

Staff Report 57

APPLICANT:

Pacific Gas and Electric Company

PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Approximately 2 acres, more or less, of sovereign land, within Assessor's Parcel Number 358-010-007-5, near Rodeo, Contra Costa County.

AUTHORIZED USE:

Relocation, use, and maintenance of two existing 115 kV overhead electric transmission lines; use and maintenance of an existing access road; and use of three temporary construction easements, as part of the Oleum-North Tower-Christie 115 kV Reconductor Project.

TERM:

Two 115 kV overhead electric transmission lines and an access road: 20 years, beginning February 28, 2023.

Three temporary construction easements: up to 2 years.

CONSIDERATION:

Two 115 kV overhead electric transmission lines and an access road: \$503 per year, with an annual Consumer Price Index adjustment.

Three temporary construction easements: a one-time payment of \$338, due no later than June 1, 2023.

Lessee may elect to pay rent for the entire 20-year term of the lease in the amount of \$10,060 and the one-time payment of \$338 at the time of the first annual payment. Lessee's option to pay the entire amount of rent is not valid for subsequent years.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$5,000,000 per occurrence, or equivalent staff-approved self-insurance program.
- Prior to commencement of the Project on the lease premises, Lessee shall provide Lessor with a copy of the letter of concurrence obtained from the East Bay Regional Park District (EBRPD), acknowledging and stipulating their non-objection to the portion of the Lessee's Project that would occur within EBRPD's lease premises authorized under Lease 9171.
- Lessee agrees not to conduct any activities within the lease premises that will conflict with any uses currently authorized to the EBRPD under Lease 9171.
- Lessee shall take all reasonable and necessary actions to prevent, suppress, and control fires on the Lease Premises.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that will show where the improvements have been placed. Lessor shall then replace Exhibit A-1 (Land Description) and Exhibit B (Site and Location Map) to this Lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by Lessor's Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The revised Exhibits shall be incorporated in this Lease as though fully set forth herein.

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 June 19, 1991, the Commission acquired Assessor's Parcel Number 358-010-007-5 from Union Oil Company of California as part of the Burton Mesa Settlement Agreement (AD 161). The Applicant holds an easement across the parcel that predates state ownership for two existing 115 kV overhead electric transmission lines and support towers. The Applicant also uses a road within the parcel to access its easement, but the road is not part of the easement and was not previously authorized by the Commission.

The Applicant is applying for a General Lease – Right-of-Way use for the relocation, use, and maintenance of the existing 115 kV lines; use and maintenance of an existing access road; and use of three temporary construction easements, as part of the Oleum-North Tower-Christie 115 kV Reconductor Project (Project).

The Project's purpose is to interconnect new customers, increase capacity, improve system reliability, reduce electric transmission congestion, improve public safety, and replace and upgrade aged and obsolete infrastructure for 25,000 customers in East Bay Area communities, including Rodeo and Hercules.

The overall Project will upgrade an approximately 5.5 mile stretch of the existing Oleum-North Tower-Christie 115 Kilovolt Power Line located within industrial and rural portions of unincorporated Contra Costa County. The Project includes the installation of 29 new, taller towers to replace 36 existing towers along the Project route, and the installation of new, more robust 115 kV conductors to replace the lines that have been in place since the 1940s. The portion of the Project running through the Commission's leasing jurisdiction include the existing lines and towers that are currently located within the existing easement. The new towers will range in height from 96 to 123 feet to comply with California Public Utilities Commission General Order 95 minimum ground to-conductor clearance requirements, while also accommodating hilly terrain.

Proposed locations for new towers placed within the easement and adjacent to but outside the state's parcel will result in the 115 kV lines to be realigned relative to the easement. One realignment will move the new heavier 115 kV conductors closer to the easement boundary. The heavier lines are expected to sway outside the easement in windy conditions. To accommodate the expected sway, the Applicant has requested a 20-foot right-of-way running alongside the easement as described in Exhibit A-1 and shown on Exhibit B as Lease Parcel 1. The other realignment will result in the new lines permanently extending outside the easement onto the state's parcel as described in Exhibit A-1 and shown on Exhibit B as Lease Parcel 2.

