

**STAFF REPORT
32**

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06/23/20
PRC 9042.1
A2420
M. Schroeder

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AMENDMENT OF LEASE

LESSEE:

SFPP, L.P.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in various waterways, in various counties, statewide.

AUTHORIZED USE:

31 pipelines measuring from 4 inches to 20 inches in diameter, located in various waterways.

LEASE TERM:

20 years, beginning April 1, 2013.

CONSIDERATION:

\$15,050 per year.

PROPOSED AMENDMENT:

- Authorize installation of an 8-inch-diameter horizontal directional drilled (HDD) refined petroleum products pipeline under Pacheco, Walnut, and Grayson creeks and removal of two existing 8-inch-diameter pipelines consisting of approximately 75 linear feet of exposed pipeline in the bed of Pacheco, Walnut, and Grayson creeks.
- Delete Exhibit A-1, Land Description.
- Delete Exhibit A-2, Land Description.
- Include the attached Exhibit A-3, Land Description.
- Include the attached Exhibit B-1, Site and Location Map.

The amendment shall be effective June 23, 2020. All other terms and conditions of the lease shall remain in effect without amendment.

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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 September 20, 2013, the Commission authorized the issuance of Lease No. PRC 9402.1, a 20-year General Lease – Right-of-Way Use (Lease) to the Lessee for the continued use and maintenance of 31 existing petroleum pipelines measuring from 4 inches to 20 inches in diameter located in various waterways throughout the State. ([Item C29, September 20, 2013](#)). The lease will expire on March 31, 2033. The Lessee is now applying to amend the lease for the proposed installation of an HDD 8-inch-diameter petroleum pipeline under Pacheco, Walnut, and Grayson creeks and removal of two existing 8-inch-diameter pipelines.

Approximately 75 linear feet of two existing pipelines are exposed in the bed of Pacheco, Walnut, and Grayson creeks. One of the pipelines is active, and the other pipeline is retired and no longer in service. The pipelines have served as conduits for refined petroleum products (such as gasoline, diesel, and jet fuel) for several Bay Area refineries. The Lessee conducts integrity management and maintenance programs to operate the pipeline safely. Routine maintenance revealed that the active pipeline had been exposed and that the integrity of the pipeline is at risk due to the extent of the exposure. In order to remediate the risk, the Lessee is proposing the Pipeline Remediation Project (Project).

The Project would include replacement of the existing pipeline with a new 8-inch-diameter pipeline approximately 1,074 feet in length located 40 feet below the bottom of Pacheco, Walnut, and Grayson creeks using the HDD construction method. The active pipeline replacement would be designed to carry refined petroleum products and would be constructed of welded carbon steel pipe. Upon completion of the pipeline replacement, the inactive segments of the pipeline along with the retired pipeline would be removed from Pacheco, Walnut, and Grayson creeks. The pipeline removal areas would be restored to pre-existing conditions.

The new HDD pipeline would be installed with an entry point located on private property owned by Tesoro and the Lessee, with an exit point located on property owned by the Contra Costa Sanitation District. Equipment staging areas would be located on both the east and west sides of Pacheco, Walnut, and Grayson creeks. All access is through existing private and industrial right-of-way.

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The Project would provide continuing ongoing supply of refined petroleum products to the region. The pipeline delivers a large volume of petroleum products to the Northern California Area. Currently, it delivers approximately 1,500,000 barrels per month. Without it, there would be approximately 5,400 trucks added to roads, each month, to equal its delivery volume.

Public access to the Pacheco, Walnut, and Grayson creeks in the vicinity of the Project site is limited to dirt roads or walking across the creeks. There are no designated trails, boating activities, or parks in or adjacent to the project site. In addition, the project site is near an area that is primarily industrial and is used by the oil and gas industry.

