

STAFF REPORT

36

A 9, 11, 13

04/29/20
Lease 8207.1
A2274
D. Tutov

S 3, 5

GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

Lodi Gas Storage L.L.C.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Mokelumne, North and South Mokelumne Rivers; and Georgiana, Broad, Three Mile, Jackson, and Tomato Sloughs, between Rio Vista and Lodi, within Sacramento, and San Joaquin Counties.

AUTHORIZED USE:

Continued use and maintenance of a 24-inch-diameter natural gas pipeline.

LEASE TERM:

20 years, beginning September 19, 2020.

CONSIDERATION:

\$4,542 per year, with an annual Consumer Price Index (CPI) adjustment, and with the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

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

Bond: Surety bond in an amount no less than \$50,000.

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.

STAFF REPORT NO. 36 (CONT'D)

Public Trust and State's Best Interests Analysis:

On September 19, 2000, the Commission authorized a General Lease – Right-of-Way Use to Lodi Gas Storage, LLC, (LGS) for a term of 20 years ([Item C06, September 19, 2000](#)). The lease will expire on September 18, 2020.

On December 17, 2014, the Commission authorized an amendment of the lease ([Item C27, December 17, 2014](#)) to accept an unconditional parent guaranty by LGS's parent company, Brookfield Infrastructure Fund II CalGas, LLC, for the performance of the lease obligations of LGS.

LGS owns and operates a natural gas storage facility 5.4 miles northeast of Lodi, San Joaquin County. The facility currently has 31 billion cubic feet of working natural gas storage capacity in two underground natural gas storage reservoirs and is connected to Pacific Gas and Electric's (PG&E) intrastate natural gas pipeline system that services demand in the San Francisco and Sacramento areas. LGS is regulated by the California Public Utilities Commission. Thirty-one miles of pipeline link the LGS gas storage facility to an interconnect facility with PG&E just north of Antioch, California.

The existing 24-inch-diameter natural gas pipeline was constructed in 2002 and has been in operation since then. It crosses the North and South Forks of the Mokelumne River; the Mokelumne River; and Georgiana, Broad, Three Mile, Jackson, and Tomato Sloughs. Most of the waterway crossings, except for Broad, Jackson, and Tomato Sloughs, are horizontal directionally drilled at least 50 feet under the waterways. LGS submitted 2019 depth of burial surveys of the pipeline segments crossing Broad, Jackson, and Tomato Sloughs, showing sufficient burial cover. The pipeline was last inspected in 2017 and no repairs or modifications were needed or recommended based on the inspections within the lease area. Although the existing pipelines are buried and engineered to withstand river processes and tidal influences, the proposed lease requires copies of periodic inspection results of the cathodic protection system operation including pipe-to-soil potential surveys at least once every 2 years. The lease will also require burial depth survey results of the pipeline segments crossing Broad, Jackson, and Tomato Sloughs at least once every 5 years.

The pipeline is below the bed of the waterways it crosses and does not impede surface use or interfere with Public Trust needs and values at any of the locations, at this time, and for the foreseeable term of the proposed lease. The existing facilities do not significantly alter the land, and the

STAFF REPORT NO. 36 (CONT'D)

lease does not alienate the State’s sovereign interest or permanently impact public rights. The lease is limited to a 20-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 any improvements and restore the lease premises to their original condition. Additionally, the proposed lease requires the lessee to maintain a surety bond in the amount of \$50,000 and to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee’s activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

Climate Change:

Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect both open coastal areas and inland waterways in California. The subject facilities are located on several tidally influenced sites that are vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea-level rise.

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 structures. The San Francisco tide gauge was used for the projected sea-level rise scenario for the lease area as listed in Table 1.

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.

This effect could increase the inundation levels within the various waterway’s lease areas, and this risk of flood exposure is likely to increase with time. 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

STAFF REPORT NO. 36 (CONT'D)

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 as well as decreased bank stability and structure. Conversely, climate-change induced droughts could decrease river levels and flow for extended periods of time. Climate change and sea-level rise will further influence riverine areas by changing erosion and sedimentation rates. Although the banks within the lease area are vegetated, flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

The lease area facilities are located within submerged land under the various waterways. The leased lands and surrounding land may be vulnerable to these weather events; however, these projected climate change effects are not expected to affect the underground pipeline crossings. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises and adjacent upland (not under lease) are located in an area that may be subject to effects of climate change, including sea-level rise.