Because construction operations cannot be completely contained with the existing easement, the Applicant has also requested the use of three temporary construction easements as described in Exhibit A-2 and as shown on Exhibit B as Work Areas 1, 2, and 3.

On December 17, 2014, the Commission authorized a 10-year General Lease – Public Agency Use to the EBRPD, under Lease 9171, for the use and maintenance of livestock grazing and existing fencing ([Item 28, December 17, 2014](#)). Lease 9171 will expire on December 16, 2024. The proposed lease area would bisect the EBRPD's lease premises.

To eliminate potential conflicts between the Applicant and existing Lessee, the Applicant will obtain a letter of concurrence from EBRPD acknowledging the Project and stipulating their non-objection to it prior to the Applicant's commencement of any activities on the lease premises. Additionally, the Applicant will not conduct any activities associated with its Project within the lease premises that will conflict with any uses currently authorized under the existing lease.

The existing access road and the relocation of the 115 kV overhead electric transmission lines do not significantly alter the land and do not permanently impair public rights. The lease does not alienate the State's fee simple interest, is limited to a 20-year term, and does not grant the lessee exclusive rights to the lease premises. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. Upon termination of the lease, the lessee may be required to remove all improvements from State land. 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:

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. The lease area would be subject to these natural disasters and wildland fires since it is open lands with moderate to low vegetation fuels around the electric transmission conductor and associated structures. As referenced in the lease, Applicant shall ensure the good working order of all equipment and regularly inspect such equipment to reduce the possible risk of fire due to malfunction or failure of the equipment, particularly during storms or high wind events.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially impair the public rights to navigation, fishing, and commerce; or 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 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 may not conduct the proposed Project activities within lands under the Commission's jurisdiction. The lessee has no right to a new lease or to renewal of any previous lease.

2. 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.
3. **Existing Access Road:** 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 14, section 15301.
4. **115 kV Reconductor Project:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

EXHIBITS:

- A-1. Land Description – Overhead Transmission Lines and Access Road
- A-2. Land Description – Temporary Construction Easements
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Existing Access Road: 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 14, section 15301.

115 kV Reconductor Project: 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 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation or substantially interfere with the 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.

AUTHORIZATION:

1. Authorize issuance of a General Lease – Right-of-Way Use to the Applicant beginning February 28, 2023, for a term of 20 years, for the relocation, use, and maintenance of two existing 115 kV overhead electric transmission lines; use and maintenance of an existing access road; and use of three temporary construction easements, as described in Exhibits A-1 and A-2 and shown on Exhibit B (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 for the two relocated 115 kV overhead electric transmission line rights-of-way and the existing access road; a one-time payment of \$338, due no later than June 1, 2023 for the use of three temporary construction easements; or rent for the entire 20-year term of the lease in the amount of \$10,060 and one-time payment in the amount of \$338 at the time of the first annual payment; and self-insurance or third-party liability insurance in an amount no less than \$5,000,000 per occurrence; Applicant may satisfy all or part of the insurance requirements through maintenance of a self-insurance program as outlined in the lease.
2. Authorize the Executive Officer or designee to replace exhibits in the lease upon submission, review, and approval of as-built plans detailing the final location of the new improvements, and to remove Exhibit A-2 describing the temporary construction easements, following construction.

