

Staff Report 31

APPLICANT:

CPN Pipeline Company

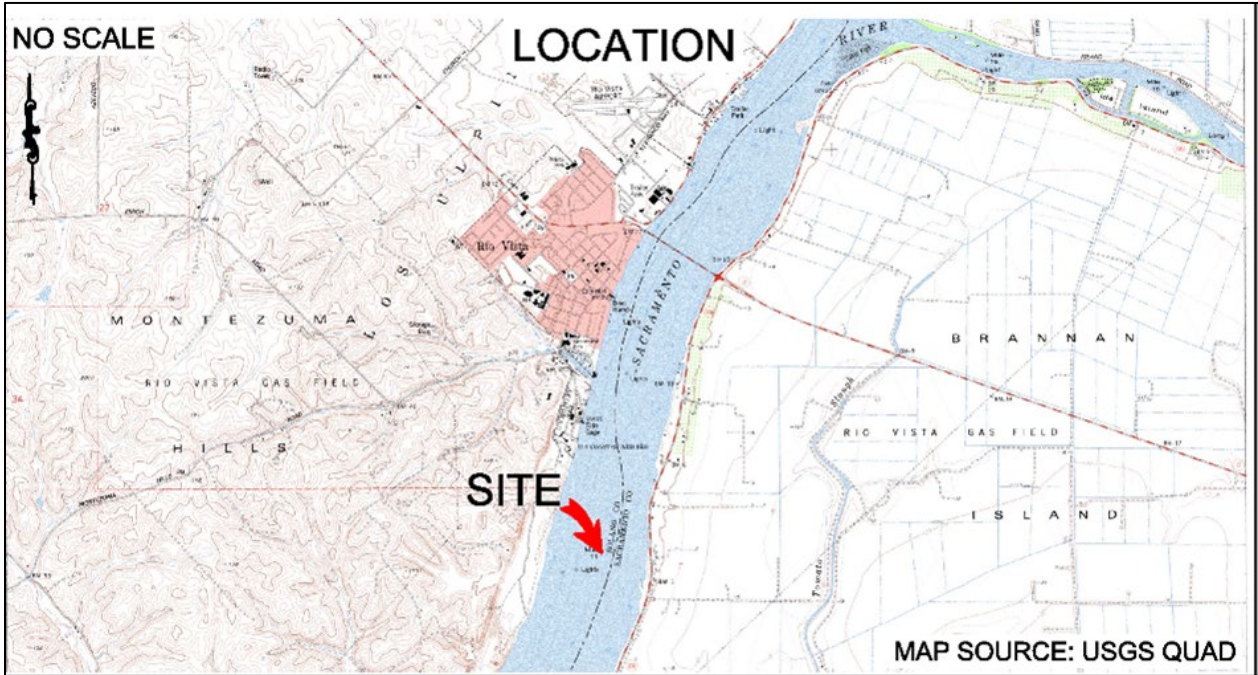
PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, between Brannan Island and the Montezuma Hills, near Rio Vista, Sacramento and Solano Counties (as shown on Figure 1).

