

Staff Report 36

APPLICANT:

Merced Irrigation District and Turlock Irrigation District

PROPOSED ACTION:

General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION

Sovereign land crossing the Merced River, near Livingston, Merced County.

AUTHORIZED USE:

Use and maintenance of six existing overhead electrical transmission lines and one overhead fiber-optic line.

TERM:

25 years, beginning March 1, 2021.

CONSIDERATION:

The public use and benefit; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interests.

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:

On February 27, 1996, the Commission authorized a 25-year General Lease – Public Agency Use to Merced Irrigation District and Turlock Irrigation District (Applicant), for the construction, operation, and maintenance of six 115-kilovolt (kV) overhead electrical transmission lines ([Item C23, February 27, 1996](#)). That lease will expire on

February 28, 2021. The Applicant is now applying for a General Lease – Public Agency Use for the use and maintenance of the six existing 115-kV overhead transmission lines previously authorized by the Commission and one existing fiber-optic line not previously authorized by the Commission.

The Merced Irrigation District and the Turlock Irrigation District participate in the Merced-Turlock Intertie Project, a 2.5-mile double circuit transmission line that connects the Merced Irrigation District Pioneer Substation in Livingston with the Turlock Irrigation District high-voltage transmission system. The connection of the two systems allows Merced Irrigation District to provide water to customers with low-cost electrical power.

In 2019, the Applicant installed a single fiber-optic line below the six transmission lines spanning the Merced River. The Applicant was unaware that Commission approval was required. The single fiber-optic line was installed using a weighted line across the river and stretching the line between the existing towers located on upland properties on either side of the Merced River. All work was done by hand and no large equipment was used. The fiber-optic line was approved by the U.S. Army Corps of Engineers. The purpose of the fiber-optic line is for use between the two districts as line differential protection and transmission line substation control.

The overhead transmission lines and fiber-optic line are located well above the surface of the Merced River and do not impede surface use or interfere with Public Trust needs and values, at this time, and for the foreseeable term of the proposed lease. The existing facilities do not significantly alter the land, and the lease does not alienate the State's fee simple interest, or permanently impair public rights. The lease is limited to a 25-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 proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

CLIMATE CHANGE:

The project area is not tidally influenced and therefore, would not be subject to sea-level rise. However, 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, drought, and storms. In rivers, more frequent and powerful storms can result in increased flooding conditions and damage from storm-created debris. Conversely, prolonged droughts could dramatically reduce river flow and water levels, leading to loss of public access and navigability. Climate change will further influence riverine areas by changing erosion and sedimentation rates, and flooding and

storm flow, as well as runoff, will likely increase scour, decreasing bank stability at a faster rate.

Due to these potential changes, the transmission line supports located in the adjacent upland areas (not under lease) could need reinforcement in the future to withstand higher levels of flood exposure and more frequent storm events. In addition, the structures may not be adaptable to variable water levels and may require more frequent maintenance to ensure continued function during and after storm seasons or to avoid dislodgement.

CONCLUSION:

For all the reasons above, staff believes that the issuance of the proposed lease will not substantially impair the public rights to navigation, fishing, and commerce; 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.

OTHER PERTINENT INFORMATION:

1. 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, as prior lessee, may be required to remove the six overhead transmission lines and one fiber-optic line and restore the premises to their original condition. Upon expiration or prior termination of the lease, the Applicant also has no right to a new lease or to 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.
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:

- A. Land Description
- B. 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, fishing, and commerce 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 – Public Agency Use to the Applicant beginning March 1, 2021, for a term of 25 years, for the use and maintenance of six existing overhead transmission lines and one existing overhead fiber-optic line, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; consideration being the public use and benefit, with the State reserving the right at any time to set a monetary rent as specified in the lease if the Commission finds such action to be in the State's best interests.

EXHIBIT A

LEASE 7874

LAND DESCRIPTION

A strip of submerged land 20 feet wide in Lot 1, Section 22, Township 6 South, Range 11 East, M.D.B.&M., as shown on Official Government Township Plat approved January 31, 1855, County of Merced, State of California, and in the Merced River, Merced County, northerly of the City of Livingston, the centerline of said strip being described as follows:

COMMENCING at the section corner common to Sections 14, 15, 22, and 23 of said Township and Range, thence along said section line North $89^{\circ} 38' 00''$ West 482.20 feet; thence South $0^{\circ} 33' 00''$ West 638.70 feet; thence South $48^{\circ} 04' 46''$ West 255.46 feet; thence South $32^{\circ} 45' 55''$ East 1045.46 feet to a point on the low water line of the right bank of the Merced River; said point being the POINT OF BEGINNING thence southeasterly South $32^{\circ} 45' 55''$ East 218.50 feet to a point on the low waterline on the left bank of said river.

EXCEPTING THEREFROM any portion lying landward of the low water mark of the right and left banks of the Merced River.

END OF DESCRIPTION

The above description prepared 08/29/2020 by the California State Lands Commission Boundary Unit is based on that original description dated November 10, 1985 as found in W 25286 file.