EXHIBIT A-1

A 3394

LANDS DESCRIPTION

Three parcels of land situated in the Rancho Canada Del Hambre y Las Bolsas in the unincorporated area of the County of Contra Costa, State of California and being a portion of the parcel of land described and designated PARCEL "A" in the deed from Union Oil Company of California to the State of California, acting by and through the State Lands Commission dated June 19, 1991 and recorded June 21, 1991 as Document No. 91-119282, Contra Costa County Records, more particularly described as follows:

PARCEL 1

A strip of land of the uniform width of 20 feet, lying contiguous to and southerly of the most southerly boundary line of the right of way and easement conveyed by Tormey Estate Company to Pacific Gas and Electric Company by deed dated November 17, 1941 and recorded Nov 25, 1941 in Book 637 of Official Records at page 68, Contra Costa County Records, said most southerly boundary line having a course of north 77°45' west 1325.3 feet, and extending from the westerly boundary line of the strip of land described in the deed from Union Oil Company of California to Pacific Gas and Electric Company dated September 19, 1955 and recorded October 20, 1955 in Book 2633 of Official Records at page 272, Contra Costa County Records westerly 1284.00 feet (measured along said most southerly boundary line).

PARCEL 2

Commencing at the northerly terminus of a course shown on the Record of Survey filed for record October 19, 1992 in Book 101 at page 22, Contra Costa County Records, which course as shown on said Record of Survey has a bearing of north 1° 20' 49" east and a length of 517.51 feet, said course also being the easterly boundary line of said PARCEL "A", and running thence along said easterly boundary line

(a) north 01°20'49" east 421.89 feet, more or less

to the intersection of the southerly boundary line of the existing easement from Tormey Estate Company to Pacific Gas and Electric Company dated November 17, 1941 and recorded November 25, 1941 in Book 637 of Official Records at page 68, Contra Costa County and the easterly boundary line of said PARCEL "A", said southerly boundary line according to the description contained in said deed dated November 17, 1941 has a bearing of north 81°57' west (north 80°52'42" west for this description) and a length of 1366.1 feet; thence leaving said easterly boundary line and running along said southerly boundary line of the easement described in said deed dated November 17, 1941

(1) north 80°52'42" west 47.04 feet;
thence leaving said southerly boundary line

(2) south 40°47'50" east 69.46 feet
to a point in the easterly boundary line of said PARCEL "A"; thence running along said easterly boundary line

(3) north 01°20'49" east 45.14 feet, more or less
to the Point of Beginning.

PARCEL 3

A strip of land of the uniform width of 14 feet lying 7 feet on each side of the line described as follows:

Commencing at the found U.S. Coast & Geodetic Survey bronze disk marked "CROCKETT 1932" set in concrete on the top of a hill approximately 0.51 miles southeast of the intersection of Cummings Skyway and Interstate 80 and 0.83 miles northwest of the intersection of Cummings Skyway and Crockett Boulevard described in the National Geodetic Survey Data Sheet PID JT2182, and running thence

a) south 68°02'59" west 3160.98 feet
to a point within the boundary lines of PARCEL "A" of said deed dated June 19, 1991, also being the TRUE POINT OF BEGINNING; thence

- 1) north 53°45'07" west 50.00 feet
- 2) north 53°45'07" west 60.00 feet; thence
- 3) north 43°34'40" west 50.00 feet; thence
- 4) north 37°01'19" west 220.00 feet; thence
- 5) north 31°30'13" west 64.00 feet; thence
- 6) north 18°31'28" west 30.00 feet; thence
- 7) north 00°34'39" east 25.00 feet; thence
- 8) north 29°44'17" east 25.00 feet; thence
- 9) north 52°22'17" east 25.00 feet; thence
- 10) north 66°53'53" east 115.00 feet; thence
- 11) north 78°29'06" east 25.00 feet; thence
- 12) north 89°34'59" east 130.00 feet; thence
- 13) north 65°38'06" east 55.00 feet; thence
- 14) north 87°57'26" east 20.00 feet; thence
- 15) south 61°06'11" east 20.00 feet; thence
- 16) south 40°03'27" east 50.00 feet; thence
- 17) south 47°36'13" east 45.00 feet; thence
- 18) south 61°18'23" east 80.00 feet; thence
- 19) south 44°34'26" east 85.00 feet; thence
- 20) south 53°08'10" east 120.00 feet; thence
- 21) south 41°21'01" east 150.00 feet; thence
- 22) south 51°15'16" east 140.00 feet; thence
- 23) south 42°20'23" east 110.00 feet; thence
- 24) south 54°06'28" east 30.00 feet; thence
- 25) south 78°49'10" east 25.00 feet; thence
- 26) south 89°40'53" east 105.00 feet; thence
- 27) south 68°05'00" east 30.00 feet; thence