Conclusion:

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

OTHER PERTINENT INFORMATION:

1. This 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.
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 Lessee 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.

STAFF REPORT NO. 36 (CONT'D)

3. 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:

- A1-A9: Land Description
- B1-B2: Site and Location Map

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 these locations, 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 the Applicant beginning September 19, 2020, for a term of 20 years, for continued use and maintenance of a 24-inch-diameter natural gas pipeline, 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 in the amount of \$4,542, with an annual Consumer Price Index adjustment, and with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; liability insurance in an amount no less than \$5,000,000 per occurrence; and a surety bond in the amount of \$50,000.

EXHIBIT A- 1 (Three Mile Slough)

LEASE 8207.1

LAND DESCRIPTION

A 30 foot wide strip of tide and submerged land situate in the bed of Three Mile Slough lying adjacent to, on the left bank, Swamp and Overflowed Lands Survey 386, patented October 16, 1873, County of Sacramento, State of California, and lying 15 foot on each side of the following described centerline:

BEGINNING at a point at the intersection of an existing 24 inch natural gas pipeline with the left bank of Three Mile Slough which bears South 53°23'54" East 32,610 feet more or less from NGS Monument "GRAN" (PID JS4770); thence continuing along said pipeline South 4°44'04" East 700.00 feet to a point on the right bank of Three Mile Slough and the end of the herein described centerline.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the ordinary high water mark of the right and left banks of said slough.

The Basis of Bearings is CCS83, Zone 2. All distances are grid and in U.S. survey feet.

END OF DESCRIPTION

PREPARED 11/12/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



EXHIBIT A- 2 (Tomato Slough)

LEASE 8207.1

LAND DESCRIPTION

A 30 foot wide strip of tide and submerged land situate in the bed of Tomato Slough lying adjacent to, on the left bank, Swamp and Overflowed Lands Survey 701 patented April 14, 1873, County of Sacramento, State of California, and lying 15 foot on each side of the following described centerline:

BEGINNING at a point at the intersection of an existing 24 inch natural gas pipeline with the left bank of Tomato Slough which bears South 59°10'02" West 24,284 feet more or less from NGS Monument "GRAN" (PID JS4770); thence continuing along said pipeline North 89°57'33" West 55.00 feet to a point on the right bank of Tomato Slough and the end of the herein described centerline.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the ordinary high water mark of the right and left banks of said slough.

The Basis of Bearings is CCS83, Zone 2. All distances are grid and in U.S. survey feet.

END OF DESCRIPTION

PREPARED 3/27/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT

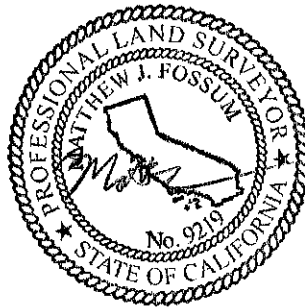


EXHIBIT A- 3 (Jackson Slough)

LEASE 8207.1

LAND DESCRIPTION

A 30 foot wide strip of tide and submerged land, whether filled or unfilled, situate in the bed of Jackson Slough lying adjacent to, on the right bank, Swamp and Overflowed Lands Survey 653 patented June 17, 1873, County of Sacramento, State of California, and lying 15 foot on each side of the following described centerline:

BEGINNING at a point at the intersection of an existing 24 inch natural gas pipeline with the historic right bank of Three Mile Slough which bears South 50°51'05" West 8,055 feet more or less from NGS Monument "GRAN" (PID JS4770); thence continuing along said pipeline North 58°28'41" East 80.00 feet to a point on the historic left bank of Jackson Slough and the end of the herein described centerline.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the ordinary high water mark of the right and left banks of said slough.

The Basis of Bearings is CCS83, Zone 2. All distances are grid and in U.S. survey feet.