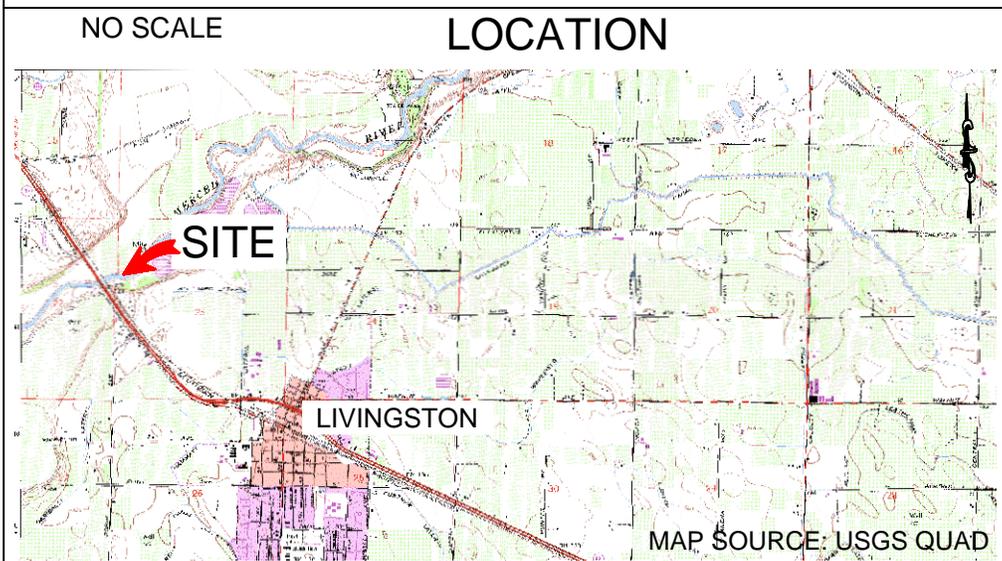
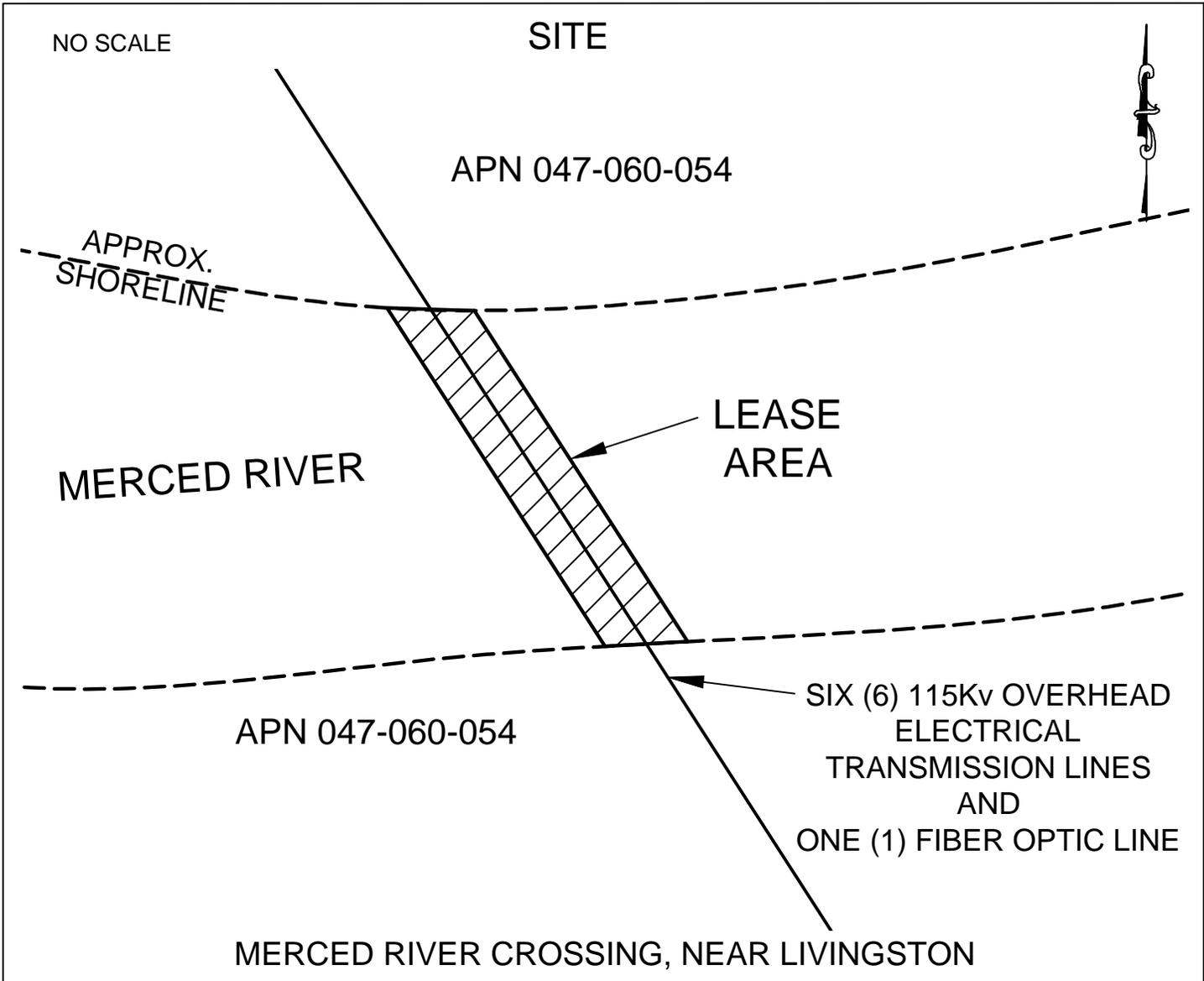


EXHIBIT B

LEASE 7874
MERCED IRRIGATION DISTRICT
AND
TURLOCK IRRIGATION DISTRICT
GENERAL LEASE -
PUBLIC AGENCY USE
MERCED 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.