

# Staff Report 40

## **APPLICANT:**

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North Baja Pipeline, LLC

## **PROPOSED ACTION:**

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Issuance of a General Lease – Right-of-Way Use

## **AREA, LAND TYPE, AND LOCATION:**

1.19 acres, more or less, of State school land in a portion of Section 16, Township 12 South, Range 20 East, SBM, near State Highway 78, Imperial County

## **AUTHORIZED USE:**

Operation, use, and maintenance of an existing 30-inch-diameter steel natural gas pipeline and an unimproved access road.

## **TERM:**

20 years, beginning February 1, 2022.

## **CONSIDERATION:**

\$1,572 per year, with an annual Consumer Price Index adjustment.

## **SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$10,000,000 per occurrence.
- Surety bond or other security in an amount of \$500,000.
- All repairs or structural modifications to any portion of the pipeline located within the Lease Premises requires the prior review and approval of the Lessor.
- Lessee shall submit to the Lessor an updated operation and maintenance plan that addresses internal and external maintenance inspections of the completed facility, including details of integrity testing methods to be applied, corrosion monitoring and testing of the cathodic protection system, and leak monitoring.

## STAFF ANALYSIS AND RECOMMENDATION:

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### **AUTHORITY:**

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503, and 6503.5;  
California Code of Regulations, title 2, sections 2000 and 2003.

### **STATE'S BEST INTERESTS:**

On January 30, 2002, the Commission authorized a 20-year General Lease – Right-of-Way Use to North Baja Pipeline, LLC for the construction use, and maintenance of a 30-inch diameter steel natural gas pipeline ([Item 48, January 30, 2002](#)). The lease expired on January 31, 2022. Recent surveys and inspections indicate that the pipeline within the Lease Premises is operated and maintained in good condition. The results of the cathodic protection surveys conducted in years 2017 through 2021 indicated that sufficient protection against corrosion was provided for the pipeline. In addition, the inline inspection performed in year 2019 revealed that no actionable anomalies were found for the pipeline.

The North Baja pipeline system consists of 86 miles of pipeline that receives natural gas from an interconnection at Ehrenberg, Arizona, that sources natural gas from the West Texas and Southern Rocky Mountain supply regions. The North Baja Pipeline is also able to transport natural gas sourced from a liquified natural gas (LNG) terminal in Mexico and transport it in a northbound direction from Ogilby, California.

As the Commission states in its Strategic Plan, “California is in the midst of a climate crisis due to the use of fossil fuels.” California sees the effects of this crisis through increasing temperatures, rising sea levels, declining snowpack, frequent droughts, and severe wildfires. These effects led the California Legislature to enact Senate Bill 100 (SB 100, De León, Chapter 312, Statutes of 2018), which requires that renewable and zero-carbon energy resources supply 100 percent of electric retail sales to customers by 2045. To reduce greenhouse gas emissions and achieve this goal, the Commission is committed to manage its lands to “[j]ustly transition activities responsible for carbon emissions.” However, many people in California continue to rely on electricity generated with fossil fuel sources, including natural gas. Natural gas is the majority source for electricity in California (at 43.3%), according to the U.S. Energy Information Administration (2022).<sup>1</sup> Consequently, merely eliminating fossil fuel sources is not the solution at this time. Instead, California must responsibly replace fossil fuels with clean renewable energy sources, such as solar, wind, and

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<sup>1</sup> <https://www.eia.gov/state/print.php?sid=CA>

geothermal. The proposed lease would allow the Applicant to import natural gas, a known greenhouse gas source, into California, but it would provide needed energy while California transitions to cleaner sources.

A denial of the lease application may lead to less energy flexibility for the State as it transitions to renewables. Thus, staff believes that issuance of a lease is in the State's best interests. However, whereas the Applicant applied for a 30-year lease term, staff believes this duration may be too long. A 30-year lease would expire in 2051, but California's energy goals in SB 100 call for 100 percent clean energy by 2045. If California achieves these goals by 2045, there may be no need for the longer lease term or imported natural gas. To avoid authorizing the importation of more natural gas than is needed, staff recommends a shorter lease term of 20 years. Under this approach, the proposed lease term will allow the Commission to reassess the State's energy needs and make an informed decision at a later date.