END OF DESCRIPTION

PREPARED 11/12/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT

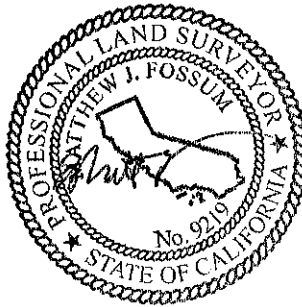


EXHIBIT A- 4 (Georgiana Slough)

LEASE 8207.1

LAND DESCRIPTION

A 30 foot wide strip of tide and submerged land situate in the bed of Georgiana Slough lying adjacent to, on the right bank, Swamp and Overflowed Lands Survey 849 patented April 2, 1873, County of Sacramento, State of California, and lying 15 foot on each side of the following described centerline:

BEGINNING at a point at the intersection of an existing 24 inch natural gas pipeline with the right bank of Georgiana Slough which bears South 36°39'06" East 4,219 feet more or less from NGS Monument "GRAN" (PID JS4770); thence continuing along said pipeline South 82°14'43" East 220.00 feet to a point on the left bank of Georgiana Slough and the end of the herein described centerline.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the ordinary high water mark of the right and left banks of said slough.

The Basis of Bearings is CCS83, Zone 2. All distances are grid and in U.S. survey feet.

END OF DESCRIPTION

PREPARED 11/12/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



EXHIBIT A- 5 (Broad Slough)

LEASE 8207.1

LAND DESCRIPTION

A 30 foot wide strip of submerged land, whether filled or unfilled, situate in the bed of Broad Slough lying adjacent to Swamp and Overflowed Lands Survey 684, patented August 24, 1894, County of Sacramento, State of California, and lying 15 foot on each side of the following described centerline:

BEGINNING at a point at the intersection of an existing 24 inch natural gas pipeline with the historic right bank of Broad Slough which bears South 76°58'43" East 10802 feet more or less from NGS Monument "GRAN" (PID JS4770); thence continuing along said pipeline North 64°14'48" East 95.74 feet; thence North 85°12'29" East 23.27 feet; thence North 88°35'16" East 26.48 feet; thence South 88°38'00" East 87.64 feet to a point on the historic left bank of Broad Slough and the end of the herein described centerline.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the low water mark of the right and left banks of said slough.

The Basis of Bearings is CCS83, Zone 2. All distances are grid and in U.S. survey feet.

END OF DESCRIPTION

PREPARED 11/12/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



EXHIBIT A- 6 (North Fork Mokelumne River)

LEASE 8207.1

LAND DESCRIPTION

A 30 foot wide strip of tide and submerged land situate in the bed of the North Fork of the Mokelumne River lying adjacent to, on the right bank, Swamp and Overflowed Lands Survey 849 patented August 24, 1894, County of Sacramento, State of California, and lying 15 foot on each side of the following described centerline:

BEGINNING at a point at the intersection of an existing 24 inch natural gas pipeline with the right bank of the North Fork of the Mokelumne River which bears South 79°50'09" East 17,600 feet more or less from NGS Monument "GRAN" (PID JS4770); thence continuing along said pipeline South 77°32'32" East 340.00 feet to a point on the left bank of said river and the end of the herein described centerline.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the ordinary high water mark of the right and left banks of said river.

The Basis of Bearings is CCS83, Zone 2. All distances are grid and in U.S. survey feet.

END OF DESCRIPTION

PREPARED 11/12/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



EXHIBIT A- 7 (South Fork Mokelumne River)

LEASE 8207.1

LAND DESCRIPTION

A 30 foot wide strip of tide and submerged land situate in the bed of the South Fork of the Mokelumne River lying adjacent to, on the left bank, Swamp and Overflowed Lands Survey 1283 patented June 29, 1869, County of San Joaquin, State of California, and lying 15 foot on each side of the following described centerline:

BEGINNING at a point at the intersection of an existing 24 inch natural gas pipeline with the left bank of the South Fork of the Mokelumne River which bears South 78°23'12" East 27,103 feet more or less from NGS Monument "GRAN" (PID JS4770); thence continuing along said pipeline North 87°55'47" West 390.00 feet to a point on the right bank of said river and the end of the herein described centerline.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the ordinary high water mark of the right and left banks of said river.