- 28) south 55°46'58" east 40.00 feet; thence
- 29) south 43°05'33" east 115.00 feet; thence
- 30) south 61°21'56" east 165.00 feet; thence
- 31) south 47°45'56" east 140.00 feet; thence
- 32) south 56°40'40" east 255.00 feet; thence
- 33) south 54°46'04" east 70.00 feet; thence
- 34) south 44°12'17" east 50.00 feet; thence
- 35) south 56°54'09" east 15.00 feet; thence
- 36) south 75°20'52" east 15.00 feet more or less

to a point on the easterly boundary line of PARCEL "A" of said deed dated June 19, 1991.

The bearings used in the description of Parcel 3 were calculated by holding recorded NAD 83 (NSRS2011) epoch 2010.00 coordinates and are based upon the course between the found U.S. Coast & Geodetic Survey bronze disk "CROCKET 1932" set in concrete on the top of a hill approximately 0.51 miles southeast of the intersection of Cummings Skyway and Interstate 80 and 0.83 miles northwest of the intersection of Cummings Skyway and Crockett Boulevard described in the National Geodetic Survey Data Sheet with PID JT2182 and the found 2 1/2 inch California Department of Highways disk marked "C 262" set midspan, on the westerly side of the bridge abutment of the Cummings Skyway overpass intersecting Highway 4 described in the National Geodetic Survey Data Sheet with PID AE7870, taken as south 47°27'43" east and having a distance of 14953.47 feet. To obtain ground distances, multiply described distances by 1.0000828561.

END OF DESCRIPTION

APPROVED AS TO DESCRIPTION

1/24/2023

Anthony A. Beliew
LS. No. 9234

Date



EXHIBIT A-2

A 3394

LAND DESCRIPTION

(Temporary Construction Areas)

Three parcels of land situated in the Rancho Canada Del Hambre y Las Bolsas in the unincorporated area of the County of Contra Costa, State of California, described as follows:

A portion of the parcel of land described and designated PARCEL "A" in the deed from Union Oil Company of California to the State of California, acting by and through the State Lands Commission dated June 19, 1991 and recorded June 21, 1991 as Document No. 91-119282, Contra Costa County Records, and more particularly described as follows:

WORK AREA 1

Commencing at the found U.S. Coast & Geodetic Survey bronze disk marked "CROCKETT 1932" set in concrete as described in the National Geodetic Survey Data Sheet PID JT2182, and running thence

- (a) south 69°44'08" west 2949.61 feet
- to the TRUE POINT OF BEGINNING; thence
- (1) south 33°57'03" west 199.99 feet; thence
 - (2) south 55°56'51" east 199.84 feet; thence
 - (3) north 34°01'38" east 200.08 feet; thence
 - (4) north 55°58'23" west 200.11 feet

to the Point of Beginning; excepting therefrom the portion thereof lying within (a) the existing easement from Tormey Estate Company, a California corporation to Pacific Gas and Electric Company, a California corporation dated July 23, 1940 and recorded August 10, 1940 in Volume 563 at page 144, Contra Costa County Records, and (b) the existing easement from Tormey Estate Company, a California corporation to Pacific Gas and Electric Company, a California corporation dated November 17, 1941 and recorded November 25, 1941 in Book 637 of Official Records at page 68, Contra Costa County Records.

