

Staff Report 49

APPLICANT:

Pacific Gas and Electric Company

PROPOSED ACTION:

Issuance of General Lease – Right-of-Way Use

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Salinas River, adjacent to Assessor's Parcel Numbers 229-011-027 and 229-011-025, near Marina, Monterey County.

AUTHORIZED USE:

Use and maintenance of an existing 16-inch-diameter steel natural gas pipeline.

TERM:

15 years, beginning October 25, 2022.

CONSIDERATION:

\$503 per year, with an annual Consumer Price Index adjustment; and the state reserving the right to set a different rent periodically as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

- Lessee shall provide copies of the last two internal inspection reports to the Commission no later than December 31, 2022, and all subsequent internal inspection results thereafter.
- Lessee shall provide copies of Cathodic Protection (CP) system operation inspection results from 2018 to the present to the Commission no later than December 31, 2022, and at least once every 2 years following lease authorization.
- Lessee shall conduct a depth of burial survey and submit the results no later than December 31, 2022. Lessee shall conduct subsequent burial surveys every 5

years thereafter, or more frequently if surveys indicate a loss of cover or pipeline exposure.

- Lessee shall submit a remediation plan to Lessor for review and approval within 90 days of the completion of any depth of burial survey that shows the pipeline has experienced a loss of cover or has become exposed.
- Lessee shall reimburse Lessor for any and all reasonable costs and expenditures paid or incurred by Lessor, its staff, or both, for review and approval of any materials required herein, including but not limited to, review of inspection reports, depth of burial survey reports, and any required remediation plan. Payment by Lessee shall be in a form and manner determined by Lessor's staff and consistent with the requirements of State law.
- Liability insurance in an amount no less than \$10,000,000 per occurrence. Lessee may satisfy all or part of the insurance requirement through maintenance of a staff approved self-insurance program as outlined in the Lease.
- Surety bond or other security in the amount of \$300,000. Lessee may submit a good-faith estimate prepared by a licensed engineering contractor for the cost of full removal of the Improvements as a basis to revise the Surety amount. If such cost estimate is received prior to the first Lease anniversary date of October 25, 2023, and Lessor's staff concurs with the estimate, the Surety amount may be revised by the Executive Officer or her designee. Any requests to revise the Surety amount following the first Lease anniversary date shall require Lessor's review and approval to amend the Lease.

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:

In 1964, Pacific Gas and Electric Company (PG&E) constructed a 16-inch-diameter steel natural gas pipeline crossing under the Salinas River, near Marina. The pipeline has been in continuous use and operation since then but has not been authorized by the Commission. The pipeline is owned and operated by PG&E and is used to provide natural gas utility service to the surrounding communities of Castroville and Marina. PG&E has submitted an application requesting a lease for the existing pipeline located within the Commission's jurisdiction. The proposed lease is for a section of the pipeline that is approximately 201 feet in length.

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. In 2022, the California Legislature took additional steps to move the state expeditiously away from fossil fuel consumption; SB 1020 (Laird; Chapter 361, Statutes of 2022) requires that renewable and zero-carbon energy resources supply 90% of retail electricity sales by 2035 and 95% of sales by 2040, in advance of the 2045 goal established by SB 100. To reduce greenhouse gas emissions and achieve this goal, the Commission is committed to manage its lands to “justly 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). 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 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 25-year lease term, staff believes this duration would be too long. A 25-year lease would expire in 2047, but California's renewable energy goals in SB 100 and SB 1020 call for 100 percent clean energy by 2045. Furthermore, AB 1279 (Muratsuchi; Chapter 337, Statutes of 2022) requires that the state achieve net zero greenhouse gas emissions as soon as possible, but no later than 2045 and to achieve and maintain net negative greenhouse gas emissions thereafter, and to ensure that by 2045, statewide greenhouse gas emissions are reduced to at least 85 percent below the 1990 levels. 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 15 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 would allow the State to monitor the use and maintenance of the pipeline to protect public health and the environment. Staff has requested that PG&E provide copies of the last two internal inspection reports and all subsequent