Commission staff believes that the proposed lease amendment for the installation of a HDD pipeline and removal of the two existing exposed pipelines in Pacheco, Walnut, and Grayson creeks, will not substantially interfere with the Public Trust needs and values at this location because the installation of the new pipeline will be below the beds of the creeks and will have a minor, if any, impact on the recreational use of Pacheco, Walnut, and Grayson creeks. Furthermore, removal of the two exposed pipelines will reduce risk to recreational use of Pacheco, Walnut, and Grayson creeks and is in the long-term best interests of the State.

Environmental Justice:

Staff reviewed environmental justice data that indicated high pollution burdens to the surrounding communities. These burdens may result in impacts to health such as asthma, low birth weight, and cardiovascular disease. In addition, the same data showed high burdens to groundwater. Staff believes that the lease amendment for installation of a new 8-inch-diameter pipeline through the HDD construction method and removal of the exposed pipelines would result in possible future benefits to the nearby communities by removing the exposed pipelines and thereby reducing risks to the public. As part of an environmental justice outreach effort, staff contacted several environmental justice communities in Contra Costa county providing notification of the proposed lease amendment. The Center for Biological Diversity responded as a result of the outreach with a request for copies of the application and supplemental material. Staff provided copies of the information. There has been no further comments from the Center for Biological Diversity since our response. No other comments have been received. The letter, which was also sent to several environmental justice communities, included a brief description of the lease and listed a staff person as a point of contact.

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Climate Change:

The lease area consists of a portion of Pacheco, Walnut, and Grayson creeks, is adjacent to leveed marshlands, and is a tidally influenced site vulnerable to flooding at current sea levels. 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 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.

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).

The combination of these projected conditions could have the potential for more frequent and stronger storm events that may expose the lease area to higher flood risks and cause structures to be damaged or dislodged, presenting hazards to public safety, as well as dangers for navigation. Conversely, prolonged drought conditions could lower water levels exposing previously submerged structures to the elements.

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According to the Applicant, the existing pipeline would be removed and replaced via HDD below the bed of Pacheco, Walnut, and Grayson creeks. Pipelines at greater depth are unlikely to be affected by flooding or drought conditions that may occur within the lease area given future projected scenarios of sea-level rise.

Conclusion:

For all the reasons above, staff believes that approval of the requested amendment would not substantially interfere with the public rights to navigation, fishing and commerce; would not substantially interfere with Public Trust needs and values at this location; and is in the State's best interests.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application for amending the lease 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 a trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of a lease, the lessee has no right to a new lease or renewal of any previous lease.
2. 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; and Strategy 1.5 to ensure the highest level of environmental protection and public safety in the production and transportation of oil and gas resources.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a statutorily exempt project. The project is exempt because it involves work on existing pipelines as defined by CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21080.23 and California Code of Regulations, title 14, section 15284.

APPROVALS REQUIRED:

U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
National Oceanic and Atmospheric Administration
California State Historic Preservation Office

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Regional Water Quality Control Board, San Francisco
California Department of Fish and Wildlife
Contra Costa County Flood Control District

EXHIBITS:

- A-3. Land Description
- B-1. 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 statutorily exempt project pursuant to Public Resources Code section 21080.23 and California Code of Regulations, title 14, section 15284.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the approval of the proposed amendment will not interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the State's best interests.

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 9042.1, a General Lease – Right-of-Way Use, of sovereign land located in Pacheco, Walnut, and Grayson creeks as described in Exhibit A-3 and shown on Exhibit B-1 (for reference purposes only), attached, and by this reference made a part hereof, effective June 23, 2020; for installation of a horizontal directional drilled 8-inch-diameter refined petroleum products pipeline and removal of two existing 8-inch-diameter pipelines from Pacheco, Walnut, and Grayson creeks; delete Exhibits A-1 and A-2, Land Descriptions; and include the attached Exhibit A-3, Land Description; and include the attached Exhibit B-1, Site and Location Map; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A-3
LS-47 / LS-72: 8" PIPELINE – PACHECO CREEK

