

# Appendix F: Responses to Comments

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Appendix F is organized as follows:

## **F.1 Introduction**

**F.2 Format of the Responses to Comments:** This section describes the format and organization of the comments received on the Draft Supplemental Environmental Impact Report (SEIR) and the responses to those comments.

**F.3 Responses to Comments Received:** This section provides a list of the comments received on the Draft SEIR by a member of the public, agency, company, or organization, and lists the unique number for each comment letter. Immediately following the list of individual comments received, responses are provided for comments received as letters and oral testimony.

**F.4 References:** This section provides references used in Section F.3, *Responses to Comments Received*.

**F.5 Attachments:** This section provides attachments referred in Section F.3, *Responses to Comments Received*.

## **F.1 Introduction**

Comments received during the 45-day public comment period for the Draft SEIR, ending 22 June 2014, included written comments from four agencies, oral testimony from one individual representing one company, and written comments from one legal firm and one individual representing one company. The latter comments were similar to the same party's comments provided as oral testimony during the Environmental Hearing on 28 May 2014.

## **F.2 Format of the Responses to Comments**

Comments received on the Draft SEIR are organized by the type of commenter, with agencies listed first, then organizations, companies, and individuals. Within each group commenters are listed alphabetically. Each comment letter or e-mail is assigned a unique number with each comment individually numbered as well. Individual comments and issues within each comment letter or e-mail are numbered individually along the margins in Section F.3. For example, comment 2-1 is the first substantive comment in Comment Letter 2; "2" represents the commenter; the "1" refers to the first comment in that letter. All comment letters are available in the Administrative Record for the Project.

## **F.3 Responses to Comments Received**

Table F-1 lists all agencies, organizations, companies, and individuals that provided written and oral comments on the Draft SEIR. As described above, each comment letter was assigned a unique number.

**Table F-1: Index of Comments Received on the Draft SEIR**

<b>Commenter Number</b>	<b>Name of Commenter</b>	<b>Response to Comment Location</b>
<b>Agency</b>		
1	Mr. Scott Morgan, Director, State Clearinghouse	F-3
2	Ms. Frances Romero, Mayor, City of Guadalupe	F-5
3	Ms. Carly Wilburton, Air Quality Specialist, Santa Barbara County Air Pollution Control District	F-7
<b>Organization</b>		
N/A	N/A	N/A
<b>Company</b>		
4	Mr. George Gordon, Gordon Sand Company (Environmental Hearing)	F-8
5	Mr. George Gordon, Gordon Sand Company	F-11
6	Mr. Peter Candy, Hollister & Brace, representing Gordon Sand Company	F-15
<b>Individual</b>		
N/A	N/A	N/A



Edmund G. Brown Jr.  
Governor

STATE OF CALIFORNIA  
Governor's Office of Planning and Research  
State Clearinghouse and Planning Unit



Ken Alex  
Director

June 24, 2014

Matt Young  
Santa Barbara County  
123 E. Anapamu Street  
Santa Barbara, CA 93101

Subject: Shell Guadalupe Beach Gravel Removal In-Lieu Proposal  
SCH#: 2013101107

Dear Matt Young:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. The review period closed on June 23, 2014, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

1-1

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan  
Director, State Clearinghouse

RECEIVED  
JUN 27 2014  
S.B. COUNTY  
PLANNING & DEVELOPMENT

Comment Response 1-1: Comment noted.

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2013101107  
**Project Title** Shell Guadalupe Beach Gravel Removal In-Lieu Proposal  
**Lead Agency** Santa Barbara County

**Type** SIR Supplemental EIR  
**Description** Applicant proposes to leave in place approximately 293,752 cubic yards of sand impacted by remnant gravel that remains from a drilling project. The original drilling and production project was approved by the County in 1983 and included the placement of gravel base to accommodate heavy equipment access and stabilize sand near the proposed drilling islands. Permit Condition #31 of 82-CP-7 the drilling project requires removal of all materials brought into the dunes to support the exploratory drilling project as follows.

**Lead Agency Contact**

**Name** Matt Young  
**Agency** Santa Barbara County  
**Phone** 805 568 2513  
**email**  
**Address** 123 E. Anapamu Street  
**City** Santa Barbara **State** CA **Zip** 93101

**Project Location**

**County** Santa Barbara  
**City** Guadalupe  
**Region**  
**Lat / Long**  
**Cross Streets** West Main Street  
**Parcel No.** 113-020-018, 113-020-020, 113-020-021  
**Township** 10N **Range** 36W **Section** 11/14 **Base** SBB&M

**Proximity to:**

**Highways** Hwy 1 and 166  
**Airports** No  
**Railways** No  
**Waterways** Santa Maria River, Orcutt Creek, Pacific Ocean  
**Schools** No  
**Land Use** RES-320, Resource Management, 320 acres minimum parcel size

**Project Issues** Aesthetic/Visual; Recreation/Parks

**Reviewing Agencies** Resources Agency; California Coastal Commission; Department of Fish and Wildlife, Region 5; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Resources, Recycling and Recovery; California Highway Patrol; Caltrans, District 5; Air Resources Board; Regional Water Quality Control Board, Region 3; Department of Toxic Substances Control; Native American Heritage Commission; State Lands Commission

**Date Received** 05/08/2014 **Start of Review** 05/08/2014 **End of Review** 06/23/2014



City of Guadalupe  
 918 Obispo Street  
 P.O. Box 908  
 Guadalupe, CA 93434  
 805-356-3891

June 19, 2014

Matt Young, Project Planner  
 County of Santa Barbara Planning  
 123 East Anapamu Street  
 Santa Barbara, CA 93101

Via e-mail: mayoung@countyofsb.org

**RE: Comments on the Draft Environmental Impact Report (EIR) for the Proposed Shell Guadalupe Dunes Gravel Remediation In-Lieu Proposal Project (Case Nos. 13RVP-00000-00119; 13CDH-00000-00042)**

Dear Mr. Young,

The Guadalupe City Council considered the subject Draft EIR at a public hearing held on June 10, 2014. After receiving public comments and ensuing discussion, the Council was unanimous in concluding that the Draft EIR lacks important information and failed to mitigate potentially significant adverse impacts in the environment. This comment letter is being submitted at the direction of the City Council and is consistent with the public comments received.

The Council was surprised that only one alternative was presented in the EIR; typically there are at least three. The mitigation to purchase off site property somewhere on the North Coast is vague and there is no clear nexus to the impacts at the Rancho Guadalupe Dunes Preserve County Park. The entire premise does not appear to be well thought out as the amount of the in lieu fee is not disclosed nor is the estimated cost of the required gravel removal. Without full disclosure of relevant information it is impossible to determine the order of magnitude and what other options may be fundable. The Draft EIR should include independent cost estimates for each alternative and for each potential mitigation measure.

2-1

2-2

The proposed project is identified as the environmentally superior project because it would least impact the existing physical setting, at least in the short term. In this case, however, the existing physical setting is an undesired and contaminated condition that has occurred as a result of a permit violation that has gone unenforced by the County for decades. By not impacting the existing physical setting, the proposed project would allow potentially significant adverse impacts to occur indefinitely. The Draft EIR acknowledges that the presence of the gravel on the dunes has potentially significant adverse effects relative to visual resources and recreation, but the Draft EIR downplays these impacts and erroneously concludes that these impacts are less than significant with mitigation. In fact, no mitigation is being proposed that would actually lessen these impacts. Acquisition of an off-site piece of land that would otherwise be undeveloped does not mitigate the impact to our citizens or other beach users who have recreated at this beach for decades. The City Council strongly believes that standard mitigation protocol to mitigate where the impacts occur should be adhered to by implementing one of or a combination of the suggestions below.

2-3

The Rancho Guadalupe Dunes Preserve County Park has two major deficiencies that restrict its use by our citizens and other North County residents. We urge the County to prioritize the maintenance and use of

**Comment Response 2-1:** Comment noted. As required by the California Environmental Quality Act (CEQA), a reasonable range of alternatives were analyzed in the Draft SEIR (CEQA Guidelines Section 15126.6). Three different project scenarios were considered in the Draft SEIR, including the Proposed Project, the Hybrid Gravel Removal Alternative, and the No Project Alternative. No other alternatives would be practicable, feasible, or substantially different from those alternatives considered in the Draft SEIR.

**Comment Response 2-2:** Comment noted. Mitigation Measure REC-1: In-Lieu Property Acquisition has been crafted to offset impacts to recreation and visual resources resulting from the remnant gravel that would remain at the Project Site under the Proposed Project. Section 6(E)(1)(c) of the Santa Barbara County Environmental Thresholds and Guidelines Manual describes that off-site mitigation approaches may be appropriate at times if a greater ecological value may be clearly gained than with on-site mitigation (i.e., where on-site habitat is of low quality or highly fragmented). In-lieu fees are commonly imposed as mitigation under CEQA. Whenever establishing, imposing, or increasing a fee "as a condition of approval of a development project," the local agency imposing the fee must identify the purpose of the fee and the use to which it will be put (Government Code section 66001). These conditions are clearly met by the mitigation measure, which sets standards for optimum acquisition properties. It is important to distinguish that the acquisition of property for recreation and open-space use constitutes the off-site mitigation, not simply the provision of an in-lieu fee to the County. While the acquisition of property would not mitigate impacts to recreation and visual resources on-site, the regional increase in public land available for recreation and open-space uses would offset these impacts and would provide indirect benefits to geological resources as well as biological resources.