internal inspection results to the Commission. The proposed lease also requires that PG&E provide all CP system-operations survey results from 2018 to the present and then to survey CP system operations and provide reports at least once every two years following lease authorization. PG&E will also be required to conduct a depth-of-burial survey and to provide the results of the initial survey for staff review no later than December 31, 2022. Following the initial survey, PG&E will be required to submit a depth-of-burial survey at least once every 5 years, and a remedial action plan for Commission review and approval if surveys indicate a loss of cover or exposure. The proposed lease will also require a lease management agreement in the amount of \$20,250 over the 15-year term to reimburse the State for staff costs incurred in reviewing all materials required under the lease.

Since the pipeline is buried under the riverbed, it does not impede surface use or interfere with Public Trust needs and values at this location, at this time, or 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 impact public rights, as the lease does not grant PG&E exclusive rights to the lease premises and is limited to a 15-year term.

Upon termination of the lease, PG&E may be required to remove any improvements and restore the lease premises to their original condition. Additionally, the proposed lease requires PG&E to maintain a surety bond in the amount of \$300,000, 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:

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, 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). SB 100 and 1020 mandate that at least 60 percent of California's energy comes from renewable, zero-carbon sources by 2030, 90 percent by 2035, 95 percent by 2040, 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.¹

The proposed lease authorizes the temporary occupation of state lands for an existing pipeline that transports natural gas to the communities of Castroville and Marina. 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.

PG&E acknowledges the contribution of fugitive pipeline emissions to climate change. 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.

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 lease area is located in the Salinas River channel, adjacent to Salinas River Lagoon, near Marina.

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

¹ Many additional ongoing and planned actions 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-jointagency-report-achieving-100-percent-clean-electricity>.

Monterey 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 Monterey

Year	Projection (feet)
2030	0.8
2040	1.2
2050	1.9
2100	6.9

Source: Table 28, State of California Sea-Level Rise Guidance: 2018 Update

Note: 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 and could increase the Salinas River's inundation levels within the lease area over the term of the lease. 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 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, increase scour, and cause damage to the bank protection at a faster rate.

Since the 16-inch-diameter steel pipeline is buried at least 5 feet under the Salinas River, the effect of sea level or climate change impacts on the pipeline should be minimal if it is properly inspected and maintained. Regular inspections and maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation, dislodgement, and exposure. Pursuant to the proposed lease, PG&E shall submit a remediation plan of any depth of burial survey that shows the pipeline has experienced a loss of cover or has become exposed.

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 and cardiovascular disease. In addition, the same data showed high burdens to drinking water, hazardous waste, and groundwater threats. As part of an environmental justice outreach and engagement effort, staff sent letters on May 9, 2022, to environmental justice organizations in Monterey County, providing

notification of the proposed lease 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. As of the posting of this staff report, no responses to the outreach letters have been received. Furthermore, staff believes the existing infrastructure will not result in additional pollution burdens on impacted communities if maintained and inspected, as required by the lease.

CONCLUSION:

For all the reasons above, Commission staff believes the issuance of this lease will not substantially interfere with Public Trust needs and values at this location, 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. Approval or denial of the proposed 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 trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, PG&E may be required to remove the existing pipeline located on sovereign land and restore the premises to their original condition. The lessee has no right to a new lease or to renewal of any previous lease.
2. The Commission acquired the parcel that encompasses the lease area (see Lease Exhibit B, Trust Parcel 3) in 2014 as part of Title Settlement and Land Exchange Agreement AD 640 ([Item 70, August 15, 2014](#)). The Commission holds title to Trust Parcel 3 subject to portions of a pre-existing easement for a 16-inch-diameter steel natural gas pipeline owned by PG&E; the easement applies to the portion of Trust Parcel 3 outside of the Salinas River. The proposed lease is for the portion of the pipeline crossing the river.
3. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
4. Staff recommends that the Commission find 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, California Code of Regulations, title 14, section 15300, and California Code of Regulations, title 2, section 2905.