The Basis of Bearings is CCS83, Zone 2. All distances are grid and in U.S. survey feet.

END OF DESCRIPTION

PREPARED 11/12/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



EXHIBIT A- 8 (Mokelumne River)

LEASE 8207.1

LAND DESCRIPTION

A 30 foot wide strip of tide and submerged land situate in the bed of the Mokelumne River lying adjacent to, on the right bank, Swamp and Overflowed Lands Survey 816 patented May 5, 1870, County of San Joaquin, State of California, and lying 15 foot on each side of the following described centerline:

BEGINNING at a point at the intersection of an existing 24 inch natural gas pipeline with the right bank of the South Fork of the Mokelumne River which bears North 88°08'25" East 78,818 feet more or less from NGS Monument "GRAN" (PID JS4770); thence continuing along said pipeline North 89°27'10" West 180.00 feet to a point on the left bank of said river and the end of the herein described centerline.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the ordinary high water mark of the right and left banks of said river.

The Basis of Bearings is CCS83, Zone 2. All distances are grid and in U.S. survey feet.

END OF DESCRIPTION

PREPARED 11/12/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



EXHIBIT A- 9 (Mokelumne River)

LEASE 8207.1

LAND DESCRIPTION

A 30 foot wide strip of tide and submerged land situate in the bed of the Mokelumne River lying adjacent to, on the right bank, Swamp and Overflowed Lands Survey 816 patented May 5, 1870, County of San Joaquin, State of California, and lying 15 foot on each side of the following described centerline:

BEGINNING at a point at the intersection of an existing 24 inch natural gas pipeline with the right bank of the South Fork of the Mokelumne River which bears North 88°08'57" East 79,326 feet more or less from NGS Monument "GRAN" (PID JS4770); thence continuing along said pipeline North 89°33'35" East 350.00 feet to a point on the right bank of said river and the end of the herein described centerline.

Sidelines of said strip to be lengthened or shortened so as to begin and terminate on the ordinary high water mark of the right bank of said river.