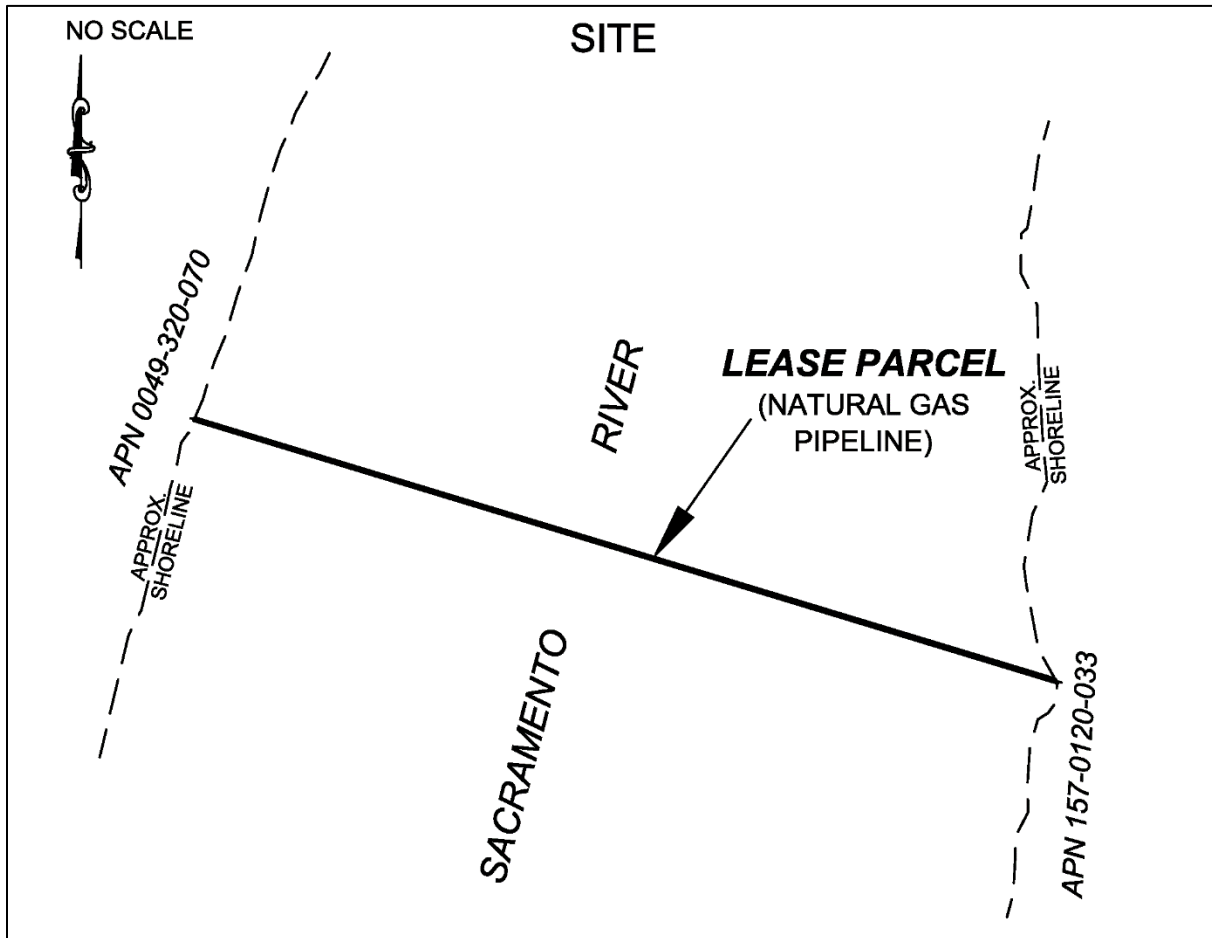
Figure 1. Location



AUTHORIZED USE:

Continued use, maintenance, and operation of a horizontal directionally drilled, 12-inch-diameter high-pressure natural gas pipeline (as shown on Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

20 years, beginning April 7, 2023.

CONSIDERATION:

\$1,731 per year, with an annual Consumer Price Index adjustment; the State reserving the right to set a different rent periodically as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$5,000,000 per occurrence.
- Surety bond or other security in the amount of \$1,000,000.

- Lessee shall provide Lessor copies of all periodic inspection results of the cathodic protection system operation, including pipe to soil potential surveys of the pipeline, and reports/test results of all future inspections or integrity monitoring tests including but not limited to inline/internal inspections or pressure tests conducted on the pipeline.
- Lessee agrees and acknowledges that the hazards associated with climate change may require additional maintenance or protection strategies regarding the improvements on the lease premises.

