

SANTA BARBARA COUNTY BOARD AGENDA LETTER



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

Agenda Number:

Prepared on: 4/15/99
Department Name: Planning and Development
Department No.: 053
Agenda Date: 4/27/99
Placement: Administrative
Estimate Time: N/A
Continued Item: NO
Document File Name: G:\GROUP\ENERGY\WP\NORT
H\GOS\BS042799.DOC

TO: Board of Supervisors

FROM: John Patton, Director
Planning and Development

STAFF CONTACTS: Sue Martin, x.2045
Luis Perez, x.2034

SUBJECT: Water Quality Projects Recommended by the Regional Water Quality Control Board to Mitigate Impacts from the Spill at Unocal's Guadalupe Oil Field

Recommendation(s):

That the Board of Supervisors:

- A. Receive and file this report on the preliminary mitigation projects recommended by the Regional Water Quality Control Board (RWQCB) staff.
- B. Set a hearing on May 18, 1999 to review the staff report for the RWQCB selection of mitigation projects for the Guadalupe Oil Field mitigation funds and send a comment letter to the RWQCB on their recommended projects.

Alignment with Board Strategic Plan:

The recommendations are primarily aligned with Goal #5: Maintain and Enhance the Quality of Life for all Residents.

Executive Summary and Discussion:

Background

The Guadalupe Oil Field encompasses over 2,700 acres of the Nipomo Dunes ecosystem. The field is located mostly in San Luis Obispo County and a small portion extends into Santa Barbara County at the Santa Maria Rivermouth area. Diluent was first noticed in the surf and on the beach sands in January 1988. Since that

time, subsequent diluent releases are known to have occurred. Although the exact amount of the releases is unknown, estimates range from 8 to over 18 million gallons.

Settlement Agreement

In July 1998, Unocal and the State Attorney General reached a settlement agreement which provides for compensation for mitigation projects to offset the impacts of Unocal's oil spill from the Guadalupe Oil Field. The settlement included two discretionary funds; one in the amount of \$15 million to address water quality issues, and one in the amount of \$9 million to address natural resources and habitat restoration. The Regional Water Quality Control Board (RWQCB) will administer funds for water quality projects, and the California Department of Fish & Game (CDFG) will administer the funds for natural resource projects. The CDFG process was recently initiated with the convening of a public advisory committee on April 19, 1999. Proposals for projects have not yet been requested by CDFG.

In February 1998, the RWQCB requested proposals for water quality projects to mitigate the oil spill from Unocal's Guadalupe Oil Field. In the solicitation letter, the RWQCB identified a geographic or hydrologic nexus as a primary criterion for environmental proposals. Waste type, beneficial use type, and institutional stability of the project proponent constituted the other evaluation criteria.

The RWQCB received 95 proposals for projects requesting more than \$130 million, while the settlement fund contains \$15 million destined for water quality projects. Santa Barbara County's submittal to the RWQCB included the Rancho Guadalupe Dunes County Park Enhancement Plan presented by the Parks Department. The Board also endorsed proposals from the City of Guadalupe, Guadalupe Union School District, and The Nature Conservancy. Under separate cover, the Water Agency of the Public Works Department submitted a proposal for the Twitchell Reservoir Sediment Management Plan, and the Santa Maria Valley Water Conservation District submitted five projects associated with Twitchell Reservoir.

Recommended Water Quality Projects

In early March 1999, the Energy Division received a draft staff report from the RWQCB with recommended water quality projects. The draft was circulated to agencies and parties which will likely be affected by the RWQCB's decision. After considering the comments received on the draft, a final staff report and recommendations will be issued. The report is anticipated to be released on May 7, 1999. The draft staff report was reviewed by Energy Division and Water Agency staff and comments were provided to the RWQCB on April 1, 1999 by the Energy Division (Attachment A), and on March 31, 1999 by the Water Agency (Attachment B). A copy of the comments provided by the Santa Maria Valley Water Conservation District (SMVWCD) on March 25, 1999 is also included for your reference (see Attachment C).