Date: April 20, 2020
DESCRIPTION

A strip of tide and submerged land situate in Walnut Creek and Greyson Creek/Pacheco Creek being a 33.0 foot strip lying 16.5 feet on each side of the following described centerline, located in Rancho Monte Del Diablo, and Rancho Las Juntas, Contra Costa County, California. Said Walnut Creek described in Book 5060 of Official Records at Page 567. Said Greyson Creek/Pacheco Creek described in Book 4181 at Page 30. Both shown on Assessor’s Map Book 159 Page 14 as Flood Control Channels. Said centerline more particularly described as follows:

COMMENCING at a Caltrans brass disk in monument well as shown on California State Highway Monument Map S-240.2, FR-PI; WHENCE a Caltrans brass disk in monument well as shown on the California State Highway Monument Map S-240.3, FR 243+30 bears N67°43'14"E a distance of 1810.58 feet (basis of bearing – assumed). This description is based on California State Plane Zone 3. All distances are grid;

THENCE N04°48'59"W a distance of 2803.00 feet to the westerly line of said Walnut Creek flood control channel and the POINT OF BEGINNING;

THENCE S75°36'22"E a distance of 825.79 feet to the easterly line of said Walnut Creek flood control channel and the POINT OF TERMINATION.

Except therefrom any portion lying landward of the ordinary high water mark of Walnut and Grayson/Pacheco Creeks.

Containing 27,251 square feet, (0.626 Acres), more or less.

Exhibit attached and by this reference made a part hereof.

Aaron D. Willis 6-3-20

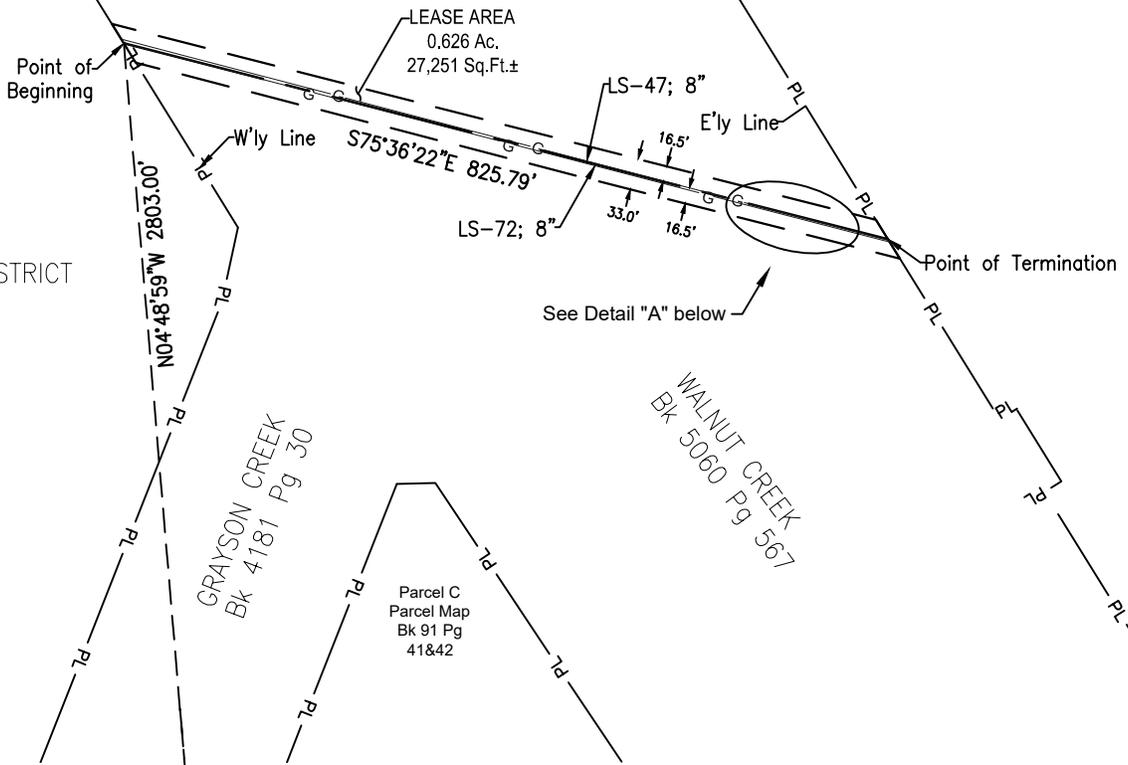


Prepared by:
Aaron D. Willis, PLS 8881
For and on behalf of Jacobs Engineering Group Inc.
2600 Michelson Drive, Suite 500
Irvine, CA 92612