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 April 7, 2003, the Commission authorized a 20-year General Lease – Right-of-Way Use, to the Applicant for the construction of a horizontal directionally drilled, 12-inch-diameter high-pressure natural gas pipeline crossing below the Sacramento River ([Item 1, April 7, 2003](#)). The existing pipeline was constructed in 2003 and transports natural gas from Brannan Island to power plants and storage facilities in the East Bay. The pipeline is buried approximately 75-feet below the bottom of the river. On June 2, 2003, the Commission authorized amendment of the lease to revise the lease premises ([Item 5, June 2, 2003](#)). On September 13, 2007, the Commission authorized a continuation of rent ([Item 45, September 13, 2007](#)). The lease expired on April 6, 2023. The Applicant is now applying for a new lease.

The gas pipeline had a cathodic protection survey conducted in 2022. Results of the survey indicated that the pipeline is in good operating condition. The use of the pipeline cycles from active to inactive. The line is activated when gas volumes and pressures at the wellhead on Brannan Island is sufficient to send gas into the pipeline. After the pressure is alleviated, the pipeline returns to the inactive state.

The Applicant will submit surveys, inspections, and pressure tests and maintain the pipeline. The proposed lease includes terms requiring periodic inspections of the cathodic protection system operation, including pipe-to-soil potential surveys. Furthermore, the proposed lease requires submittal of internal pipeline inspections or pressure tests conducted on the pipeline. The surveys, inspections, and pressure tests will reduce the likelihood of structural pipeline degradation and potential hazards.

The pipeline is located deep beneath the bed of the river and does not impede surface use or interfere with Public Trust needs and values at this location, at this time, nor for the foreseeable term of the proposed lease. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 20-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 and restore the lease premises to their original condition. Additionally, the proposed lease requires the lessee to maintain a surety bond in the amount of \$1,000,000, and to insure the lease premises. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. Additionally, 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:

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 subject facilities are located on the Sacramento River in a tidally influenced site vulnerable to flooding at current sea levels and at a higher risk of flood exposure given projected scenarios of sea level rise. However, the existing pipeline is located at least 50 feet below the Sacramento riverbed and is not likely to be vulnerable either to the impacts from sea level rise or from frequent and intense storms that are the result of climate change.

The climate crisis is attributed almost entirely to greenhouse gas (GHG) emissions from the production and use of fossil fuels. California's most recent state assessment, the [Fourth Climate Change Assessment](#) (Governor's Office of Planning and Research 2018), finds that 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 was 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 GHG 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 severely endanger natural resources and public health.

The most effective way to prevent the worst impacts of the climate crisis is to reduce GHG 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](#)). Effective January 1, 2023, SB 1020 (Laird) requires that at least 90 percent of California's energy come from renewable, zero-carbon sources by 2030. This target increases to 95 percent by 2035 and to 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 gas¹.

This lease authorizes the temporary occupation of state lands for an existing natural gas pipeline that is installed below the Sacramento River. 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 likelihood that significant methane leaks will occur on the lease premise are low, given that the pipeline is buried over 50 feet below the riverbed. However, the lessee should comply with all mandatory pressure tests and leak reduction protocols to minimize the potential occurrence of methane leaks.

Regular maintenance, as referenced in the lease, may reduce the likelihood of pipeline exposure and associated structural degradation or dislodgement. The Applicant also 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.

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 groundwater threats. As part of an environmental justice outreach and engagement effort, staff contacted environmental justice organizations in Sacramento and Solano Counties on February 23, 2023, providing notification of the proposed lease and requesting input. The outreach included a brief description of the project and conveyed a desire to learn from the perspectives of the local

¹ 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>.

community. As of the posting of this staff report, no responses to the outreach have been received.

CONCLUSION:

For all the reasons stated above, staff believes that 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 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. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs," "Prioritizing Social, Economic, and Environmental Justice," and "Leading Climate Activism" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. The proposed lease includes a lease maintenance agreement to cover staff costs to comply with the lease terms.
4. 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.

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 issuance of 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 the Applicant beginning April 7, 2023, for a term of 20 years, for the use, maintenance, and operation of a horizontal directional drilled, 12-inch-diameter high-pressure natural gas pipeline, as shown on the location map and the site map (for reference purposes only); annual rent in the amount of \$1,731 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 \$5,000,000 per occurrence; and \$1,000,000 bond.