



Agenda Report

Date: April 12, 2011
To: Honorable Mayor and City Council
From: Stephen W. Helvey, City Manager
Subject: Matrix Oil Conditional Use Permit Application

RECOMMENDATION

Staff recommends that the City Council:

1. Receive and file an update on the status of the original Conditional Use Permit (CUP) application submitted by Matrix Oil and their recent submittal of an amended CUP application; and
2. Consider an amendment to the Matrix mineral leasehold to allow it to remain in force during the longer processing period warranted by the amended CUP application.

BACKGROUND

In 2010, Matrix Oil Corporation submitted an application for a Conditional Use Permit (as required by the Whittier Municipal Code) to allow them to use lands in the City of Whittier to extract oil pursuant to the Mineral Lease granted to them by the City in October 2008.

The California Environmental Quality Act (CEQA) requires that the proposed project identified in the CUP application be subjected to a thorough assessment of its impacts on the environment in a number of areas. Using funds required of the applicant, the City hired Marine Research Specialists (MRS) to perform that environmental assessment for a fee of \$645,159. The project assessment identified a preferred environmental alternative to the proposed project that the applicant has stated publically would be an alternative they would endorse.

Because of their interest in this project alternative, the City has been concerned that to proceed with Planning Commission and City Council review of the preferred environmental alternative might be premature since the alternate project would not have been as thoroughly reviewed and evaluated as the original project submitted with the CUP application. All involved felt that it was vital to subject any project being considered to the utmost review and scrutiny in a process as transparent as possible.

For that reason, after consulting the Council Subcommittee, staff advised the applicant that they should redefine their project and reapply for a CUP in a manner consistent with the Environmentally Preferred Alternative identified in the CEQA review. A reapplication would result in significant additional processing time and cost to the applicant, estimated to be between \$250,000 and \$300,000. However, City staff and the Council Subcommittee believed that these negative impacts would be more than

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offset by having the proposal thoroughly vetted prior to consideration by the Planning Commission and City Council.

On April 6, 2011, the applicant amended their CUP application to propose a project consistent with the Environmentally Preferred Alternative identified as a part of the CEQA review.

DISCUSSION

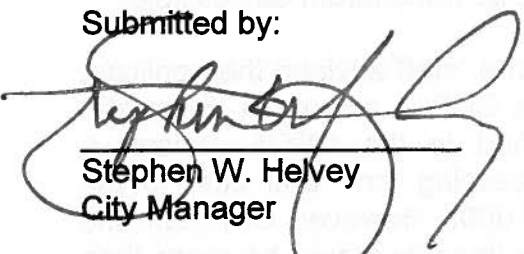
The amended project application will assure that the applicants' proposal to pursue the Consolidated Central site with the Landfill Road will be thoroughly reviewed to determine its potential environmental impacts prior to consideration by the City. While not legally required, the application for an amended project and circulation of a revised Draft EIR assures maximum transparency to the project proposed by the applicant for all interested parties in the City of Whittier. City staff, environmental consulting team, and legal experts have reviewed the proposed amended CUP application and process for revising the Draft EIR with the City Council Subcommittee and a verbal report can further explain the importance of this modification to the CUP application, if desired by Council.

One of the unavoidable issues with this change in course is that the project will require additional processing time that will extend the ultimate date of consideration of the CUP and EIR by the Planning Commission and the City Council. This will in turn necessitate an extension to the Mineral Lease previously granted to the applicant by the City Council. Staff recommends that the City Council grant the proposed amendment for a period of three additional years to October 28, 2014, as a fair exchange for more extensive CEQA review (Attachment A). James Day, the City's oil and gas attorney, will be available to answer any technical questions that the City Council may have on the Mineral Lease Amendment.

FISCAL IMPACT

All costs to process the amended CUP application and prepare the revised Draft EIR will be borne by the applicant. Additional rental income from the Mineral Lease extension will be deposited to the City's General Fund.

Submitted by:



Stephen W. Helvey
City Manager