



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 Names:** Public Works  
**Department No.:** 054  
**For Agenda Of:** May 4, 2021  
**Placement:** Administrative  
**Estimated Tme:** N/A  
**Continued Item:** No  
**If Yes, date from:**  
**Vote Required:** 4/5

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**TO:** Board of Supervisors

**FROM:** Department Scott D. McGolpin, Public Works Director, (805) 568-3010  
Director(s)

Contact Info: Thomas D. Fayram, Deputy, Public Works Director, (805) 568-3436

**SUBJECT:** Authorization to Execute Amendment 2 to Cleanup and Abatement Account Grant and Receive Update on Toro Canyon Oil Water Separator, First Supervisorial District

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**County Counsel Concurrence**

As to form: Yes

**Other Concurrence:** Risk Management

As to form: Yes

**Recommended Actions:**

That the Board of Supervisors:

- a) Adopt a Resolution entitled "Resolution to Accept Amendment No. 2 to the Cleanup and Abatement Account Grant Agreement Between the State Water Resources Control Board and the County of Santa Barbara for the Toro Creek Oil / Water Separator Project" (Attachment A);
- b) Approve, ratify, and authorize the Public Works Director or designee to execute Amendment 2 to the Cleanup and Abatement Account (CAA) Grant Agreement "Toro Creek Canyon Oil Water Separator Facility Emergency Repair and Ongoing Operation and Maintenance Project" which extends the completion date and provides additional funds for emergency repairs (Attachment B);
- c) Accept the new condition of Amendment 2 of the CAA Grant, which commits the County of Santa Barbara to complete all routine operation and maintenance without funding from the CAA Grant (see Special Conditions on p. 18 of Attachment B);
- d) Approve Budget Revision Request (BJE No. 0007488 – Attachment C) to increase appropriates of \$139,674 in Public Works Project Clean Water Fund for the repair of capital asset Toro Canyon Oil

**Auditor-Controller Concurrence**

As to form: Yes

**Executive Office Concurrence**

As to concurrence: Yes

Water Separator, funded by unanticipated revenue through a CAA Grant administered by the State Water Resources Control Board (4/5 vote required); and

- e) Find that this action does not constitute a “Project” within the meaning of the California Environmental Quality Act pursuant to 14 CCR 15378 (b)(4).

**Summary Text:**

This item is on the agenda in order to (1) approve, ratify and authorize the Public Works Director or designee, on behalf of the County of Santa Barbara (County), to execute Grant Amendment 2 for a time extension and additional funds, (2) accept a new Special Condition to the CAA Grant agreement, which states that the County shall commit to completing routine operation and maintenance activities for the useful life of the system, and (3) approve the Budget Revision Request (BRR) to accept grant funds. Grant Amendment 2 will increase the funding by **\$139,674** through December 2023 in order to replace a section of leaking oil pipeline, remediate oil-contaminated soil from the leak, and develop a scope to bring the underground storage tank in compliance with code and regulations.

Grant Amendment 2 also adds a new Special Condition, whereby the County commits to the routine operation and maintenance activities for the “useful life” of the system; prior to this, the State Water Resource Control Board (SWRCB) reimbursed the County for operation and maintenance costs. The SWRCB will no longer provide funding for maintenance, which is estimated at approximately \$20,000 / year.

**Background:**

Historic - In 1882 Occidental Mining and Petroleum Corporation began construction on a horizontal tunnel at the site of a well-known oil seep in Toro Canyon. Such wells were commonly used to enhance oil flow. During construction, a large volume of water was inadvertently tapped. Further development of the oil resource was abandoned for the important water supply that was needed for the growing community of Summerland.

As Summerland switched to other water supplies, the onsite separator fell into disrepair and numerous spills occurred into the creek. Significant spills in the 1990s resulted in oil flow to the ocean. Initially the California Department of Fish and Wildlife (CDFW) then Fish and Game responded. By 1997 a Unified Command was established with the U.S. Environmental Protection Agency (EPA) and CDFW serving jointly as Incident Commanders.

The Toro Canyon Oil Water Separator was installed under the direction of the EPA in 1998 and operated by EPA until December of 2008. The system includes: 1) oil / water separator, 2) pipeline, and 3) underground storage tank. A significant amount of money and effort was spent during this period. For example, EPA Pollution Reports note that at one point over \$300,000 was spent by state CDFW, \$400,000 from U.S. Coast Guard, and \$850,000 from U.S. EPA.

Before installing the Toro Canyon Oil Water Separator, the EPA considered various options, including capping the well in place. Engineering geologists advised against sealing the well. The tunnel itself had collapsed many years before and any attempt to access and reopen the tunnel was considered too dangerous. The surrounding area contains numerous naturally-occurring oil seeps. Portions of soil are stained and thick with oil; oil continuously seeps into the creek channel at various locations downstream

of the oil / water separator. If the artesian well were to be plugged, the pressurized oil/water mixture would likely find another way out at a different and unpredictable location.

Operation and Maintenance - After ten years of operating the facility, the EPA requested that the state or a local agency take over operations. Initially, the County was unwilling to become involved. However, in early 2009 the County was awarded \$96,500 of CAA funds from the SWRCB for operation and maintenance through January 2019.

Since that time, Public Works staff have performed the operation and maintenance activities, which consists of checking the oil level in the tank and contracting with a local pumper truck to haul out the oil on a quarterly basis. The seep generates about 30 gallons of crude oil per day and the tank is pumped three to four times per year. The oil quality is fair; cost-recovery is not viable due to the remote location, the relatively small quantity, and the effort involved.