APPROVAL OBTAINED:

Army Corps of Engineers

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 and fishing or substantially 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 best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Right-of-Way Use to PG&E beginning October 25, 2022, for a term of 15 years, for the use and maintenance of an existing 16-inch-diameter steel natural gas pipeline, as described in Exhibit A, Land Description, and shown on Exhibit B, Site and Location Map (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$503, with an annual Consumer Price Index adjustment, with the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; liability insurance in an amount no less than \$10,000,000 per occurrence; Lessee may satisfy all or part of the insurance requirement through

maintenance of a staff-approved self-insurance program, as provided for in the lease; and a surety bond or other security in the amount of \$300,000.

EXHIBIT A

A 2539

LAND DESCRIPTION

A 3.33-foot wide strip of land in the bed of the Salinas River, County of Monterey, State of California, being a portion of Lot 2A as depicted on that certain map filed in Volume 30, Page 1 of Surveys, Official Records of said County, the centerline being more particularly described as follows:

COMMENCING at the most easterly corner of said Lot 2A; thence along the southerly boundary of said Lot 2A, South 80°21'11" West 963.24 feet to a point on the southwesterly boundary of Parcel 3 of the Public Trust Fee Parcel as described in Exhibit D of that certain document recorded as Document No. 2015-029849, Official Records of said County; thence along said boundary, North 26°42'33" West 185.67 feet; thence North 52°30'42" West 190.93 feet; thence North 48°53'11" West 123 feet more or less to a point on the centerline of an existing 16" natural gas pipeline, said point being the POINT OF BEGINNING; thence leaving said boundary and along the centerline of said pipeline, North 39°07'03" East 300 feet to the terminus of the centerline of said strip.

The sidelines of said strip shall be lengthened or shortened to terminate on the southwest at the southwesterly boundary of said Parcel 3, and on the northeast at the ordinary high-water mark on the right bank of the Salinas River.

EXCEPTING THEREFROM any portions lying landward of the ordinary high-water marks on the right and left banks of the Salinas River.

END OF DESCRIPTION

Prepared 4/6/2022 by the California State Lands Commission Boundary Unit.