**Comment Response 2-3:** Comment noted. As described in Section 3.9, *Recreation* the remnant gravel does not terminate or physically obstruct public access; however, when viewed by a recreationist

this existing County Park prior to acquiring additional parcels for which there is no clear plan nor funding to allow or provide public access. Even with such funding/plans it would not mitigate impacts at the Rancho Guadalupe Dunes Preserve County Park.

#### ACCESS TO EXISTING COUNTY PARK

The County road that leads to the public parking lot at the Rancho Guadalupe Dunes Preserve County Park is periodically washed-out by the Santa Maria River, leaving only a temporary solution to an on-going problem. After the recent repair, the County Public Works Department acknowledged that the long-term solution is to re-locate the road. It is our understanding that no funding is being set aside to ensure access to Rancho Guadalupe Dunes Preserve County Park, the only north county beach access that serves approximately 7,100 Guadalupe residents and over 150,000 residents of Santa Maria and Orcutt. The proposed "buy out" of mitigation responsibility proposed by Shell would seem to present an ideal solution to this problem.

2-4

#### HABITAT CONSERVATION PLAN (HCP)

Dating back to the relocation of the parking lot in 2004, the uses at the Rancho Guadalupe Dunes Preserve County Park have been reduced due to the lack of a completed HCP. Although the HCP was developed, the HCP was never funded by the County. The resulting restriction & limitation of uses at the beach continue to impact the beach users as well as the economy in Guadalupe. Dogs have not been allowed at this beach since the August 2004 Coastal Commission ban due to the lack of mitigation measures for allowing dogs on the beach. Although the County's Master Plan, developed with the Nature Conservancy, Friends of the Nipomo Dunes, and equestrian groups, sought to reinstate equestrian use at the beach as part of the application to replace the parking lot; that too was denied by the Coastal Commission as well, for the lack of a plan. In order for the County to obtain a permit for dogs and/or horses at the beach, the County must develop a plan that includes: signage, enforcement personnel, and the design of a docent and long-term monitoring program. Continued delay to fund and implement the HCP may also be placing the County at risk of "take" under the Endangered Species Act. After 10 years of limited access for the public, the HCP should be funded and implemented as soon as possible.

2-5

In conclusion, the Draft EIR fails to disclose information that is crucial to an informed decision and it lacks a meaningful discussion of potentially feasible alternatives and potentially feasible mitigation measures. In addition, the Draft EIR fails to mitigate potentially significant adverse impacts on the environment. The off-site land acquisition vaguely described in the Draft EIR may be desirable for other reasons but it would neither justify nor mitigate further degradation of the Rancho Guadalupe Dunes Preserve County Park. The public lost access to this park altogether for a period of about one year during 2011-2012 and this will happen again unless the County acts proactively. Now that funding is available, the long-awaited improvements should be made at the Rancho Guadalupe Dunes Preserve County Park.

Sincerely,



Frances Romero, Mayor  
City of Guadalupe

cc: Supervisor Doreen Farr

**Comment Response 2-3 (cont.):** within the Rancho Guadalupe Dunes County Park the presence of the gravel would result in an adverse impact to the recreational experience. The remnant gravel in the dune area, which would be retained under the Proposed Project, would noticeably detract from a more natural, pristine state described for the existing setting in the 1982 Final EIR. Consequently, recreationists would continue to experience adverse impacts in Rancho Guadalupe Dunes County Park. However, the in-lieu fee provided by the Applicant, which would be used by the County to purchase property for public recreational or open-space purposes, would offset this impact as it would increase the regional area available for public recreation and open-space use. As described in Comment Response 2-2, off-site mitigation is commonly imposed to offset impacts under CEQA. MM REC-1 provides a reasonable mitigation ratio and clear standards for the acquisition of property that would ensure impacts to recreation and visual resources at Rancho Guadalupe Dunes County Park are adequately offset by regional increases in opportunities for coastal recreation and open-space use.

**Comment Response 2-4:** Comment noted. Please refer to Comment Response 2-2 and Comment Response 2-3. Off-site mitigation is commonly imposed to offset impacts under CEQA. Although funding relocation of the road would represent a benefit to recreational resources at the Project Site, it would not address or offset the visual impacts that create the adverse impacts associated with the remnant gravel. MM REC-1 defines an optimal property that would be located within the vicinity of the Project Site and characterized, to the extent feasible, by similar dune habitat with substantial scenic value and similar recreational value. Acquisition of such a property at a 3:1 mitigation ratio would adequately offset impacts at the Project Site by increasing regional opportunities for coastal recreation and open-space uses.

**Comment Response 2-5:** Comment noted. Please refer to Comment Response 2-4. Also, please note that the County is actively pursuing a Habitat Conservation Plan (HCP) for Rancho Guadalupe Dunes Preserve County Park. The County is currently responding to comments from the U.S. Fish and Wildlife Service (USFWS).

May 29, 2014

Matt Young  
Santa Barbara County  
Planning and Development  
123 E. Anapamu Street  
Santa Barbara, CA 93101

RECEIVED  
MAY 29 2014  
S.B. COUNTY  
PLANNING & DEVELOPMENT

Re: APCD Review of the Draft Supplemental Environmental Impact Report for the Proposed Shell  
Guadalupe Dunes Gravel Remediation In-Lieu Proposal Project, SCH No. 2013101107, 13EIR-  
00000-00005, 13RVP-00000-00119, 13CDH-00000-00042

Dear Mr. Young:

The Air Pollution Control District (APCD) has reviewed the Draft Supplemental Environmental Impact Report (SEIR) for the referenced project, which consists of leaving in place approximately 293,752 cubic yards (cy) of sand that has been found to contain remnant gravel from an exploratory drilling project in the Rancho Guadalupe Dunes County Park. Permit Condition #31 of 82-CP-75 (cz) and 96-CDP-10 for the exploratory drilling project requires Shell Exploration and Production, Inc. (Applicant) to remove all drilling and associated materials to a maximum depth of 15 feet within the dunes. In exchange for leaving the remaining gravel in place, the Applicant proposes providing a monetary contribution (in-lieu fee) to the County for purchase of property in the County's north coastal region for public recreational or open space purposes at a ratio of not less than 3:1. Most of the Project Site falls within the Environmentally Sensitive Habitat (ESH) overlay designation on rural lands designated Open Lands and zoned Resource Management, 320-acre minimum parcel size (RES-320). The Project Site covers an area of approximately 19-acres and is identified in the Assessor Parcel Map Book as APN 113-020-018, -020, and -021; the Site is located in the northeastern corner of Rancho Guadalupe Dunes Preserve County Park, commonly known as 6350 West Main Street in the unincorporated Guadalupe Dunes area.

Air Pollution Control District staff has no comment on the Draft SEIR.

3-1

If you or the project applicant have any questions, please feel free to contact me at (805) 961-8890 or via email at [cwv@sbcapcd.org](mailto:cwv@sbcapcd.org).

Sincerely,



Carly Wilburton,  
Air Quality Specialist  
Technology and Environmental Assessment Division

cc: TEA Chron File

Louis D. Van Mullem, Jr. • Air Pollution Control Officer  
260 North San Antonio Road, Suite A • Santa Barbara, CA • 93110 • 805.961.8800  
[OurAir.org](http://OurAir.org) • [twitter.com/OurAirSBC](https://twitter.com/OurAirSBC)

Comment Response 3-1: Comment noted.

**Shell Guadalupe Dunes  
Gravel Remediation In-Lieu Proposal  
Environmental Review Hearing  
28 May 2014**

**Hearing Notes**

The following describes the key discussion items addressed during the Environmental Review Hearing for the Draft Supplemental Environmental Impact Report (DSEIR) for the Shell Guadalupe Dunes Gravel Remediation In-Lieu Proposal. The hearing included a presentation by Mr. Matt Young, County of Santa Barbara, describing the proposed Project as well as subsequent comments and questions from Mr. George Gordon, Gordon Sands Company. The Environmental Review Hearing was recorded and the audio file is available on CD-ROM. The notes below summarize the hearing and capture the key comments on the DSEIR.

Participants:           Mr. Matt Young, County of Santa Barbara  
                              Mr. Errin Briggs, County of Santa Barbara  
                              Ms. Rita Bright, AMEC Environment & Infrastructure, Inc.  
                              Mr. Nick Meisinger, AMEC Environment & Infrastructure, Inc.  
                              Mr. Kevin Springer, Shell Western Exploration & Production Company  
                              Mr. Keith Kidwell, Shell Western Exploration & Production Company  
                              Mr. & Mrs. George Gordon, Gordon Sands Company

The Environmental Review Hearing began with Mr. Young providing a power point presentation that described the proposed Project, potential environmental impacts, and the California Environmental Quality Act (CEQA) public review process. Mr. Young described that the intent of the Environmental Review Hearing is to allow the public opportunity to comment on the *environmental analysis* provided within the DSEIR. The deadline for submitting written comments on the DSEIR is 22 June 2014. Mr. Young further described that the proper forum for input as to whether the proposed Project should be approved is the Planning Commission Hearing tentatively scheduled for September 2014.

