



Board Agenda Item 51

DATE: July 10, 2018

TO: Board of Supervisors

SUBMITTED BY: Robert W. Bash, Director of Internal Services/Chief Information Officer

SUBJECT: U.S. Government Right of Entry

RECOMMENDED ACTION(S):

Approve and authorize the Chairman to execute the Right of Entry for Environmental Assessment and Response for twenty-four months with the United States of America to conduct an investigation by the U.S. Army Corps of Engineers to locate and remove storage tanks (above, at and below ground levels), contents, and appurtenant piping installed by the United States of America on the Fairgrounds and Fleet Services Yard.

The recommended action will permit the U.S. Army Corp of Engineers, by using private contractors, to enter the property to locate and remove storage tanks (above, at and below ground levels), and mitigate any contamination caused by the United States of America-installed tanks at no cost to the County. If the government investigation reveals contamination other than that caused by the United States of America, this information will be reported to local and state regulatory agencies, and the County may be required to remove any contamination at the County's cost. This Right of Entry is consistent with the County's prior rights of entry. On May 15, 2007, the Fresno County Board of Supervisors approved a thirty-six month Right of Entry for Survey and Exploration Agreement for work to be conducted at the County fairgrounds by the US Army Corp of Engineers. The Board extended the agreement on May 6, 2008 for an additional thirty-six months.

FISCAL IMPACT:

There is no cost to the County. If contaminants are found to be the responsibility of the County, the County may be required to pay for the cost of cleanup.

DISCUSSION:

The County owns the property south of Kings Canyon Avenue, East of Chance Avenue, West of Maple Avenue and north of Hamilton Avenue, with the majority of property leased to the Big Fresno Fair. The property along Hamilton Avenue contains the Fleet Services, Ag Department and other County operations. During World War II, this area was a basic training military base that contained housing for troops. The barracks located on the grounds used fuel oil for heating, and an underground tank for each barrack was installed for the fuel oil. In addition, underground tanks were used to store vehicle fuel and other petroleum products. In the mid-1980's Congress passed legislation to investigate and remove underground tanks at former military installations, with the costs to be paid by the federal government. The Army Corps of Engineers believes that most of the tanks at the County site were removed as a result of that legislation. There is no cost to the County for removal of any underground tanks that are located or any contamination resulting from the tanks that were installed by the military.

If the investigation reveals contaminants caused by the County, such as tanks installed by the County, this information will be reported to local and state regulatory agencies, and the County may be required to remove and pay for any contamination.

This Right of Entry deviates from the County of Fresno standard indemnification clause due to the Federal Torts Claims Act that establishes the process to for filing claims against the Federal Government.

The recommended agreement will permit the U. S. Army Corps of Engineers, by using private contractors, to locate and remove the tanks. The agreement also provides that the U.S. Government, at its expense, will replace concrete, asphalt or landscaping to the same condition as that before the removal of the tanks. Additionally the U. S. Army Corps of Engineers will coordinate with the County of Fresno and the Big Fresno Fair to ensure that any work does not interfere with the annual Big Fresno Fair or County operations.

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Right of Entry Agreement

CAO ANALYST:

Juan Lopez