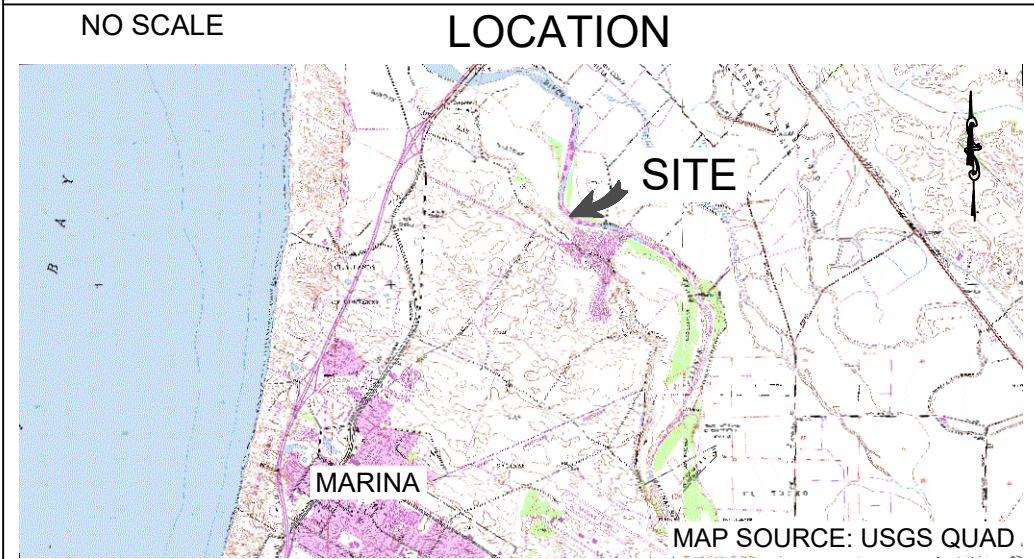
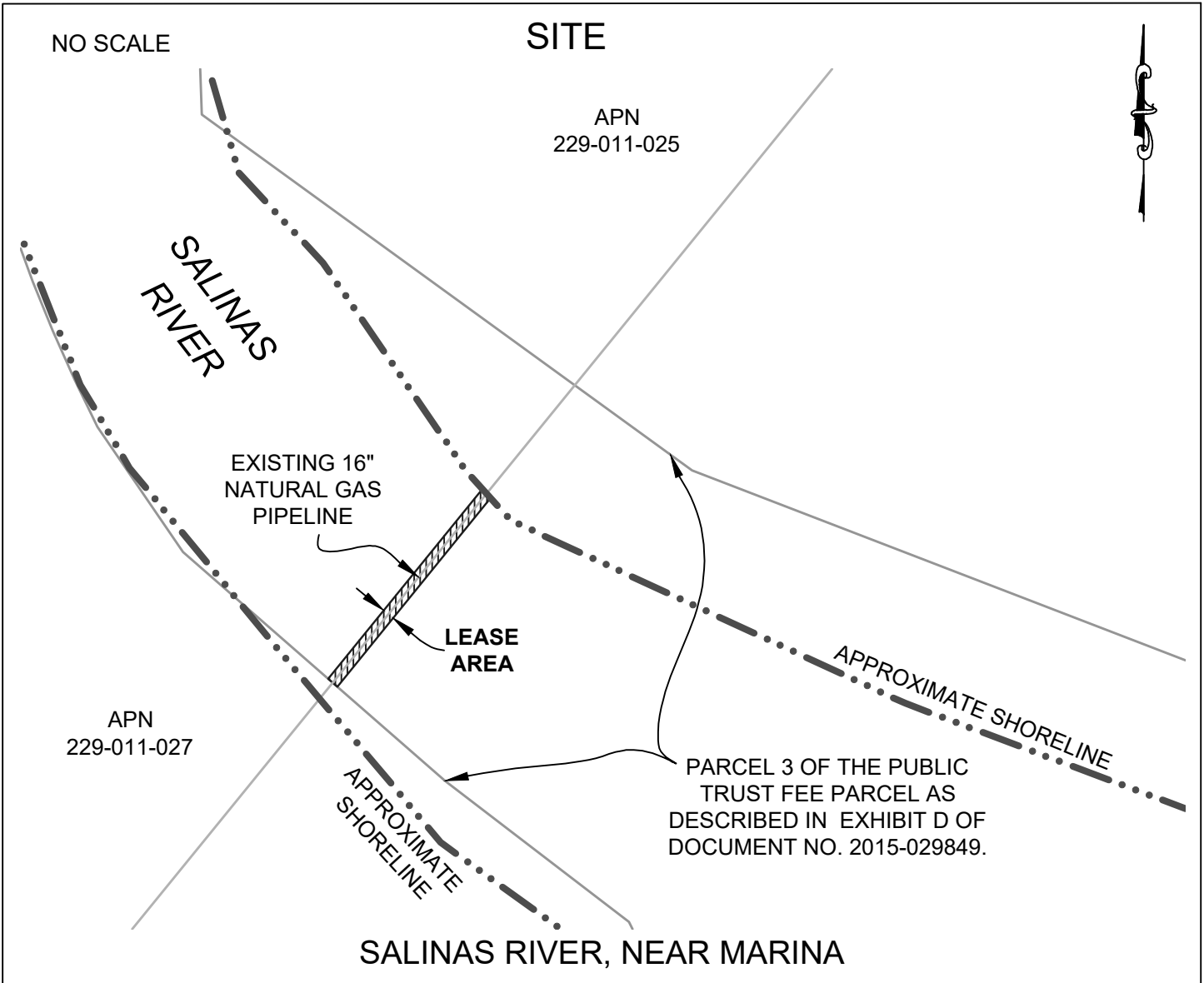


EXHIBIT B

A 2539
PG&E
APN 229-011-027
GENERAL LEASE -
RIGHT-OF-WAY USE
MONTEREY 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.