The presentation highlighted the key elements of the proposed Project:

- Location of the proposed Project (Rancho Guadalupe Dunes County Park)
- Four gravel remediation sites included in the Project area: Upper Area, Road Site, Site D, and Site 2
- Proposed Project would (1) revise Permit Condition #31; (2) leave the remnant gravel in place; and (3) result in the Applicant providing in-lieu fees to Santa Barbara County for the purchase of coastal property in Northern Santa Barbara County to be used for recreation and open space
- Alternatives to the proposed Project were analyzed including a Partial Gravel Removal (portion of the Road Site and Site D) and a No-Action Alternative (removal of all gravel in compliance with Permit Condition #31)

**Comment Response 4-1:** Comment noted. The County has historically and effectively implemented off-site mitigations funded with in-lieu fees as an optional method to mitigate some resource impacts (e.g. specimen trees, native habitats). As described in MM REC-1: In-Lieu Property Acquisition, mitigation for significant impacts to recreation as well as aesthetics and visual resources would include the provision of an in-lieu fee by the Applicant to the County of Santa Barbara for the purchase of property in north coastal Santa Barbara County for public recreational or open-space uses. Comparable or superior resource qualities of candidate off-site property acquisitions combined with an appropriate replacement ratio are foremost factors to determine acceptable mitigation. The exact monetary value necessary for the purchase of the acquisition property would vary depending on location and property values at the time of acquisition. Although the exact monetary value of the in-lieu fee is not specified in the mitigation, MM REC-1 requires that the in-lieu fee be sufficient for the purchase of property at a ratio of not less than 3:1. Consequently, as 18.9 acres within the Project Site are impacted by remnant gravel, the in-lieu fee would be sufficient to purchase at least 56.7 acres of property in north coastal Santa Barbara County. The County would ensure compliance with the mitigation measure through exercise of its zoning clearance and permit compliance process, or other administrative process as appropriate.

**Comment Response 4-2:** Comment noted. A portion of the remnant gravel at Site 2 is located within the Gordon Sands property, within the Gordon Sand Company sand pit. The location of the remnant gravel, as described in the 2010 AECOM report is shown in Chapter 2, *Description of Proposed Project and Alternatives* in Figure 2-2. Additionally, please see the diagram showing the location and depth of remnant gravel within the sand pit (AECOM 2010), which has been included in Section F.5, *Attachments*.



- Potential impacts resulting from the proposed Project were found for aesthetics and visual resources and recreation, which would be less than significant after mitigation, as well as biological resources, which would be less than significant (other issue areas were analyzed as required by CEQA, but the proposed Project would not result in measurable adverse impacts)
- The mitigation measure offsetting potentially significant adverse impacts to aesthetics and visual resources and recreation would include the provision of sufficient funds by the Applicant for purchase of coastal property in Northern Santa Barbara County at a ratio of no less than 3:1

Following the conclusion of the presentation Mr. Young opened the floor to public comments. Mr. Young also indicated that written public comments could be sent to the County, but would need to be received prior to the close of public comment on 22 June 2014. Mr. and Mrs. George Gordon were the only members of the public in attendance. As representatives for the Applicant (Shell Western Exploration & Production Company) did not provide comment, the summary of comments below is limited to those provided by Mr. George Gordon, Gordon Sands Company.

3:1 Mitigation Ratio

Mr. Gordon asked for more detail regarding the 3:1 mitigation ratio for the area impacted by remnant gravel. Mr. Errin Briggs described that 20 acres of area are impacted by remnant gravel and that the mitigation would require the Applicant to set aside funds sufficient to purchase a minimum of 60 acres of coastal property to offset impacts to the Project area. Mr. Gordon asked for more detail regarding the dollar amount, but Mr. Briggs explained that as land sales are uncommon in this area it is difficult to estimate a value.

4-1

Gravel and Clean-up Responsibility at Gordon Sands Company Property

Mr. Gordon indicated that while the presentation described the gravel as located adjacent to the Gordon Sands Company property, there is remnant gravel covering approximately half of the currently exposed sand mine. Mr. Young acknowledged Mr. Gordon's comment and referenced a figure from the DSEIR that demonstrates the location of the remnant gravel in relation to the sand mine. Mr. Gordon indicated that there were some soil borings done in the 1990s that show the north Gordon Sands Company property line has 0 - 4 feet of gravel on approximately 40 percent of the open pit. Mr. Gordon described that these borings were included in the 2010 AECOM report. Mr. Briggs and Mr. Young confirmed that the 2010 AECOM report was cited in the DSEIR and that the location of the gravel is accurately described in the document.

4-2

Further, Mr. Gordon asserted a the portion of the gravel road that has not been included in the original borings (i.e., the last 600 feet of the road as it comes to the dunes gate and water tank on Gordon Sands Company Property) has not been addressed in the DSEIR. The road, including the staging area and the road up to the dune gate, encompasses approximately 31,000 square feet that was not captured in the soil borings conducted in the 1990s. Mr. Gordon pointed to this area between the Upper Area and West Main Street. Mr. Gordon described that there must be an assumption that this road is valuable to Gordon Sand Company. While Mr. Gordon conceded that that is a logical assumption, he indicated that it was never discussed with Gordon Sands Company. Mr. Gordon went on to describe that this area is characterized by cobbles up to 6 inches in diameter. Mr. Gordon also indicated that Ten Commandments Hill is moving inlands and 5-10 feet of the hill has been pushed westward.

4-3

Mr. Gordon indicated he has concerns associated with the gravel and cobbles that are wind-blown from Site D into the sand mine, which Mr. Gordon described as happening on an ongoing basis. Gordon Sands Company has a requirement with the California Conservation Division to clean-up their clay road and open pit when they are done mining. Mr. Gordon described that Gordon Sands Company meet this

4-4

**Comment Response 4-3:** Comment noted. The location of the remnant gravel within the Project Site is based on the 2010 AECOM report, which relies on soil borings (2002-2003) and surface visual assessments (2010) conducted within Site D, Site 2, the Road Site, and the Upper Area. Original drawings of the Gordon Sand Company process plant show a 20-foot wide sand road between West Main Street and the 20-foot wide sand road accessing the sand pit. The grid for soil boring at the Upper Area in the 2010 AECOM report covers the area just west of (and up the hill from) the Gordon Sand Company process plant. This grid also includes the area historically used by Gordon Sand Company as a “rock spoil” area (southeast of the access road) and the access road itself. Aerial photographs from 1977 and 1981 (pre-dating the Site D construction) show that this rock spoil area was mostly in place by the time the gravel access road was built in 1985, though the 1985 aerial photograph seems to indicate that more material was pushed out over a portion of this area during this period of time (AECOM 2010). Substantial gravel occurs at the surface over most of the grid area and at depth mainly along the south edge of the rock spoil area. Given the past uses and development history of this area as indicated by the aerial photographs (e.g., previous industrial uses and use of the Rancho Guadalupe Dunes County Park as a movie set), AECOM (2010) could not determine the origin of the deeper gravel material in this location (AECOM 2010). Nevertheless, implementation of the Proposed Project would not affect the reclamation responsibilities of the Gordon Sand Company outlined in the Gordon Sand Final Reclamation Plan (1993) (see Comment Response 4-4, below).

**Comment Response 4-4:** Comment noted. With regard comments associated with wind-blown gravels and cobbles please see Comment Response 5-1a. Using the Bagnold (1941) equation for entrainment of particles by wind, it was found that a 0.025 cm diameter particle has a theoretical critical sheer velocity of approximately 5.15 miles per hour (Beckstrand 1998). Other publications estimate the actual threshold wind velocity for sand at approximately 14 miles per hour (Worley Parsons 2010; Tsoar 2004). Using the Bagnold equation, it follows that in order to transport a six inch diameter cobble winds in excess of 120 miles per hour would be required.

requirement without handling a lot of the remnant gravel and cobbles. Additionally, Mr. Gordon described that Gordon Sands Company has to post a bond for the estimated total cost of remediation. Mr. Gordon asserted that if the remnant gravel is going to be left under the proposed Project then Gordon Sands Company has to account for that in the bond.

Mr. Gordon described that the clean-up job in the Project area was quoted as 2.7 million dollars 4 years ago, after Gordon Sands Company piloted the operation for Shell Oil Company. The bid for clean-up costs which didn't include permits, legal, or consultants also did not include the potential for interruptions (e.g., concern for operating into the plover season, sound concerns, etc.). Interruption would cost between \$100,000 and \$500,000. Mr. Gordon indicated that the inflation rate in the mining has been around 5.5 percent, which should be added to the original bid. Mr. Gordon estimated that the current value to clean-up the Project area ranges between 4.7 and 5.07 million, of which a significant amount would fall on Gordon Sand Company since the company is not allowed to put gravel in the mine, only clay (e.g., clay road). Mr. Gordon described that cleaning the remnant gravel, including road, and staging area/road by the wet plant would be an enormous cost, more than 1 million dollars. Mr. Gordon posed the question, who would compensate Gordon Sands Company for the clean-up of remnant gravel within Gordon Sands Company property following the approval of the proposed Project.