The proposed lease is limited to a 20-year term, does not alienate the State's fee simple interest, and does not grant the lessee exclusive rights to the lease premises. The lease requires the Applicant to insure and indemnify the State for any liability incurred as a result of the lessee's activities on the lease premises and to maintain the buried natural gas pipeline at its sole expense. The lease also requires the payment of annual rent, which generates revenue for the California State Teachers' Retirement System, consistent with Public Resources Code section 6217.5.

### **CLIMATE CHANGE:**

California is in the midst of the climate crisis, caused in large part by carbon emissions from the production of fossil fuels and their subsequent use. According to the state's Fourth Climate Change Assessment (Governor's Office of Planning and Research 2018), climate change is making extreme conditions in California more frequent and severe. For example, there were 4.2 million acres of land burned in wildfires in California in 2020, more than the previous four years combined, and 2022 is currently the driest year on record ([CAL FIRE 2021](#); [National Integrated Drought Information System 2022](#)). Average annual temperatures are on the rise in California, and if greenhouse gas emissions are not lowered substantially, air temperatures could increase by an average of 5.8°F by 2050 and 8.8°F by 2100 ([California Natural Resources Agency 2022](#)). These impacts endanger natural resources and public health.

The most effective way to prevent the worst impacts of the climate crisis is to reduce greenhouse gas emissions by transitioning the state's energy portfolio from fossil fuels to renewable, non-emitting sources such as solar, wind, and geothermal. The state is already on its way, securing 33 percent of its energy from renewable sources in 2020 ([California Energy Commission 2021](#)). In 2018, the state legislature

passed SB 100 (De León; Chapter 312, Statutes of 2018), mandating that at least 60 percent of California's energy comes from renewable, zero-carbon sources by 2030, and 100 percent by 2045. The primary action to achieve these targets is to eliminate the use and physical presence of fossil fuels in the state, including natural gas<sup>2</sup>.

This lease authorizes the temporary occupation of state lands for an existing pipeline that transports natural gas to a power plant for electricity generation<sup>3</sup>. Methane leaks are the most common emission from the transportation of natural gas through pipelines. Methane is the primary contributor to the formation of ground-level ozone, a hazardous air pollutant and greenhouse gas. It is also a major driver of global warming – it is 80 times more potent at warming the planet than carbon dioxide. The methane leaks through this pipeline, termed “fugitive pipeline emissions,” were conservatively estimated to be 37,321 tons of carbon dioxide equivalents (CO<sub>2</sub>e) per year ([Item 3, July 13, 2007](#)).

In addition to atmospheric impacts, methane is highly flammable. The lease premises are located in Imperial County in open lands with moderate to low vegetation fuels. The majority of the County is designated as experiencing ‘Extreme Drought,’ signifying a year-round wildfire season and extremely low reservoir levels ([National Integrated Drought Information System 2022](#)).

The Lessee acknowledges the contribution of fugitive pipeline emissions to climate change and wildland fire risk. Regular pipeline inspections, as required by state and federal law and in compliance with the terms of the lease, will reduce the potential for methane leaks and associated atmospheric impacts.

### **ENVIRONMENTAL JUSTICE:**

Staff reviewed environmental justice data that indicated high pollution burdens to the surrounding communities. These burdens may result in health impacts such as asthma, cardiovascular disease, and low birth weight. In addition, the same data

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<sup>2</sup> There are many additional ongoing and planned actions that have to co-occur in order to achieve these goals and reduce harms to the people and natural resources of California. These include increasing energy efficiency, transforming the electrical grid to have more load flexibility, decarbonizing buildings, and electrifying the transportation sector. Learn more in the 2021 SB100 Joint Agency Summary Report: <https://www.energy.ca.gov/publications/2021/2021-sb-100-joint-agency-report-achieving-100-percent-clean-electricity>.

