Board denied the appeal to the Project brought by Gordon Sand, approved the CEQA findings, certified the Supplemental EIR, and approved the CDP (14CDP-0000000072) and revised CUP (13RVP-00000-00119). Upon satisfaction of the conditions in the CDP and revised CUP, the Zoning Clearance will be issued by the County to SWEPI; and the Leases will be terminated pursuant to the Agreement; and Quitclaim Deed will be accepted and recorded.

**Fiscal and Facilities Impacts:**

There will be no facilities impacts. The in-lieu fee of Three Million Dollars (\$3,000,000) will be deposited into Fund 0394, *Guadalupe Dunes Mitigation*. These funds shall be available for acquisition of the required mitigation property in satisfaction of the CDP and CUP conditions of approval. Any remaining funds may be used at the discretion of the Board.

If the County is able to timely acquire the mitigation property and the Zoning Clearance issues, Shell will be relieved of its obligations under the CDP and revised CUP, which includes requirements to make annual payments to the County in an amount no more than \$40,000.

**Key Contract Risks:**

In the event the County is unable to enter into a contract for the acquisition of appropriate mitigation property before the CDP expires, the funds will be returned to SWEPI, the Leases will not be terminated pursuant to the Lease Termination Agreement, and the Quitclaim Deed will not be accepted and recorded. SWEPI would be required to complete the gravel remediation requirements set forth in the original Conditional Use Permit.

**Special Instructions:**

After Board action, please distribute as follows:

1. Original Lease Termination Agreement to Clerk of the Board Files.
2. Duplicate Lease Termination Agreement and copy of the Minute Order to General Services/Real Property, Attn: Don Grady.

**Attachments:**

1. Original and Duplicate Original Lease Termination Agreement
2. Certificate of Acceptance
3. Quitclaim Deed