Mr. Errin Briggs indicated that the concern associated with the gravel is real. If Gordon Sands Company was to fold up its operation, the County of Santa Barbara would not hold them accountable for the gravel, only the clay road and open mine. Mr. Gordon asked how would Gordon Sands Company separate the clay road and the gravel to which Mr. Briggs responded that the County and Gordon Sands Company would have to further discuss. Mr. Gordon indicated that his liability would be within the approval year, as the company has to fund the reclamation bond by anticipating the cost to close the facility in accordance with its permit. Mr. Gordon asserted that if Gordon Sands Company were responsible for the cost of removing gravel from clay, then the company would have to identify and report these additional costs and fund bond. Mr. Briggs indicated that he didn't think that the proposed Project would increase the clean-up costs for Gordon Sands Company as the company would not become responsible for anything more than it is currently. Mr. Briggs indicated that the responsibility of Gordon Sands Company is to reclaim the Gordon Sands Company property, not what Shell Oil Company would be leaving behind. Mr. Gordon indicated that Gordon Sands Company could not clean-up what the company is responsible for without removing the gravel from its spoil. Mr. Gordon indicated that the California Conservation Division requirements allow for the company's clay road to go into the pit, but there is no provision allowing for the remnant gravel in the pit. Mr. Errin Briggs asked Mr. Gordon to submit a written comment letter detailing his thoughts on these issues.

#### Volume

Mr. Gordon asked why the County is estimating 293,752 cubic yards (cy) as the volume of sand removal, while AECOM estimates the volume at 84,595 cy. Mr. Young indicated that AECOM did not estimate removal of all sand contaminated by gravel; rather, it was more of a hybrid. In the DSEIR, the County conservatively looked at removing all sand that was contaminated by gravel. Mr. Young pointed Mr. Gordon to a figure in the DSEIR, and included in the presentation, indicating the volumes of sand by site.

#### Closing Comments

Mr. Gordon realizes that this is an environmental hearing but would like to see these comments addressed in the Final SEIR.

4-4  
(cont.)

4-5

4-6

4-7

**Comment Response 4-4 (cont.):** Even gravel three inches in diameter would require wind gusts in excess of 50 miles per hour. Realistically, threshold wind velocity might be even greater than these theoretical calculations. As winds of these velocities are rare at Rancho Guadalupe Dunes County Park, the evidence does not support a conclusion that cobbles from the Husky Oil operations have blown over from Site D into the Gordon Sand Company sand mine. Further, as the prevailing winds at the Project Site are from the west-northwest (Western Regional Climate Center [WRCC] 2002), any such aeolian processes would transport gravel or cobbles to the southwest from Site D into the Gordon Sand Company mine. In order for materials to be transported in this direction a prevailing northeast wind would be required. Nevertheless, Gordon Sand Company would not be responsible for the reclamation of remnant gravel retained under the Proposed Project. As stated in Item 1(d) within the Gordon Sand Final Reclamation Plan (1993) "clay, silt, or rock materials removed from the access road and processing plant during reclamation would be placed into the sand pit for disposal." Therefore, Gordon Sand Company would not be burdened by separating remnant gravel from the overlying clay access road, for which the company is responsible.

**Comment Response 4-5:** Comment noted. Refer to Comment Response 4-4.

**Comment Response 4-6:** Comment noted. Refer to Comment Response 4-4.

**Comment Response 4-7:** Comment noted. The volume estimate within the 2010 AECOM report only accounts for the areas at the Project Site that are "substantially" impacted by remnant gravels (e.g., Site D and the eastern portion of the Road Site). The Draft SEIR conservatively captures all sand affected by remnant gravel and therefore results in a larger volume estimate.

June 23, 2014

Written Comments Prepared by George Gordon on behalf of Gordon Sand Company regarding the Draft Supplemental Environmental Impact Report (SEIR) for the Shell Guadalupe Dunes Gravel Remediation In-Lieu Proposal Project:

The Guadalupe mining site, owned by the Gordon Sand Company, extends from the "mean high tide line" some three quarters of a mile into the high dunes. The active mine extends over approximately one thousand lineal feet of this deposit. The mining strategy is a combination of original extraction and harvesting the natural wind driven production.

The Guadalupe Dunes are a unique and natural concentration of igneous quartz sand aggregate. The ocean currents and surf, over hundreds of thousands of years, have received the original igneous discharge from the volcanic eruptions of the coastal mountains. This volcanic discharge has been naturally processed in the ocean currents and surf. This surf process effectively wears down the softer conglomerate rock portion into silt and concentrates the harder quartz particles over time. By this natural surf powered attrition and hydraulic classification the quartz particles are further rounded, sized and eventually brought ashore by the surf and winds. This primary sand product is then some 85% quartz by weight and shaped uniquely from sub-round to sub-angular and sized from US #12 (1.7 mm) to US #140 (0.106 mm). It is this quartz size, strength of particle and rounded shape that make this source so important.

This igneous quartz sand concentrates along the west coast in bays south of San Francisco Bay. Although there are numerous bays and dune surpluses, there are only two active deposits of this natural product remaining in CA. At Guadalupe we gather, typically wash, dry and grade this unique product into various grades for many industrial and recreational uses.

In addition to various construction usages, the California Air Resources Board (CARB) has approved three primary grades of the Guadalupe Plant production for "open abrasive blasting" state wide for over thirty years. The Guadalupe deposit is used as an aggregate in emergency paving repairs all over CA, militarily as an antiskid and abrasion resistant additive on aircraft carriers and other equipment, again due to the hardness and rounded shape which is used in conjunction with epoxy to produce strong and fast curing emergency repairs that will do the job under difficult circumstances.

The Guadalupe deposit is the major producer of pipelining sand grades, indirectly for the Metropolitan Water District and other water carriers in So Cal and soon, indirectly, by the San Francisco PUC Hetchy Hetchy Project. At the Guadalupe Plant we have been anticipating the Husky/Shell clean up to restart our Filter Sand grades which were used typically by municipal water plants and agricultural water processing. Again, due to the hardness, rounded shape and, in these applications, minimal organic presence in the Guadalupe Plant quartz sand products.

As recreational products, our Guadalupe Plant serves twenty-two of some thirty-two golf courses in Santa Barbara and San Luis Obispo counties. The hygroscopic character of the quartz sand retains irrigation water and keeps the soil loose. Guadalupe also regularly serves golf courses in San Benito,

1

**Comment Response 5-1a:** Comment noted. Sand dunes, like those found at Rancho Guadalupe Dunes County Park, form when there is (1) a ready supply of sand, (2) a steady wind, and (3) some kind of obstacle such as vegetation, rocks, or fences, to trap some of the sand. Sand dunes form when moving air slows down on the downwind side of an obstacle. The sand grains drop out and form a mound that becomes a dune (Nelson 2003). Using the Bagnold (1941) equation for entrainment of particles by wind, it was found that a 0.025 cm diameter particle has a theoretical critical sheer velocity of approximately 5.15 miles per hour (Beckstrand 1998). Other publications estimate the actual threshold wind velocity for sand at approximately 14 miles per hour (Worley Parsons 2010; Tsoar 2004). Using the Bagnold equation, it follows that in order to transport a six inch diameter cobble winds in excess of 120 miles per hour would be required. Even gravel three inches in diameter would require wind gusts in excess of 50 miles per hour. Realistically, the requisite threshold wind velocity might be even greater than these theoretical calculations. As winds of these velocities are uncommon at Rancho Guadalupe Dunes County Park, the evidence does not support a conclusion that cobbles from the Husky Oil operations have blown over 500 feet from Site D into the Gordon Sand Company sand mine. Further, as the prevailing winds at the Project Site are from the west-northwest (WRCC 2002), it is unlikely that aeolian processes are transporting gravel or cobbles to the southwest from Site D into the Gordon Sand Company mine. In order for materials to be transported in this direction a prevailing northeast wind would be required.

Review of County aerial photographs of the Project Site reveal movement of gravel at Site 2 is from east to west, against the prevailing wind direction, tracking the movement of the sand pit on Gordon Sand Company property. Remnant gravel at Project Site is slowly becoming exposed as a result of a process known as deflation. Deflation is the lowering of the land surface due to removal of fine-grained particles by the wind. Deflation concentrates the coarser grained particles at the surface, eventually resulting in a surface composed only of the coarser grained fragments that cannot be transported by the wind. After the gravels are exposed at the Project Site, additional unrelated disturbances (e.g., from heavy equipment) could be responsible

Kern and Ventura counties. The Guadalupe plant produces volleyball sand replicating the more famous volleyball sand of Santa Monica Bay which is not otherwise available. Recent volleyball courts at UC Santa Barbara, Cal Poly San Luis Obispo as well as numerous public and private courts have sourced this product. Guadalupe produces several sizes of Turf Sand for game fields and equestrian uses. The common denominator in these recreation products is the unique hardness of quartz, the rounded shape to avoid "packing" and hygroscopic characteristics, (water retention) of this rare and active deposit.

The introduction of manufactured gravel and cobbles into the Guadalupe Dunes adjacent to and on the Guadalupe Plant property, easement and land leased from Maretti & Mine tti Ranch Co. and the County of Santa Barbara, has been an economic burden and a major production problem to the Gordon Sand Co. as well as blighting our property and the beautiful Guadalupe Dunes, from a visual viewpoint. There was no identifiable native gravel and/or cobbles in the Dunes.