EXHIBIT "A"

TESORO

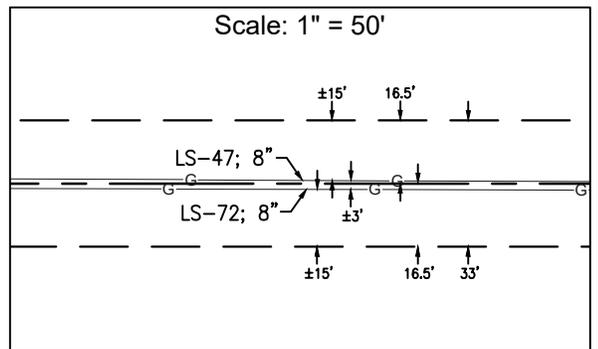
CENTRAL CONTRA COSTA SANITARY DISTRICT



See Detail "A" below

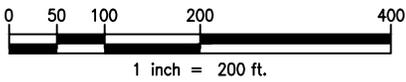
Detail "A"

Scale: 1" = 50'



California State Plane Zone 3
All distances are grid

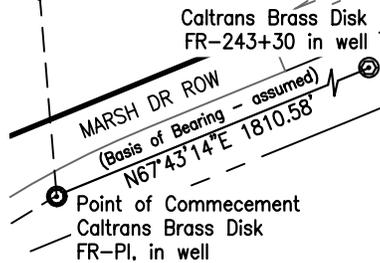
PARCEL
AREA = 27,251 SQ. FT.
0.626 ACRES ±



Legend

— PL — Property Line

This exhibit does not represent a monumented survey and is intended only to depict the attached easement description.