WORK AREA 2

Commencing at the found U.S. Coast & Geodetic Survey bronze disk marked "CROCKETT 1932" set in concrete as described in the National Geodetic Survey Data Sheet PID JT2182, and running thence

- (a) south 48°01'43" west 1966.29 feet
- to the TRUE POINT OF BEGINNING; thence
- (1) south 00°00'00" east 20.73 feet; thence
 - (2) south 80°52'53" east 69.89 feet; thence
 - (3) north 01°20'38" east 19.96 feet; thence
 - (4) north 89°59'00" west 19.58 feet; thence
 - (5) north 00°00'00" east 11.85 feet; thence
 - (6) north 90°00'00" west 49.90 feet

to the Point of Beginning.

WORK AREA 3

Commencing at the found U.S. Coast & Geodetic Survey bronze disk marked “CROCKETT 1932” set in concrete as described in the National Geodetic Survey Data Sheet PID JT2182, and running thence

- (a) south 42°54’46” west 2183.90 feet to the TRUE POINT OF BEGINNING; thence
- (1) south 00°24’19” west 50.25 feet; thence
- (2) north 89°21’16” west 50.11 feet; thence
- (3) north 00°24’02” east 49.89 feet; thence
- (4) south 89°46’15” east 50.12 feet to the Point of Beginning.

The bearings used in the description were calculated by holding recorded NAD 83 (NSRS2011) epoch 2010.00 coordinates and are based upon the course between the found U.S. Coast & Geodetic Survey bronze disk in concrete stamped “CROCKET 1932” described in the National Geodetic Survey Data Sheet with PID JT2182 and the found 2 1/2 inch California Department of Highways disk in concrete stamped “C 262” described in the National Geodetic Survey Data Sheet with PID AE7870, taken as south 47°27’43” east and having a distance of 14953.47 feet. To obtain ground distances, multiply described distances by 1.0000828561.