First, contrary to what has been stated, it was not just "gravel" that was brought into the dunes by Husky Oil. Gravel is typically considered as rock between the sizes of 1/8" (3.1750 mm) x 3" (76.2000 mm) and is usually "manufactured", produced mechanically by "crushing" larger sized rock resulting in an angular aggregate. Additionally "Cobbles" came in as part of what looked like unprocessed "river bottom" natural aggregate. Cobbles are typically sized from 2" (50.8000 mm) to 8" (203.2000 mm) and sub round to sub angular, not mechanically crushed.

- a. The remaining cobbles from the Husky Oil operation range from 2" (50.8000 mm) to 6" (152.4000 mm). As incredible as it sounds, these cobbles were both missed by the earlier attempted cleanup effort and are "blowing" some five hundred feet (500') across the dunes from Site D into the Gordon Sand Co. mine. A random gathering of these cobbles from our mine was displayed by GSCO at the "scoping" meeting at the Guadalupe City Hall.
- b. Additionally 3/8" (9.5250 mm) aggregate, resulting from the Husky Oil processing, has been both deposited on Gordon Sand Co. property, the easement and stacked adjacent to Gordon Sand Co. property, also adding to windblown contamination to the mine and easement.
- c. Heavy gravel, probably 3" x 1 1/2", some 8" thick with another 8" to 12' of "treated sand below the gravel, was brought in by Husky Oil to build a road from west Main Street, parallel and/or over Gordon Sand Co.'s "clay" road, on the leased by GSCO, Maretti & Minetti Ranch Co. land, up onto the leased by GSCO County of Santa Barbara land, to the back side of the "Ten Commandments" dune. To and at that location Husky Oil built a large "Staging Area" and road with the heavy gravel, this road and Staging Area remains in place. (To the best of GSCO's knowledge) Under the Gordon Sand Co. state Department of Conservation / SMARA Reclamation Plan, if not addressed under the Husky Oil CUP, will apparently become a clean-up liability of GSCO upon termination of GSCO operations and will be required for GSCO to fund financially now!
- d. An area of dried oil or asphalt is exposed mid way on the Husky Oil road coming off the Ten C Dune and entering the vegetated on the northeast side. This area, to the best of my knowledge,

2

**Comment Response 5-1a (cont.):** for the movement of gravel. Gravel at Site 2, including remnant gravel within the Gordon Sand Company sand pit has likely been further distributed by the movement and operation of heavy equipment in this area, including the use of an alternative access route to the sand pit beginning prior to April 1993.

**Comment Response 5-1b:** Comment noted. Please refer to Comment Response 4-3. The Upper Area analyzed in the Draft SEIR includes the "rock spoil." Aerial photographs from 1977 and 1981 (pre-dating the Site D construction) show that this rock spoil area was mostly in place by the time the gravel access road was built in 1985, though the 1985 aerial photograph seems to indicate that more material was pushed out over a portion of this area during this period of time (AECOM 2010). Given the buildup history of this area as indicated by the aerial photographs (e.g., previous industrial uses and use of the Rancho Guadalupe Dunes County Park as a movie set), AECOM (2010) could not determine the origin of the deeper gravel material is this location (AECOM 2010).

**Comment Response 5-1c:** Comment noted. Please refer to Comment Response 4-4. The location of the remnant gravel within the Project Site is based on the 2010 AECOM report, which relies on soil borings (2002-2003) and surface visual assessments (2010) conducted within Site D, Site 2, the Road Site, and the Upper Area. Gordon Sand Company would not be responsible for the reclamation of remnant gravel retained under the Proposed Project. Further, as stated in Item 1(d) within the Gordon Sand Final Reclamation Plan (1993) "clay, silt, or rock materials removed from the access road and processing plant during reclamation would be placed into the sand pit for disposal." Therefore, Gordon Sand Company would not be burdened by separating remnant gravel from the overlying clay access road, for which the company is responsible.

**Comment Response 5-1d:** Comment noted. As described in the Draft SEIR site assessments were conducted and confirmed that no

has not been publically addressed by Husky Shell or the EIR although it has been pointed out several times.

- e. Gravel and some cobbles, from the Husky Oil road, parallel to the GSCO clay road, have migrated along both sides of the two roads, into the vegetation and into large deposits of gravel and cobble contaminated on both sides of the road. From time to time, depending on wind and seasonal conditions, these contaminated piles are partially covered and uncovered. On the lea side of "Ten Commandments" dune the contamination extends several hundred feet toward Santa Maria and on the opposite side, over a hundred feet down the face of "Ten C" and visible from west Main Street in the Guadalupe Dunes Park.

When the gravel began showing up in GSCO's feed stock we had to install a scalping machine on top of the Dry Plant, maintain it and screens sized to remove the + US #12 gravel which was not native to the Dunes.

When the cobbles and heavy gravel began coming through the Wet Plant, out feeders and conveying equipment began to "plug up". After constant feed problems and the related down time, we bought and set up a portable scalping machine and stacker in front of the Wet Plant to remove + 3mm gravel and cobbles from our mine feed stock before it entered our Wet Plant

After the Husky/Shell unsuccessful attempt to screen out the gravel and cobbles Shell consulted with GSCO. Thereafter Shell funded and GSCO set up a pilot plant for both Shell and GSCO to demonstrate and evaluate both, "dry" Ultra High frequency screening and "wet" UHF screening. The "pilot" operation ran for some thirty days, successfully demonstrating the optimal results of dry and wet processing and that wet processing was the most effective and economical. At the request of Shell, GSCO quoted the then "wet" UHF operation to AECOM, a Shell selected contractor at \$2,727,729.56 dated 12/3/2010. This quote did not include costs for AECOM oversight, potential environmental and regulatory permitting, delays, etc.

The additional costs to the Guadalupe quartz sand products to handle the gravel and cobble contaminated were/are substantial and are a financial burden upon the Guadalupe mine products in at least the following respects:

1. Capital costs for the purchase, installation operation and maintenance of two separate gravel and cobble scalping operations.
2. Operating costs for handling, containing and removal transportation of the gravel and cobbles from our facilities.
3. Future operating costs related to greater transportation costs and disposal costs if/as GSCO has to go farther than local users and has to pay a disposal cost for the gravel and cobbles from our facilities.
4. Administrative costs and governmental fees to revise GSCO's State Department of Conservation and SMARA Reclamation Plan to account for the Husky Oil gravel and cobble contamination.
5. The further potential costs of consultants, legal counsel, probable testing and mitigation of the gravel contamination or economically justified environmental tradeoffs.

3

5-1  
(cont.)

5-2

**Comment Response 5-1d (cont.):** hazardous levels of any materials were present in the soils or in the groundwater (Binder 1993). These assessments and a Remedial Action Plan (RAP) to remove crude impacted soils within the fenced area were forwarded to the County Environmental Health Department and to the Regional Water Quality Control Board (RWQCB). Upon review of these findings, these agencies deferred oversight to the County Petroleum Department, which approved the RAP in July 1992.

**Comment Response 5-1e:** Comment noted. Refer to Comment Response 4-3 and Comment Response 4-4. The location of the remnant gravel within the Project Site is based on the 2010 AECOM report, which relies on soil borings (2002-2003) and surface visual assessments (2010) conducted within Site D, Site 2, the Road Site, and the Upper Area. Gordon Sand Company would not be responsible for the reclamation of remnant gravel retained under the Proposed Project. Further, as stated in Item 1(d) within the Gordon Sand Final Reclamation Plan (1993) "clay, silt, or *rock* materials removed from the access road and processing plant during reclamation would be placed into the sand pit for disposal." Therefore, Gordon Sand Company would not be burdened by separating remnant gravel from the overlying clay access road, for which the company is responsible.

**Comment Response 5-2:** Comment noted. Operations associated with the Gordon Sand Company adjacent to the Project Site would not be different from those as described after 1997, when the remaining Husky Oil features were removed. The evidence does not support a conclusion that the large gravels would move substantially as a result of entrainment by wind (refer to Comment Response 5-1a). Consequently, there is no basis to conclude that future operations costs would increase as a result of the retention of remnant gravels under the Proposed Project. Additionally, Gordon Sand Company would not be responsible for the reclamation of remnant gravel retained under the Proposed Project (refer to Comment Response 4-4). As stated in Item 1(d) within the Gordon Sand Final Reclamation Plan (1993) "clay, silt, or *rock* materials removed from the access road and processing plant during reclamation would be placed into the sand pit for disposal." Therefore, Gordon Sand Company would not be burdened

6. The loss of GSCO's operating capital to fund a revised Reclamation Plan.
7. The substantial development costs of reestablishing GSCO's filtration sand products, developmental mining, washing and QC process to evaluate the gravel and river bottom fines (-US # 12) contamination now potentially in the mine, revised quality control operating procedures to assure the product going into public water supply systems and to meet NSF certification requirements, they start with the source of the product and follow every step of the way to the end.

These and probably other substantial costs will contribute to substantially increased costs of operation for the Guadalupe mine, seriously detracting from the economic viability of this mine. Then, what will we have left, a gravel and cobble contaminated piece of the previously pristine Guadalupe Dunes.