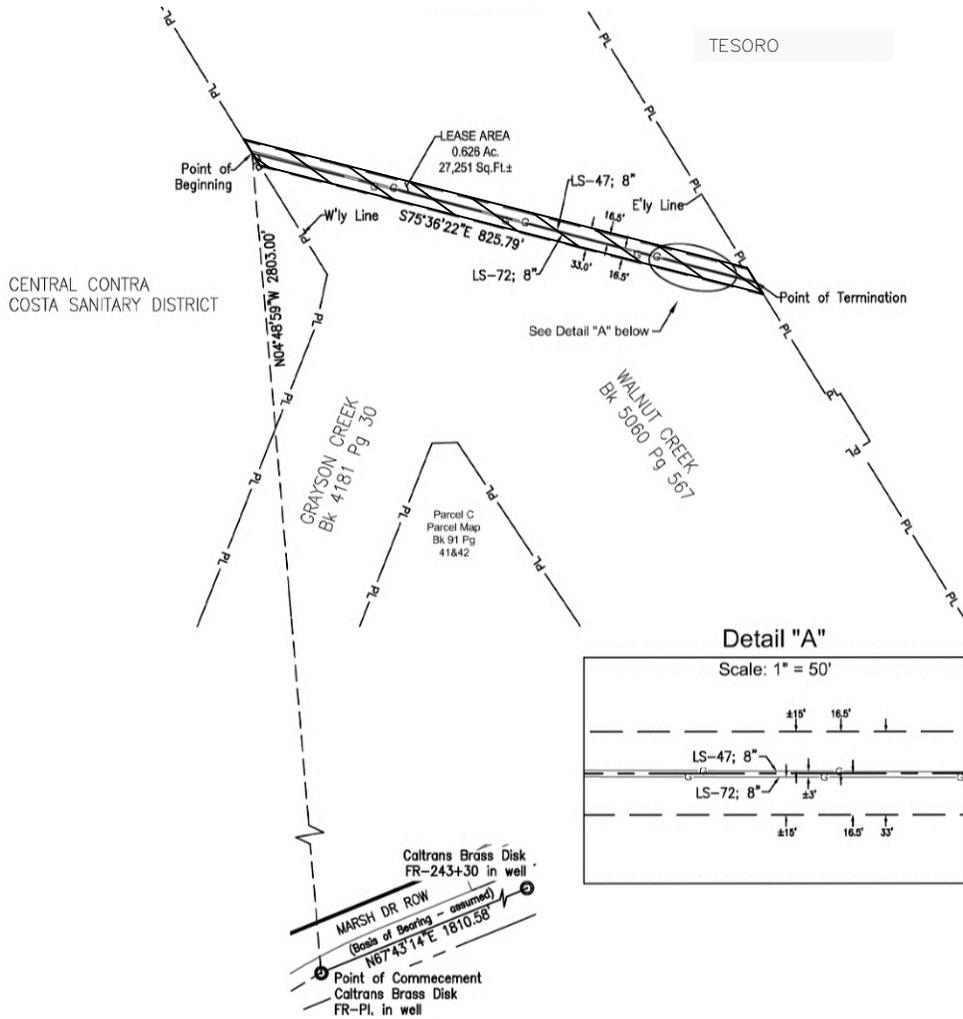


JACOBS ENG. PROJECT NO.		D3260700	
CLIENT PROJECT NO.			
REVISION DESCRIPTION			
DRAWN	DAM/JSK	DATE	05/08/2020
SCALE		1"=200'	
2600 Michelson Drive, Suite 500 Irvine, CA 92612 (949) 224-7500			
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Exhibit "A" Rancho Monte Del Diablo & Rancho Las Juntas Contra Costa County, California		
TITLE:		
RODEO TO CONCORD WALNUT CREEK RODEO TO CONCORD GRAYSON CREEK/PACHECO CREEK CONCORD TO SUISUN WALNUT CREEK CONCORD TO SUISUN GRAYSON CREEK/PACHECO CREEK		
REVISION:	DRAWING NO.	SHEET NO.
	Rodeo-Concord_WalnunCreek.dwg	2 of 2

NO SCALE

SITE



LS 72 & LS 47, PETROLEUM PIPELINES

NO SCALE

LOCATION

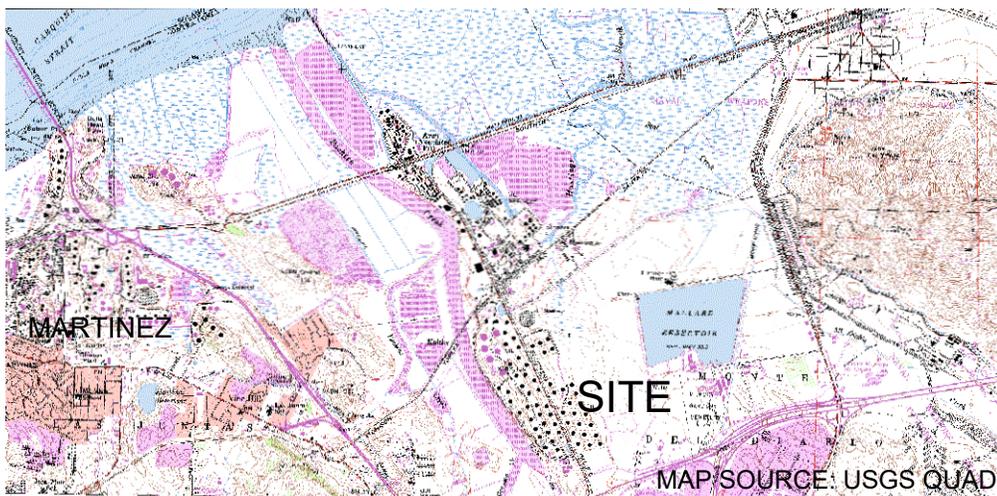


EXHIBIT B-1

PRC 9042.1
 SFPP, LP
 APN: MULTIPLE
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 CONTRA COSTA 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.

JAK 5/11/20