

STAFF REPORT

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10/24/19
Lease 4699.1
M. Schroeder

GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

CPN Pipeline Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in New York Slough, San Joaquin River, and Sacramento River, near Pittsburg; Contra Costa, Sacramento, and Solano counties.

AUTHORIZED USE:

Continued maintenance of an existing 8-inch-diameter steel natural gas transmission pipeline.

LEASE TERM:

10 years, beginning September 1, 2017.

CONSIDERATION:

\$10,260 per year, with an annual California Consumer Price Index (CCPI) adjustment as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance: Liability insurance in an amount no less than \$5,000,000

Bond: \$1,000,000

Depth-of-burial surveys will be conducted at least once every five years.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503;
California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On August 31, 1972, the Commission authorized a General Lease – Right-of-Way Use to the Dow Chemical Company for a 20-year term and adopted Findings that, pursuant to an Environmental Impact Report (EIR) prepared by the Commission (EIR No. 65), the installation and operation

STAFF REPORT NO. 33 (CONT'D)

of an 8-inch-diameter welded steel natural gas transmission pipeline with valves and fittings at least 10 feet below the beds of the Sacramento and San Joaquin Rivers and New York Slough would not have a significant detrimental environmental effect ([Item 6, August 31, 1972](#)). On February 27, 1996, the Commission authorized a General Lease – Right-of-Way Use, to Great Western Pipeline Company, Inc., for the continued operation and maintenance of the natural gas pipeline for a 25-year term with a beginning date of September 1, 1992 ([Item 21, February 27, 1996](#)). On December 16, 1998, the Commission authorized an Assignment of Lease from Great Western Pipeline Company, Inc., to Calpine Pittsburg, Inc. ([Item 46, December 16, 1998](#)). Calpine Pittsburg, Inc., changed its name to CPN Pipeline effective March 1, 2000. The lease expired on August 31, 2017. The Applicant is applying for a new lease.

The existing natural gas pipeline was originally constructed to provide natural gas from source wells in southern Solano County for operation of the Dow Chemical Plant in Pittsburg. The pipeline was last inspected in 2015 with a cathodic protection inspection and a depth-of-burial inspection. Two pipeline segments have incurred loss of cover and/or pipeline exposure based on the 2015 survey reports. A new depth-of-burial survey will be conducted by the end of December 2020.

The pipeline is deactivated; however, it will remain in place because the Applicant may reactivate the pipeline in the future. If the Applicant should decide to reactivate the pipeline in the future, the Applicant must submit an application requesting approval to reactivate the pipeline. The request would include documentation such as a depth-of-burial survey and corrosion monitoring for verification of the pipeline condition prior to use. Reactivation will require Commission approval at a regularly scheduled public meeting.

The Applicant will continue to submit surveys, inspections, and pressure tests and maintain the pipeline as though it is still in service. The proposed lease includes terms requiring periodic depth-of-burial surveys to maintain an accurate record of pipeline location and depth of burial, and to monitor potential exposure and vulnerabilities of the pipeline for hazards. In addition, the proposed lease requires periodic inspections of the cathodic protection system operation, including pipe-to-soil potential surveys. Furthermore, the proposed lease requires submittal of internal pipeline inspections or pressure tests conducted on the pipeline. The surveys, inspections, and pressure tests will reduce the likelihood of structural pipeline degradation and potential hazards.

STAFF REPORT NO. 33 (CONT'D)

The 8-inch-diameter steel natural gas transmission pipeline has existed for many years at this location and is not generally associated with traditional Public Trust uses. However, the pipeline does not significantly interfere with Public Trust activities because the exposed portion of the pipeline is outside of the shipping channel and nearshore where anchoring is uncommon. The majority of the pipeline is buried underground and will not have an impact on Public Trust activities for the foreseeable term of the lease. In addition, the Lessee has and will continue to maintain adequate signage, providing notice of the pipeline's location, at both ends of the crossing.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from State land. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land.

Climate Change:

Climate change related impacts, such as sea-level rise and more frequent flood events may affect the lease area of PRC 4699.1. This region of the Sacramento River, San Joaquin River, and New York Slough have been identified as tidally influenced, and are, therefore, likely to experience an increase in permanent inundation due to projected sea-level rise over the next century. The lease area includes an existing 8-inch-diameter natural gas pipeline that is buried at variable levels below the beds of the subject waterways.

The California Ocean Protection Council updated the State of California Sea-Level Rise Guidance in 2018 to provide a synthesis of the best available science on sea-level rise projections and rates. Commission staff evaluated the "high emissions," "medium-high risk aversion" scenario to apply a conservative approach based on both current emission trajectories and the lease location and structure. The San Francisco tide gauge was used for the projected sea-level rise scenario for the lease area as listed in Table 1.

STAFF REPORT NO. 33 (CONT'D)

Table 1. Projected Sea-Level Rise for San Francisco¹

Year	Projection(feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, State of California Sea-Level Rise

Guidance: 2018 Update

Note: ¹ Projections are with respect to a 1991 to 2009 baseline.