>>>><<<<

5-2  
(cont.)

**Comment Response 5-2 (cont.):** by separating remnant gravel from the overlying clay access road, for which the company is responsible.

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Bradford F. Ginder  
Paul A. Roberts  
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**Re: Comments on the Draft Supplemental Environmental Impact Report (SEIR)  
Shell Guadalupe Dunes Gravel Remediation In-Lieu Proposal Project;  
Case Nos. 13RVP-00000-00119; 13CDH-00000-00042**

Dear Mr. Young:

These comments are submitted on behalf of the Gordon Sand Company regarding the draft Supplemental Environmental Impact Report (SEIR) prepared by AMEC, Environment & Infrastructure, Inc. for the County of Santa Barbara on the Shell Guadalupe Dunes Gravel Remediation In-Lieu Proposal Project (Project) located in northwestern Santa Barbara County.

The Project proposes to revise Conditional Use Permit (82-CP-75[cz]) and Coastal Development Permit (96-CDP-10) to allow retention of approximately 293,752 cubic yards (cy) of sand that contains remnant gravel and cobbles from an exploratory drilling project in the Rancho Guadalupe Dunes County Park. In exchange for leaving the remaining gravel and cobbles in place, the Applicant (Shell Exploration & Production, Inc.) proposes a monetary contribution (in-lieu fee) to the County for purchase of property in the County's north coastal region for public recreational or open space purposes at an acreage ratio of not less than 3:1.

Gordon Sand Company operates a commercial sand mining business adjacent to the Project Site. The mining operation has been in continuous existence since 1973. It consists of a sand screening and processing facility, access road, harvesting equipment, and sand collection pits. Gordon Sand Company submits these comments to identify key issues which have not been identified or addressed in the draft SEIR concerning the potential for the Project to result in significant impacts to the environment.

**I. Background**

The draft SEIR prepared for the Project overlooks several key facts which are part of the existing physical environmental setting. These facts have a direct bearing on the question of whether the Project will result in physical changes to the environment, and the potential for these physical changes to have significant environmental effects.

CEQA was enacted in 1970 by the California legislature to ensure disclosure to decision makers and the public of the significant environmental effects of proposed activities and the ways to avoid or reduce those effects by requiring implementation of feasible alternatives or mitigation measures. In order to adequately inform governmental decision makers and the public regarding the potentially significant environmental effects of the Project, the clarifications and information provided in these comments must be incorporated into the SEIR and analyzed as part of the administrative record.

**II. Discussion of Existing Environmental Conditions**

The following facts are part of the existing environmental setting, which must be adequately disclosed and addressed throughout the draft SEIR:

- Imported gravel remaining from the oil operation is intermixed with significant quantities of river cobbles ranging in size up to six (6) inches in diameter. (Testimony of George Gordon, Gordon Sand Company, at May 28, 2014 public hearing on draft SEIR.) 6-1
- The remnant gravel and cobbles that exist at Site D, Site 2, Road Site, and Upper Area (collectively the "Project Site") have, over the years, been distributed and disbursed over and across these areas as a result of natural coastal processes, primarily the prevailing northwest wind. 6-2
- These natural coastal processes have moved remnant gravel and cobbles beyond Site D, Site 2, Road Site, and Upper Area onto property leased by Gordon Sand Company for its mining operation. (Testimony of George Gordon, Gordon Sand Company, at May 28, 2014 public hearing on draft SEIR.) 6-3

**Comment Response 6-1:** Comment noted. The 1982 Final EIR and the associated permit, 96-CP-010, do not specify a range of diameters for gravel used for the access road. However, while the Gordon Sand Company has provided examples of cobbles ranging in size up to six inches in diameter, the vast majority of gravel on-site (i.e., greater than 95 percent), including surface gravels observed during the site visit, are less than three inches in diameter as shown in Section 3.1, *Aesthetics and Visual Resources*. Additionally, Permit Condition #31 applies to all introduced materials including gravel and/or cobbles.

**Comment Response 6-2:** Comment noted. Please refer to Comment Response 5-1a. Remnant gravel at the Project Site is slowly becoming exposed as a result of a process known as deflation. Deflation is the lowering of the land surface due to removal of fine-grained particles by the wind. Deflation concentrates the coarser grained particles at the surface, eventually resulting in a surface composed only of the coarser grained fragments that cannot be transported by the wind (Nelson 2003). As described in Comment Response 5-1a, the threshold wind velocity for sand is between approximately five miles per hour and 14 miles per hour. Due to the large threshold wind velocity necessary to transport larger gravel, the evidence does not support a conclusion that remnant gravel from Husky Oil operations have been transported substantial distances by natural processes such as wind entrainment. Further, the prevailing west-northwest wind (WRCC 2002) would not explain the movement of gravel from Site D to the southwest into the Gordon Sand Company sand mine. In order for materials to be transported in this direction a prevailing northeast wind would be required. Instead it is likely that these gravels have been disturbed by other operations adjacent to and within the Project Site, such as the mining operation.

**Comment Response 6-3:** Comment noted. Please refer to Comment Response 4-2 and Comment Response 5-1a.



- Under existing conditions, remnant gravel and cobbles cover approximately 40%-50% of Gordon Sand's exposed sand pit, intermixed at depths of 0-4 feet. (Testimony of George Gordon, Gordon Sand Company, at May 28, 2014 public hearing on draft SEIR.)
- Under existing conditions, remnant gravel and cobbles cover approximately 90%-100% of the road that Gordon Sand uses to access its sand pit. (Testimony of George Gordon, Gordon Sand Company, at May 28, 2014 public hearing on draft SEIR.)
- The prevailing northwest wind is an ongoing and perpetual coastal process that will continue to move remnant gravel and cobbles from the Project Site onto property owned and leased by Gordon Sand Company for its mining operation, including its sand pit and access road.

In the event the Project is approved, and remnant gravel and cobbles are not eliminated from the Project Site, these materials will be distributed and disbursed onto property owned and leased by Gordon Sand Company for its mining operation – most importantly its sand pit and the road it uses to access its sand pit. As a consequence, the proposed Project will result in a physical change to the existing environment – a change which has not been identified or discussed in the draft SEIR. Notably, this physical change would not exist under the No Project Alternative, since pursuant to Permit Condition #31 of 82-CP-75(cz), the applicant would be required to remove all remnant gravel and cobbles from the Project Site.

### III. Potentially Significant Impacts to Coastal Resources and Mineral Resources

At the May 28, 2014 public hearing on the draft SEIR, George Gordon of Gordon Sand Company provided testimony regarding the following facts:

- The disbursal of remnant gravel and cobble materials onto Gordon Sand's property has forced Gordon Sand to install "scalping" machines necessary to remove non-native materials from the sand its extracts. Without these "scalping" machines, it would be impossible for Gordon Sand to continue its mining operations.
- A portable "scalping" unit has been installed on the front end of Gordon Sand's wet plant to screen out gravel pieces and cobbles over 1 inch in diameter. Another "scalping" unit has been installed on top of Gordon Sand's dry plant to screen out all non-native materials greater in size than U.S. No.12. (Note - U.S. No.12 and smaller is the size native sand grain required for Gordon Sand to meet its production requirements.)

6-4

6-5

6-6

6-7

**Comment Response 6-4:** Comment noted. Within the area of the Gordon Sand Company sand pit that is disturbed by gravel, gravels occur primarily at the surface, between two to eight inches. However, a substantial area of gravel occurs within the pit at depths up to four feet below ground level. Please see the diagram showing the location and depth of remnant gravel within the sand pit (AECOM 2010), which has been included in Section F.5, *Attachments*.

**Comment Response 6-5:** Comment noted. Please refer to Comment Response 4-2. The location of the remnant gravel, as described in the 2010 AECOM report is shown in Chapter 2, *Description of Proposed Project and Alternatives*.

**Comment Response 6-6:** Comment noted. Refer to Comment Response 5-1a. Further, as described in Comment Response 4-4, Gordon Sand Company would not be responsible for the reclamation of remnant gravels retained under the Proposed Project.

**Comment Response 6-7:** Comment noted. The evidence does not support a conclusion that the gravels would move substantially as a result of entrainment by wind (refer to Comment Response 5-1a). Additionally, Gordon Sand Company would not be responsible for the reclamation of remnant gravel retained under the Proposed Project (refer to Comment Response 4-4). As stated in Item 1(d) within the Gordon Sand Final Reclamation Plan (1993) "clay, silt, or rock materials removed from the access road and processing plant during reclamation would be placed into the sand pit for disposal." Therefore, Gordon Sand Company would not be burdened by separating remnant gravel from the overlying clay access road, for which the company is responsible. Additional analysis reflecting Comment Response 5-1a has been included in Section 3.11.5, *Mineral Resources* to describe potential adverse but less than significant impacts to adjacent sand mining operations (see Comment Response 6-9).