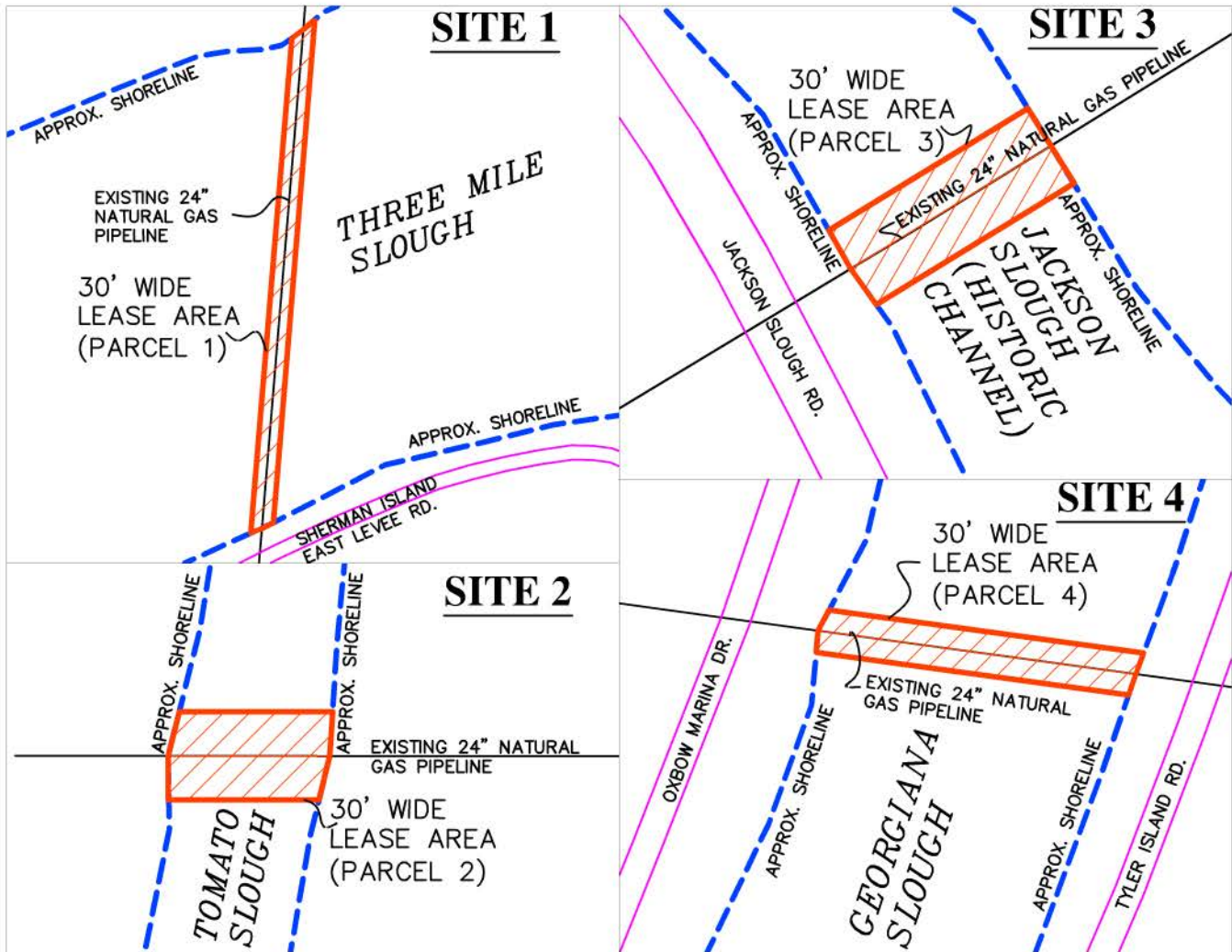
The Basis of Bearings is CCS83, Zone 2. All distances are grid and in U.S. survey feet.

END OF DESCRIPTION

PREPARED 11/12/19 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE



EXISTING 24" NATURAL GAS PIPELINE - SEE ABOVE LOCATIONS

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B-1

LEASE 8207.1
 LODI GAS STORAGE LLC
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 SACRAMENTO &
 SAN JOAQUIN COUNTY