As the original grant was coming to a close, the County requested additional funding to continue operation and maintenance. On February 26, 2019, this board adopted Resolution 19-53 entitled "Authorization for Funding Agreement with the State Water Resources Control Board and Designation of a Representative for the Toro Creek Canyon Oil Water Separator Facility and Emergency Repair and Ongoing Maintenance Project" SWRCB-D1811409 and executed the agreement with SWRCB in the amount of \$56,000 for repairs and ongoing operation and maintenance of the Toro Canyon Oil Water Separator Grant Amendment 1 extended the work completion date to December 31, 2020. See Attachments D and E.

However, the Water Board indicated ongoing maintenance would no longer be eligible under CAA because these funds are intended only for cleanup and abatement. County staff sought alternative funding through various grants and programs. Although many options are available for one-time construction or abatement of spills, there are no known outside funding sources for ongoing operation and maintenance.

Property ownership - With the exception of a few portions of the pipeline itself, the oil water separator and the underground storage tank are located on private properties. A narrow, land-locked 40-foot wide parcel that includes portions of the pipeline was purchased from John P. Thorndike by the County through board approval on August 10, 2010. The acquisition was intended to provide more control for operations, although it did not provide easements on the adjoining properties nor access from Toro Canyon Road. Currently, Public Works staff must notify or ask permission of the landowners in order to access the facilities. Permission to access has been denied on occasion and may be denied again in the future; access remains an ongoing issue to be addressed.

Recent Damages - The Thomas Fire (December 2017) and subsequent debris flows (January 2018) damaged portions of the pipeline. Erosion damaged a small section of the buried pipeline that was ultimately replaced using funds from the 2018 CAA grant. Fire damaged an approximately 120-ft long section located above-ground. Here, the pipeline was partially melted from the intense heat but continued to convey oil to the tank. Unfortunately, by August 2020 oil was observed on the ground surface and is presumed to be from a leak somewhere within this above-ground section due to the weakened pipeline. The California Office of Emergency Services was notified upon discovery and the Office of Spill Prevention and Response established temporary control measures to control and reduce oil discharge. The pipeline leak is ongoing and crude oil is entering Toro Creek at a slow rate.

CUPA - During the course of the emergency response and notification, the County’s Certified Unified Program Agency (CUPA) investigated the underground storage tank. The U.S. EPA, then-Owner / Operator of the tank and appurtenant pipeline system, never sought permits nor was issued permits to operate under California Health and Safety Code / California Code of Regulations. Results of CUPA findings are summarized in a Notice to Comply / Notice of Violation (Attachment F). The investigation finds that the primary tank has an internal leak into the secondary outer wall, called the annular, where the oil is contained. Because of this and many other deficiencies, the underground storage tank needs to be repaired or more likely replaced.

Risks - Identifying the County as Operator may or may not convey the responsibility of Owner under CUPA. Currently, the ownership of the facility is unspecified. The facility was installed by the EPA under a Unified Command operation with no subsequent transfer of ownership from the private properties. Ownership of the facility increases risk and liability to the County due to 1) complications of land ownership and access, 2) an aging system under failure and not built to code, and 3) a steep and rugged location subject to wildland fires. Failure to maintain would result in discharge of about 20 gallons per day of crude oil to Toro Creek.

**Fiscal and Facilities Impacts:**

Budgeted: No

<b><u>Funding Sources</u></b>	<b><u>Current FY Cost:</u></b>	<b><u>Annualized On-going Cost:</u></b>	<b><u>Total One-Time Project Cost</u></b>
General Fund		\$ 20,000.00	
State	\$139,674		\$ 139,674.00
Federal			
Fees			
Other:			
<b>Total</b>	<b>\$ 139,674.00</b>	<b>\$ 20,000.00</b>	<b>\$ 139,674.00</b>

**Narrative:**

Upon approving the BRR to accept the CAA funds, expenditures for work related to fixing the leaking pipeline, etc. will be reimbursed. Repairs and remediation will continue into FY 2021-2022 until the grant funds are exhausted.

A new condition of Amendment 2 requires that the County accept the responsibility of operation and maintenance for the useful life of the system. Project Clean Water, the countywide urban storm water quality program within the Public Works Department, currently manages and oversees activities at the facility. There is insufficient Project Clean Water budget for ongoing, long-term operation and maintenance of the facility. Therefore, upon exhausting the Project Clean Water reserves, forecast to occur in the next couple of years, the CEO office will include the additional cost of maintenance within the recommended budget.

**Special Instructions:**

Direct the Clerk of the Board to send a copy of the resolution and the minute order of these actions to Christina Lopez at the Public Works Water Resources Division office.

**Attachments:**

- Attachment A: Resolution to Accept Amendment No. 2 to the CAA Grant Agreement Between the State Water Resources Control Board and the County of Santa Barbara for the Toro Creek Canyon Oil/Water Separator Facility Emergency Repair and Ongoing Operation and Maintenance Project
- Attachment B: Copy of CAA Grant Agreement SWRCB0000000000D1811409 Toro Creek Canyon Oil/Water Separator Facility Emergency Repair and Ongoing Operation and Maintenance Project Amendment 2
- Attachment C: Budget Revision Request (BJE No. 0007488)
- Attachment D: Copy of CAA Grant Agreement SWRCB0000000000D1811409 Toro Creek Canyon Oil/Water Separator Facility Emergency Repair and Ongoing Operation and Maintenance Project (6/13/2019)
- Attachment E: Copy of CAA Grant Agreement SWRCB0000000000D1811409 Toro Creek Canyon Oil/Water Separator Facility Emergency Repair and Ongoing Operation and Maintenance Project Amendment 1 (9/3/2020)
- Attachment F: CUPA Notice to Comply / Notice of Violation

**Authored by:**

Cathleen Garnand, Project Clean Water Manager (805) 568-3561