- The “scalping” units are expensive to purchase, operate and maintain. They add significantly to Gordon Sand’s overall capital, operating and maintenance costs. The added cost and financial burden of having to “scalp” non-native gravel and cobbles remaining from the oil operation effectively shortens the economic life of the sand mining project.
- The road that Gordon Sand Company uses to access its sand pit has a road-base material derived from native clay washed from the mined Guadalupe sand. As part of Gordon Sand Company’s approved mining reclamation plan and CUP, the native clay road-base must be removed and disposed of in the sand pit when mining operations are complete.
- The reclamation plan and CUP do not authorize disposal of gravel and cobbles remnant from the oil operation in the sand pit together with the native clay road-base. Thus, if the Project is approved, and remnant gravel and cobbles are allowed to persist at the Project Site, someone will have to separate the remnant gravel and cobble materials from the native clay and sand, prior to disposal in the sand pit.
- Separation of the remnant gravel and cobble materials from the native clay and sand prior to disposal in the sand pit could add millions of dollars to Gordon Sand Company’s overall reclamation costs. This will have both immediate and long-term economic effects, first by increasing the financial assurance requirements Gordon Sand must meet on an ongoing basis to continue operating under its existing CUP, and second by effectively shortening the economic life of the mining operation.

**A. Coastal Resources**

The Gordon Sand Company’s mining operation is a coastal-dependent development and use. The California Coastal Act defines “*coastal-dependent development or use*” to mean “*any development or use which requires a site on, or adjacent to, the sea to be able to function at all.*” (Public Resources Code § 30101.) Examples of coastal-dependent developments and uses may include aquaculture, commercial fishing facilities, ports, marine terminals, and development of oil and gas reserves located offshore or in the coastal zone. Other types of industrial uses, such as mineral extraction operations which are dependent on resources located within the coastal zone, are coastal dependent under circumstances in which the development requires a site on, or adjacent to, the sea to be able to function at all.

Gordon Sand Company extracts sand from the Guadalupe Dunes. This is a unique and commercially valuable natural resource which exists only in the coastal zone. There are only two such sand mining operations located in the State of California, the other one located in Marina, Monterey County. Gordon Sand Company’s operation could not exist without its sand pit and access road located in the Guadalupe Dunes, on or adjacent to the sea.

Under the Coastal Act, coastal-dependent developments, such as Gordon Sand's mining operation, are given priority over other development on or near the shoreline. (Public Resources Code § 30255.) Moreover, Section 30260 of the Act establishes special criteria for allowing coastal-dependent industrial facilities. Public Resources Code § 30260 provides that "Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and shall be permitted reasonable long-term growth where consistent with this division."

CEQA requires lead agencies to consider both the potential effects of a project on coastal processes, as well as the effects of coastal processes on a proposed project. In this regard, SEIR Section 3.11.2 (Coastal Resources) points out that the County's adopted Environmental Thresholds and Guidelines Manual does not indicate specific thresholds of significance for impacts to coastal processes. Nevertheless, based on policy guidance provided in the California Coastal Act (CCA) and County Coastal Land Use Plan, which attempt to balance maintenance of natural coastal processes with protection of development and coastal-dependent uses, in addition to suggested findings in CEQA Appendix G related to geology, hazards and hydrology, impacts to coastal resources are ordinarily significant if the proposed project would:

...  
...  
e) Expose existing development to substantial risk of loss, damage, or destruction or the public to risk of injury from coastal processes." (SEIR Section 3.11.2.)

As indicated above, the draft SEIR does not consider the physical change in the environment which will result from the Project, namely that natural coastal processes will distribute and disperse gravel and cobbles remnant from the oil operation into areas generally downwind of the Project Site, specifically onto property owned and leased by Gordon Sand Company for its mining operation. The SEIR instead appears to treat the existence of these materials as static, assuming they will remain in place over time if the Project is approved. As a result, the SEIR does not consider the effect that the physical changes resulting from the Project will have over time on Gordon Sand Company's mining operation, an existing coastal-dependent development and use. Specifically, the draft SEIR does not examine whether the Project exposes an existing coastal dependent use to a substantial risk of loss or damage.

Based on the testimony provided by George Gordon at the May 28, 2014 public hearing, a fair argument exists that the Project exposes an existing coastal-dependent development and use to substantial risk of loss or damage, which in turn constitutes a significant environmental effect.

6-8

**Comment Response 6-8:** Comment noted. Although inland sand deposits exist within Santa Barbara County (e.g., Santa Ynez River Bed), it is recognized that the Gordon Sand Company sand mining operation could reasonably be considered a coastal dependent use. However, an analysis of coastal processes at Rancho Guadalupe Dunes County Park has demonstrated that aeolian transport is not responsible for the movement of remnant gravel at the Project Site (refer to Comment Response 5-1a). Due to the large critical wind threshold for movement of gravels, the evidence does not support a conclusion that the remnant gravels would move substantially as a result of entrainment by wind. Further, as the prevailing wind at Rancho Guadalupe Dunes County Park is from the northwest, it does not explain the movement of gravels from Site D to the southwest toward the Gordon Sand Company sand pit. In order for materials to be transported in this direction a prevailing northeast wind would be required. Instead a review of aerial photographs of the Project Site shows that the movement of gravel at Site 2 is from east to west, tracking the movement of the sand pit on Gordon Sand Company property and suggesting that disturbance by heavy equipment of the mining operation is responsible for the movement of gravel. Further, the Husky Oil operations and Gordon Sand Company operations have existed together for decades and final reclamation plans for the Gordon Sand Company sand mining operation allow for the retention of gravels. Consequently, any potentially adverse impacts to existing development as a result of coastal processes would be less than significant. Additional analysis reflective of Comment Response 5-1a has been added to Section 3.11.2, *Coastal Resources* to support these findings.

**B. Mineral Resources**

The California State Legislature has found and declared that the state's mineral resources are vital, finite, and important natural resources, and the production and development of mineral resources at the local level helps to maintain a strong economy, are necessary to build the state's infrastructure, and are vital to reducing transportation emissions that result from the distribution of hundreds of millions of tons of construction aggregates used annually in building and maintaining the state. (See Public Resources Code § 2711(d) and (f) - Legislative declarations accompanying the Surface Mining and Reclamation Act of 1975.)

As such, CEQA requires lead agencies to consider the potential effects that a proposed project will have on local mineral resources. According to CEQA Guidelines Appendix G, a project will be found to have a significant impact on mineral resources if the project:

*"a) Results in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state; or*

*b) Results in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan."* (SEIR Section 3.11.5.)

The Conservation Element of the County's Comprehensive Plan delineates the Guadalupe Dunes as an important known mineral resource site. (See County-Wide Mineral Resources Map.) The Conservation Element further states: "In the Santa Maria-Orcutt area, Guadalupe Dune Sand is used for sandblasting and foundry sand." (Conservation Element, p. 161.) Despite the County's identification of this known mineral resource in its Comprehensive Plan, the draft SEIR fails to consider the effect that the Project will have on it. Instead, the SEIR summarily concludes that the Project would not result in the loss of availability of a known mineral resource.

The SEIR first needs to identify the physical change in the environment which will result from the Project, namely that natural coastal processes will disburse and deposit remnant gravel and cobbles in areas generally downwind of the Project Site. The SEIR then needs to consider the effect that these physical changes will have on a known mineral resource – a resource of value to the region and the residents of the State – a resource which the County has delineated on its local general plan.

For the reasons described above, based on testimony provided by George Gordon at the May 28, 2014 public hearing, a fair argument exists that physical changes resulting from the proposed Project will interfere with the long-term economic efficiency of the mining operation, by adding significantly to capital, operating, and maintenance costs, in addition to future reclamation costs. These additional financial burdens effectively shorten the economic life of

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**Comment Response 6-9:** Comment noted. Please see Comment Response 5-1a and 6-8. Additional information has been added to Section 3.11.5, *Mineral Resources* recognizing that the Conservation Element of the County's Comprehensive Plan delineates the Guadalupe Dunes as an important known mineral site. However, as described in Comment Response 5-1a, an analysis of coastal processes at Rancho Guadalupe Dunes County Park has demonstrated that aeolian transport is not responsible for the movement of remnant gravel at the Project Site. Due to the large critical wind threshold for movement of gravels, the evidence does not support a conclusion that the remnant gravels would move substantially as a result of entrainment by wind. Further, as the prevailing wind at Rancho Guadalupe Dunes County Park is from the northwest, it does not explain the movement of gravels from Site D to the southwest toward the Gordon Sand Company sand pit. In order for materials to be transported in this direction a prevailing northeast wind would be required. Instead a review of aerial photographs of the Project Site shows that the movement of gravel at Site 2 is from east to west, tracking the movement of the sand pit on Gordon Sand Company property and suggesting that disturbance by heavy equipment could be responsible for the movement of gravel. Consequently, any potentially adverse impacts to mineral resources as a result of the retention of remnant gravels under the Proposed Project would be less than significant. Additional analysis reflective of Comment Response 5-1a has been added to Section 3.11.5, *Mineral Resources* to support these findings.

**Comment Response 6-10:** Comment noted. Please refer to Comment Response 6-9.

**Comment Response 6-11:** Comment noted. Please refer to Comment Response 6-9. Further, as described in Comment Response 4-4, Gordon Sand Company would not be responsible for the reclamation of remnant gravel retained under the Proposed Project. As stated in Item 1(d) within the Gordon Sand Final Reclamation Plan (1993) "clay, silt, or rock materials removed from the access road and processing plant during reclamation would be placed into the sand pit for disposal."

the mining operation, hastening the loss of a locally important known mineral resource. This in turn constitutes a significant environmental effect.