<sup>3</sup> Natural gas is the majority source for electricity in California (43.3%), according to the U.S. Energy Information Administration (2022). Learn more here: <https://www.eia.gov/state/print.php?sid=CA>.

showed high burdens related to drinking water threats, impaired waters, cleanup sites, and solid waste. As part of an environmental justice outreach and engagement effort, staff sent letters to environmental justice organizations in Imperial County, providing notification of the proposed lease renewal and requesting input. The letters included a brief description of the lease and conveyed a desire to learn from the perspectives of the local community. Staff engaged specifically with Comite Civico del Valle on their questions relating to air quality and the extent of community engagement when the pipeline was originally approved to be constructed. Given the nature of these concerns and the nature of the subject lease application for an existing pipeline with no planned construction or modifications, staff recommends the Commission authorize the subject lease and staff will continue to engage with Comite Civico del Valle to answer their questions and address their concerns.

### **CONCLUSION:**

For the reasons stated above, staff believes issuance of this lease is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

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1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of school land, it exercises legislatively delegated authority and responsibility as trustee of the State's school lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the pipeline and restore the Lease Premises. 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.
2. This action is consistent with addressing the challenges and opportunities described in the Commission's 2021-25 Strategic Plan to "Embrace and safeguard multi-benefit School Lands and resource management stewardship that equitably balances responsible local and regional economic development, supports living wages, environmental protection, and revenue generation."
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:**

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

## **RECOMMENDED ACTION:**

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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).

### **STATE'S BEST INTERESTS:**

Find that the proposed lease is in the best interests of the State.

### **AUTHORIZATION:**

Authorize issuance of a General Lease – Right-of-Way Use to the Applicant beginning February 1, 2022, for a term of 20 years, for the use and maintenance of an existing 30-inch-diameter steel natural gas pipeline and an unimproved access road, 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 \$1,572, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$10,000,000 per occurrence; and a surety bond or other security in the amount of \$500,000.

## EXHIBIT A

LEASE 8378

### LAND DESCRIPTION

A parcel of State School Lands located in Section 16, Township 12 South, Range 20 East, SBM, Imperial County, State of California and more particularly described as follows:

COMMENCING at the northwest corner of said Section 16; thence North  $88^{\circ}42'58''$  East, along the north line of said section a distance of 423.65 feet to the POINT OF BEGINNING; thence South  $29^{\circ}44'58''$  West, 97.36 feet to the beginning of a tangent curve concave to the southeast having a radius of 4780 feet; thence southwesterly 656.48 feet along said curve through a central angle of  $7^{\circ}52'08''$ ; thence South  $21^{\circ}52'50''$  West, 174.09 feet to the west line of said section; thence South  $01^{\circ}42'40''$  East, 138.93 feet along said section line; thence North  $10^{\circ}47'00''$  East, 29.10 feet; thence North  $21^{\circ}52'50''$  East, 272.85 feet to the beginning of a tangent curve concave to the southeast having a radius of 4730 feet; thence northeasterly 649.61 feet along said curve through a central angle of  $7^{\circ}52'08''$ ; thence North  $29^{\circ}44'58''$  East, 127.45 feet to the north section line of said Section 16; thence South  $88^{\circ}42'58''$  West, 58.34 feet along said north section line and the north line of this parcel, to the POINT OF BEGINNING.

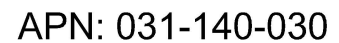
### END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit May 10, 2022.  
Original Description prepared by Gary G. Eidson LS 7864 as found in Lease file 8378, Exhibit B, Calendar Item C42, October 27, 2011.





# SITE



NO SCALE

## LOCATION



EXHIBIT B

MJE 6/30/2021 SITE 1

MJF 6/30/2021 SITE