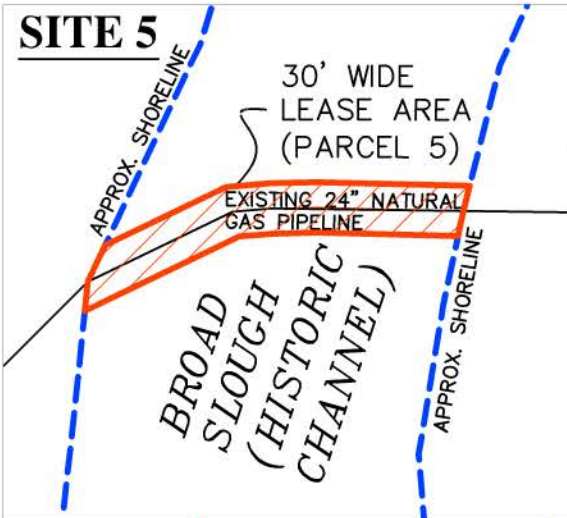


This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

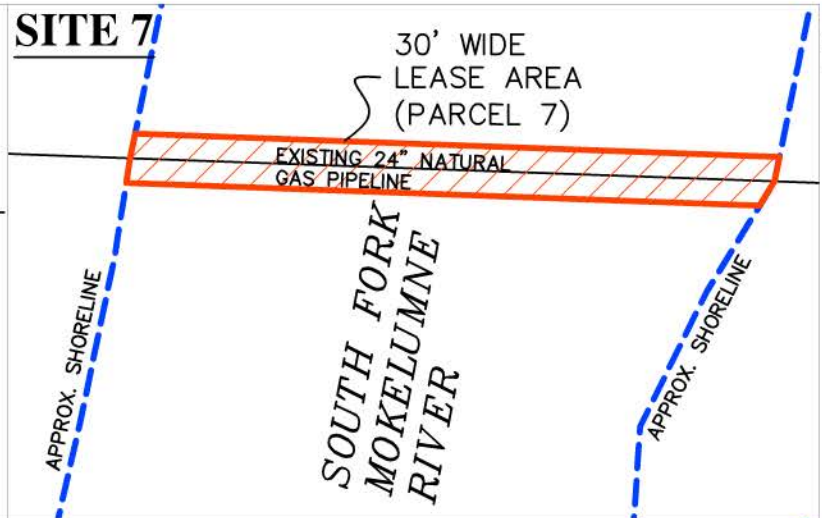
MJF 11/12/19

NO SCALE

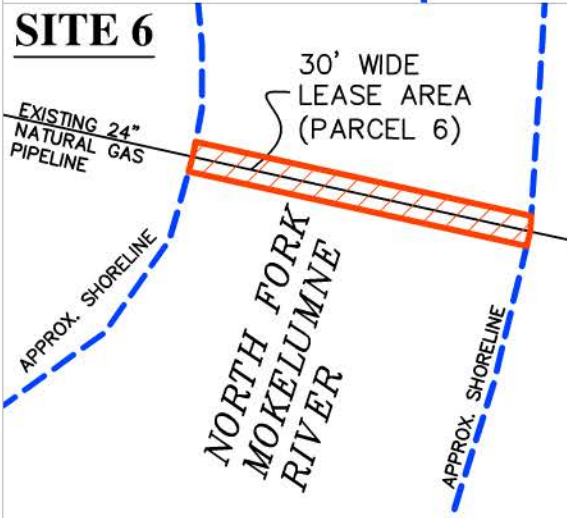
SITE 5



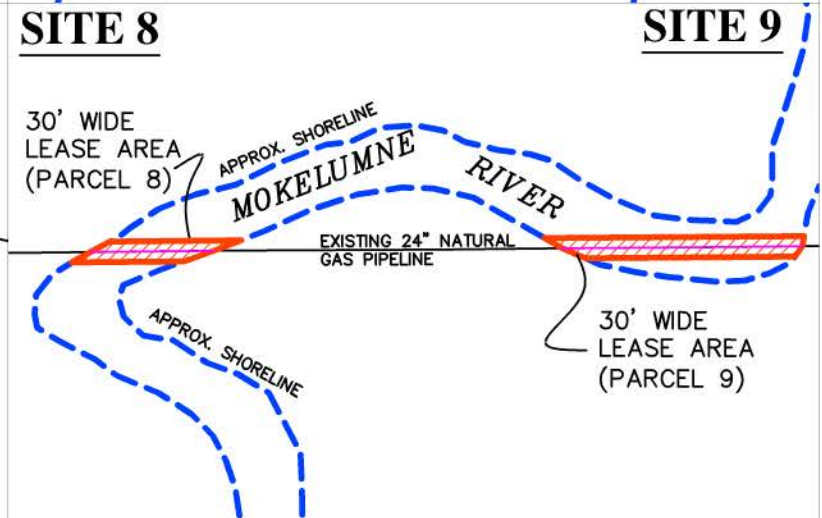
SITE 7



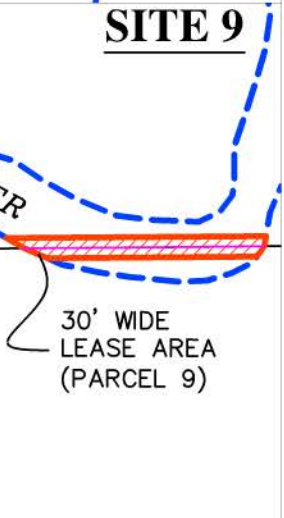
SITE 6



SITE 8



SITE 9



EXISTING 24" NATURAL GAS PIPELINE - SEE ABOVE LOCATIONS

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B-2

PRC 8207.1
LODI GAS STORAGE LLC
GENERAL LEASE -
RIGHT-OF-WAY USE
SACRAMENTO &
SAN JOAQUIN COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.