Eight projects are recommended in the RWQCB's draft staff report, totaling \$8.3 million. For the funds remaining after this round of mitigation projects, the RWQCB plans to conduct a subsequent request for proposals in the future to allocate the remaining monies. A listing of these projects is provided in the following table:

Project Proponent	Project Description	Recommended Funding
CDFG-UCSB	Monitoring or petroleum hydrocarbons using sand crabs	\$ 144,395

Project Proponent	Project Description	Recommended Funding
Komex-H2O Science	Santa Maria River basin water quality assessment	\$ 1,852,400
Nature Conservancy	Piece together a protected landscape	\$ 2,000,000
California State Coastal Conservancy	Santa Maria River estuary management plan	\$ 220,000
Regional Water Quality Control Board - Central Coast	Central Coast ambient monitoring program	\$ 2,000,000
City of Guadalupe	School Lake and wetlands restoration	\$ 400,000
City of San Luis Obispo	Ayers Creek property acquisition	\$ 400,000
City of Guadalupe	Wastewater treatment plant improvements	\$ 1,300,000
TOTAL		\$ 8,316,795

County's Concerns with RWQCB's Preliminary Recommendations

Concerns raised by County staff include the RWQCB's selection process and issues with individual projects. These concerns are summarized below, and are described more fully in the attached comment letters.

With regard to the selection process, a number of issues are raised in staff's comment letter to the RWQCB. A primary concern is the fact that the public advisory committee (PAC) will not meet until after the end of the comment period (i.e. April 1st) on the RWQCB's draft staff report. It had always been staff's understanding that a PAC would review the proposals and provide recommendations to the RWQCB staff for consideration in preparing their recommendations to the Board. This process was outlined to all project proponents in a letter dated September 16, 1998 from Roger Briggs, RWQCB Executive Officer (Attachment D), and in a status report update to the RWQCB on October 23, 1998. However, since the PAC's first meeting will not occur until April 19th, any recommendations by the PAC can not be considered by the RWQCB staff in a meaningful way prior to finalization of the staff report for the RWQCB.

Another important issue involves changes to the selection criteria for these mitigation projects, which were established in the original solicitation letter of February 1998. Two new criteria were added during the RWQCB staff's evaluation process and project proponents were not informed of these additions. Also, one of the newly added criterion seems to conflict with general selection criteria established by the RWQCB in July 1998.

A third concern is the use of mitigation funds for projects that are already the obligation of either Unocal or an agency. The use of mitigation funds for work or projects that are part of the normal regulatory process, such as a Responsible Party's obligation to fully characterize its pollutants or an agency's monitoring role, would be inappropriate.

Another issue is the fact that the Water Agency was informed by another project proponent that their company had been contacted by the RWQCB and was provided with a list of specific projects related to the Santa Maria Basin. Such actions by the RWQCB undermine the selection process.

Finally, County staff indicated the importance to include in the RWQCB's staff report a brief summary of all proposed projects and the RWQCB staff's ranking of all projects against the established criteria. Without this

additional information, it is not clear how the public and the RWQCB can review the recommendations in light of all the requested projects.

County staff agreed that funding for the Nature Conservancy, State Coastal Conservancy, and both City of Guadalupe projects seemed appropriate and meet the RWQCB's selection criteria. However, issues identified with other recommended projects include the use of mitigation funds for obligatory actions by a Responsible Party, the appropriation of funds to a private consulting firm rather than a government agency, and funding for projects with no geographic, hydrologic, or petroleum connections.

Upcoming Process

The RWQCB will consider comments on the draft for incorporation into a final staff report, which is anticipated to be finalized on May 7th. On May 20th, the RWQCB will conduct a public workshop, where speakers may direct comments to the Water Board members. Also on the 20th, the RWQCB will make a decision on the recommendations.

Staff will provide the Supervisors with the RWQCB's final staff report prior to the Board's hearing on May 18th. A draft comment letter to the RWQCB will also be included for discussion on May 18th.

Mandates and Service Levels:

There are no changes in mandates or service level requirements for this briefing.

Fiscal and Facilities Impacts:

Energy Division costs of preparing this staff report is paid by Unocal through a reimbursement agreement and fees paid by Unocal.

Concurrence:

County Counsel
Public Works Department

Attachment: A. P&D Comment Letter, dated April 1, 1999
B. Public Works Comment Letter, dated March 31, 1999
C. SMVWCB Comment Letter, dated March 25, 1999
D. Letter from RWQCB to Project Proponents, dated September 16, 1998

cc: SBC Water Agency CDFG-OSPR
SBC Parks Dept. The Nature Conservancy
City of Guadalupe Coastal Conservancy
City of Santa Maria Farm Bureau
SMVWCD Agriculture Advisory Committee
RWQCB Cachuma Resources Conservation District
UCSB Santa Maria Valley Discovery Museum

ATTACHMENT A: P&D COMMENT LETTER
(dated April 1, 1999)

ATTACHMENT B: PUBLIC WORKS COMMENT LETTER
(dated March 31, 1999)

ATTACHMENT C: SMVWCD COMMENT LETTER
(dated March 25, 1999)

ATTACHMENT D: LETTER FROM RWQCB TO PROJECT PROPONENTS
(dated September 16, 1998)