#### IV. The Role Economic and Social Impacts Play In Determining The Significance of Impacts

CEQA ordinarily does not require lead agencies to treat economic and social impacts of a given project as significant effects on the environment. The CEQA Guidelines state that, where appropriate, a draft EIR should contain discussion of the economic and social consequences of a proposed project; however, by themselves, such impacts "shall not be treated as significant effects on the environment." CEQA Guidelines, § 15131(a) (italics added), 15382.

However, for projects that result in physical changes to the environment, if the physical changes could cause economic and/or social consequences, the magnitude of these consequences may be relevant in determining whether the physical changes or impacts are "significant." For example, if the construction of a new freeway or rail line divides an existing community, the construction would be the physical change, but the social effect on the community would be the basis for determining that the effect would be significant. (CEQA Guidelines § 15131(d).)

A similar situation exists with regard to the proposed Project. The physical change in the environment will be the distribution and deposition of imported remnant gravel and cobbles in areas generally downwind of the Project Site, including land owned and leased by the Gordon Sand Company for its mining operations. This physical change will have an economic impact on the Gordon Sand Company's mining operation, both in the short-term and long-term. The economic impact is relevant to determining the significance of the Project's impacts to coastal and mineral resources.

The SEIR states that impacts to coastal resources should be found significant if the project would expose existing development to substantial risk of loss or damage. Similarly, the SEIR states that impacts to mineral resources should be found significant if the project results in the loss of a known, locally-important mineral resource. A thorough understanding of both the short-term and long-term economic impacts of the proposed Project on Gordon Sand Company's mining operation is essential to an adequate record supporting a determination of significance regarding the level of impacts to these resources.

#### V. Uncertainty of The Proposed Mitigation Measure

The draft SEIR identifies Class II impacts to aesthetic and visual resources, and to recreational resources. The SEIR proposes mitigation whereby the applicant is to provide an in-lieu fee to the County for the purpose of purchasing property for public recreational or open space purposes at a ratio of not less than 3:1. Because the proposed Project has an 18.9 acre

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(cont.)

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**Comment Response 6-11 (cont.):** Therefore, Gordon Sand Company would not be burdened by separating remnant gravel from the overlying clay access road, for which the company is responsible.

**Comment Response 6-12:** Comment noted. Please refer to Comment Response 6-8 and Comment Response 6-9. Additionally, as described in Comment Response 4-4, Item 1(d) within the Gordon Sand Final Reclamation Plan (1993) states that "clay, silt, or *rock* materials removed from the access road and processing plant during reclamation would be placed into the sand pit for disposal." Consequently, Gordon Sand Company would not be burdened by separating remnant gravel from the overlying clay access road, for which the company is responsible.

**Comment Response 6-13:** Comment noted. Please refer to Comment Response 6-8 and Comment Response 6-9. Additionally, as described in Comment Response 4-4, Item 1(d) within the Gordon Sand Final Reclamation Plan (1993) states that "clay, silt, or *rock* materials removed from the access road and processing plant during reclamation would be placed into the sand pit for disposal." Consequently, Gordon Sand Company would not be burdened by separating remnant gravel from the overlying clay access road, for which the company is responsible.

footprint, 3:1 mitigation equates to a minimum land purchase of 56.7 acres. The mitigation ratio could potentially be greater based on property availability and quality. The property purchased must be designated and preserved for recreational and open space use. The optimal property will be located within the north coastal region of the County, in the vicinity of the Project Site, characterized by similar dune habitat and substantial scenic value, and be suitable for passive recreational or open space uses by the public. The Applicant will be required to provide the in-lieu fee to the County prior to issuance of a Coastal Development Permit (13CDH-00000-00042). The amount of the in-lieu fee is not stated, nevertheless, the conclusion drawn is that, in addition to offsetting recreational impacts, the in-lieu fee will result in additional indirect benefits to aesthetics, geological resources, and biological resources.

In its current form, the draft SEIR's in-lieu fee mitigation proposal is too uncertain and speculative to support a finding by the lead agency that the Project's Identified Class II impacts will be mitigated to levels that are less than significant. Without identification of specific parcels or tracts of land which meet the mitigation measure's minimum requirements, there is no way for decision makers or the public to know that such land exists, is available for purchase, and can be acquired at a reasonable price. The land must be a minimum of 56.7 acres in size, and be suitable for recreational and open space use. In addition, the land must meet minimum requirements for location, habitat, and scenic value. Until such a tract or tracts are identified, decision makers and the public can only speculate as to their existence, availability for purchase, and price. Tracts of lesser quality but greater acreage may be substituted, but again there is no certainty as to existence, availability or price.

In *Anderson First Coalition v. City of Anderson* (3d Dist. 2005) 130 Cal App4th 1173 (*Anderson*), the Third District Court of Appeal concluded that an EIR's analysis of cumulative traffic conditions was inadequate because the "fair share" mitigation fee proposed by the city to pay for certain traffic mitigation improvements was too uncertain to be relied upon as a basis for concluding that significant effects would not occur.

In *Anderson*, the EIR proposed, among other things, improvements to a highway interchange to alleviate cumulative traffic conditions, concluding that the traffic impacts would not be significant because the proposed mitigation measure would be implemented. The city imposed a "fair share" mitigation fee to pay for the improvements. The court found the mitigation fee to be too uncertain and vague to be effective mitigation. The court held that (1) the mitigation measure had to contain enough information to be able to determine how much the project would pay towards the improvement; (2) the required traffic improvements had to be identified; and (3) the record had to show how the balance of the funds would be obtained so the agency had substantial evidence in support of its expectation that the needed improvement would, in fact, be built. All of this information was necessary to a reasonable plan of actual mitigation. Absent such information, the mitigation measure was held too speculative to be relied upon as a basis for finding impacts would be mitigated to less than significant levels. See

6-14

**Comment Response 6-14:** Comment noted. Please refer to Comment Response 2-2. In-lieu fees are commonly imposed as mitigation under CEQA. Whenever establishing, imposing, or increasing a fee "as a condition of approval of a development project," the local agency imposing the fee must identify the purpose of the fee and the use to which it will be put (Government Code section 66001). These conditions are clearly met by the mitigation measure, which sets standards for optimum acquisition properties. It is important to distinguish that the acquisition of property for recreation and open-space use constitutes the off-site mitigation, not simply the provision of an in-lieu fee to the County. While the acquisition of property would not eliminate impacts to recreation and visual resources on-site, the regional increase in public land available for recreation and open-space uses would offset these impacts and would provide indirect benefits to geological resources and biological resources. Although the exact monetary value of the in-lieu fee is not specified in the mitigation, MM REC-1 requires that the in-lieu fee be sufficient for the purchase of property at a ratio of not less than 3:1. Consequently as 18.9 acres within the Project Site are impacted by remnant gravel, the in-lieu fee would be sufficient to purchase at least 56.7 acres of property in north coastal Santa Barbara County. The County would ensure compliance with the mitigation measure through exercise of its zoning clearance and permit compliance process, or other administrative process as appropriate.

also *Endangered Habitats League v. County of Orange* (4th Dist. 2005) 131 Cal.App.4th 777, 785.

In order to rely on the SEIR's proposed in-lieu fee approach as effective mitigation, the record must contain information which adequately demonstrates to decision makers and the public that suitable land exists, is available for purchase, and can be acquired at a reasonable price. All of this information is essential to a reasonable plan of actual mitigation. Absent such information, the mitigation proposed in the draft SEIR is too uncertain and speculative to be relied upon as a basis for finding impacts will be mitigated to less than significant levels.

6-15

**VI. Conclusion**

In order to adequately inform governmental decision makers and the public regarding the potentially significant environmental effects of the Project, the clarifications and information provided in these comments must be incorporated into the SEIR and analyzed as part of the administrative record.

Respectfully submitted,

HOLLISTER & BRACE  
A Professional Corporation



By \_\_\_\_\_

Peter L. Candy

PLC/crr

**Comment Response 6-15:** Comment noted. Refer to Comment Response 6-14. Although the exact monetary value of the in-lieu fee is not specified in the mitigation, MM REC-1 requires that the in-lieu fee be sufficient for the purchase of property at a ratio of not less than 3:1. Consequently as 18.9 acres within the Project Site are impacted by remnant gravel, the in-lieu fee would be sufficient to purchase at least 56.7 acres of property in north coastal Santa Barbara County. Prior to release of the permit modification removing Permit Condition #31, the County would ensure through the permitting process that the Applicant-provided in-lieu fee is sufficient and is used purchase an acquisition property that meets the criteria set forth in MM REC-1 to the maximum extent feasible. The permit modification *would not* be released prior to the property acquisition.

## F.4 References

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## **F.5 Attachments**

# Area 2 Proposed Excavation Depths

## Observed Snowy Plover Nest Sites

- 2003 ▲
- 2002 ▲
- 2001 ▲

- Surface only ~ 2 to 8 inches
- ~ 4 ft depth
- ~ 7-10 ft depth

○ Sample site

Property boundary

50 meters

100 feet

GORDON SAND COMPANY

Property boundary