END OF DESCRIPTION

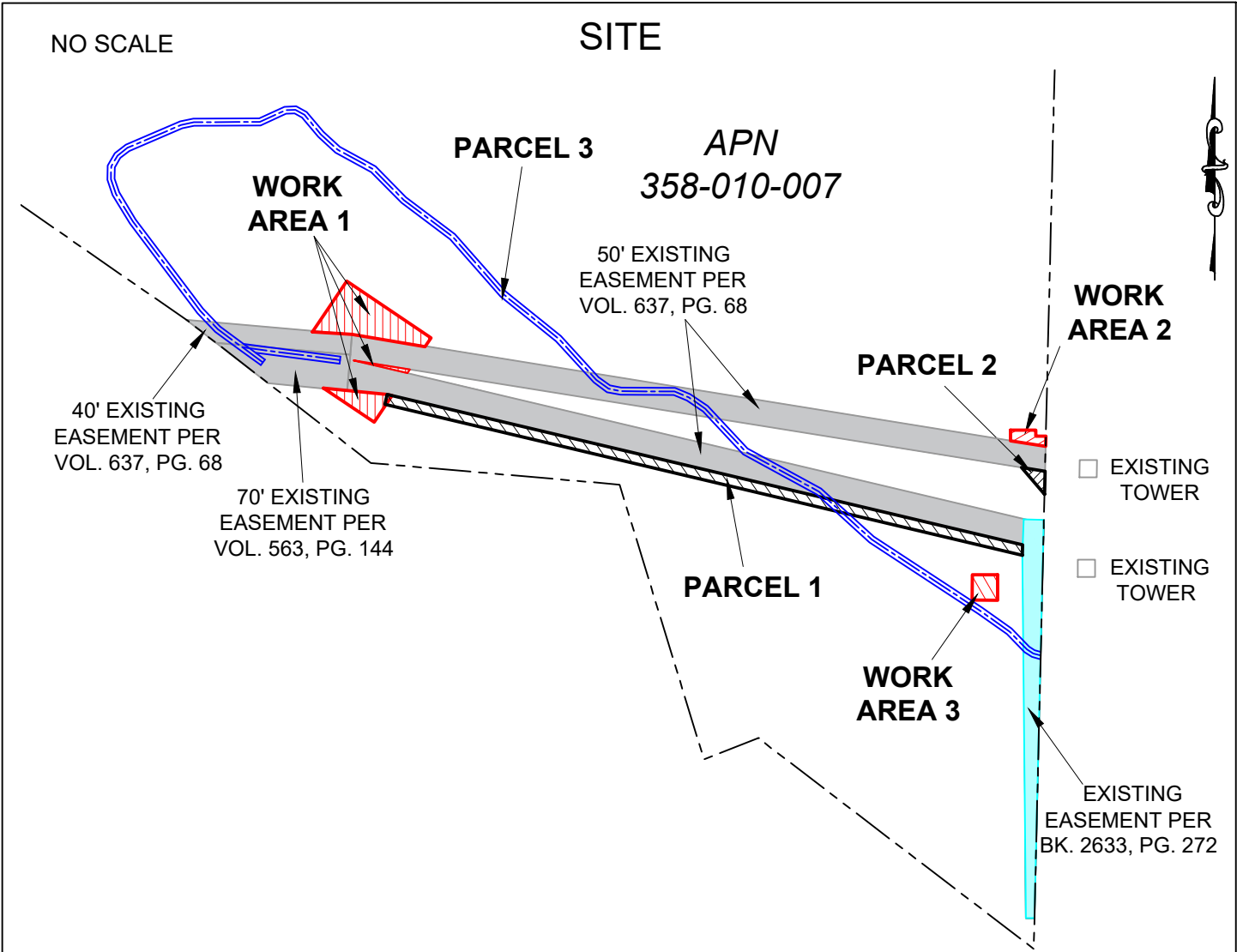
APPROVED AS TO DESCRIPTION

2/1/2023

Anthony A. Beliew
LS No. 9234

Date





SOUTHEAST OF CUMMINGS SKYWAY & HIGHWAY 80 INTERSECTION

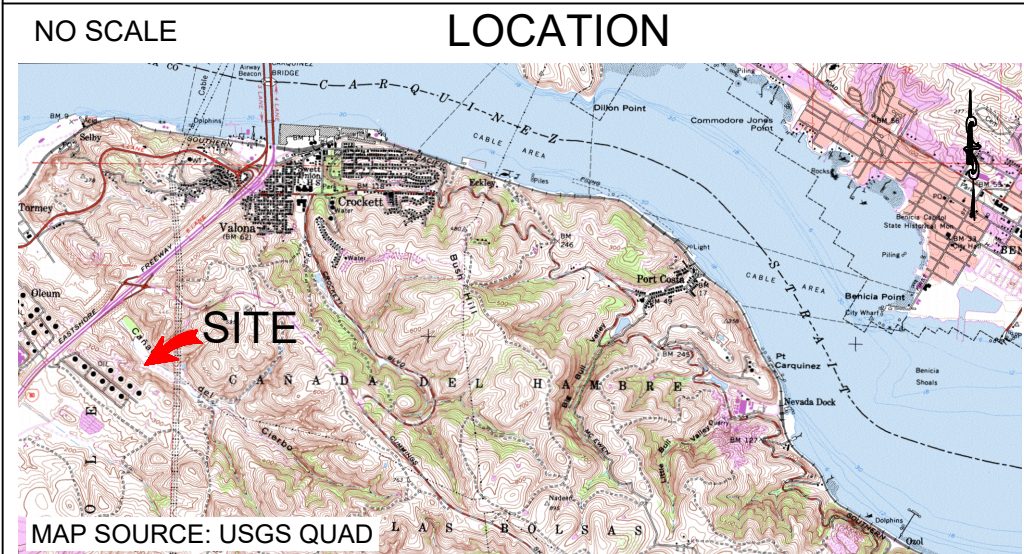


EXHIBIT B

A 3394
 PACIFIC GAS & ELECTRIC CO.
 APN 358-010-007
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 CONTRA COSTA COUNTY



TS 02/01/2023

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.