Rising sea levels can lead to more frequent flood inundation in low-lying areas and larger tidal events. In addition, as stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, fire, drought, extreme heat, and storms (especially when coupled with sea-level rise). In rivers and tidally influenced waterways, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Climate change and sea-level rise will further influence coastal and riverine areas by changing erosion and sedimentation rates. In rivers and tidally influenced waterways, flooding and storm flow will likely increase scour, decreasing bank stability and structure.

According to the 2015 survey records contained in the lease file, the majority of the existing pipeline is buried below the bed of the subject waterways at variable levels, as influenced by bathymetry and sedimentation processes. Generally, the pipeline appears to be buried deeper near the middle of the river/slough channels, and shallower near the sides of the river/slough channels. A portion of the pipeline is exposed nearshore on the south side of the San Joaquin River crossing. Although the existing pipeline is buried and engineered to withstand river processes and tidal influences, the subject lease will require periodic depth-of-burial surveys to maintain an accurate record of pipeline location and depth of burial, and to monitor potential exposure and vulnerabilities of the pipeline for hazards (among other required inspections). Regular monitoring and maintenance, as required by the terms of the lease, will reduce the likelihood of structural pipeline degradation and potential hazards.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

STAFF REPORT NO. **33** (CONT'D)

OTHER PERTINENT INFORMATION:

1. A portion of the subject pipeline located within New York Slough extends into the legislative grant to the City of Pittsburg. This lease was expressly excluded from the grant to the City of Pittsburg and remains within the leasing jurisdiction of the Commission (Chapter 422, Statutes of 2011, section 9). The legislation inadvertently transposed the identifying number of this lease (Lease Number PRC 4966 instead of 4699), but this error does not affect the Commission's leasing jurisdiction.
2. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the existing pipeline and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease.
3. This proposed action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
4. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

STAFF REPORT NO. **33** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Right-of-Way Use to CPN Pipeline Company beginning September 1, 2017, for a term of 10 years, for continued maintenance of an existing 8-inch-diameter steel natural gas transmission pipeline in New York Slough, the Sacramento River, and the San Joaquin River, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent of \$10,260 per year, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$5,000,000 per occurrence; and \$1,000,000 bond.

EXHIBIT A

LEASE 4699.1

LAND DESCRIPTION

A strip of tide and submerged land 5.67 feet wide across the Sacramento River, Sherman Island, San Joaquin River and New York Slough, situated in Solano, Sacramento and Contra Costa Counties, California, lying 2.835 feet on each side of following describing centerline:

BEGINNING at a point on the right bank of the Sacramento River from which an NGS monument "COLLINSVILLE RADIO KECC E MAST" (PID:JS4399) having an epoch date of 1991.35 bears N 55°23'30" W 7420.20 feet, said point of beginning also lying at the center of an existing 8 inch gas pipeline; thence along the said pipeline the following (12) courses:

- 1) S 10°33'46" W 224.91 feet;
- 2) S 16°43'43" W 24.50 feet;
- 3) S 10°43'59" W 3029.84 feet;
- 4) S 16°39'20" W 29.67 feet;
- 5) S 00°03'32" E 27.72 feet;
- 6) S 11°43'52" W 334.16 feet;
- 7) S 10°38'31" W 8062.80 feet;
- 8) S 43°31'35" W 35.65 feet;
- 9) S 38°40'33" W 210.30 feet;
- 10) S 43°31'03" W 5186.47 feet;
- 11) S 48°40'21" W 147.36 feet;
- 12) S 38°49'30" W 224.12 feet to the POINT OF TERMINATION.

EXCEPTING THEREFROM those interests-in-land, if any, which may have passed by virtue of the patents issued by the State of California for Swamp and Overflowed Survey No. 105, Solano County, and Swamp and Overflowed Survey Nos. 543, 557 and 561, Sacramento County, copies of which are on file in the Official Records of the California State Lands Commission, Sacramento.

ALSO EXCEPTING THEREFROM that portion thereof lying within the lands described in the Final Order of Condemnation in U.S. District Court, Northern District of California, Second Division, Case No. 15,617, U.S. vs. Lindsay P. Marshall, November 1, 1912.

ALSO EXCEPTING THEREFROM that portion thereof lying within the lands described in the Final Order of Condemnation in U.S. District Court, Northern District of California, Second Division, Case No. 15,405, U.S. vs. Anne Kierce, March 18, 1913.

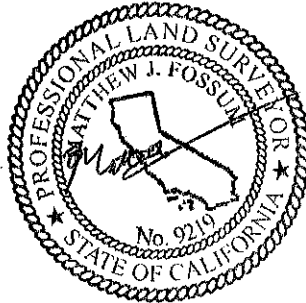
ALSO EXCEPTING THEREFROM that portion of the lands described in Deed between City of Sacramento and the U.S. Recorded March 24, 1913, in Book 371 of Deeds, page 293, Sacramento County Records

ALSO EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the south bank of New York Slough.

This description is based on CCS83, Zone 2. All distances are grid distances, to convert to ground multiply by 1.00084061.

END OF DESCRIPTION

Prepared 9/23/2019 by the California State Lands Commission Boundary Unit



SITE



LOCATION



Exhibit B

A map of California with county boundaries. A red arrow points to a location in the Central Valley, labeled "SITE".

MJF 9/23/19