

Staff Report 42

APPLICANT:

Wickland Pipelines LLC, a California limited liability company

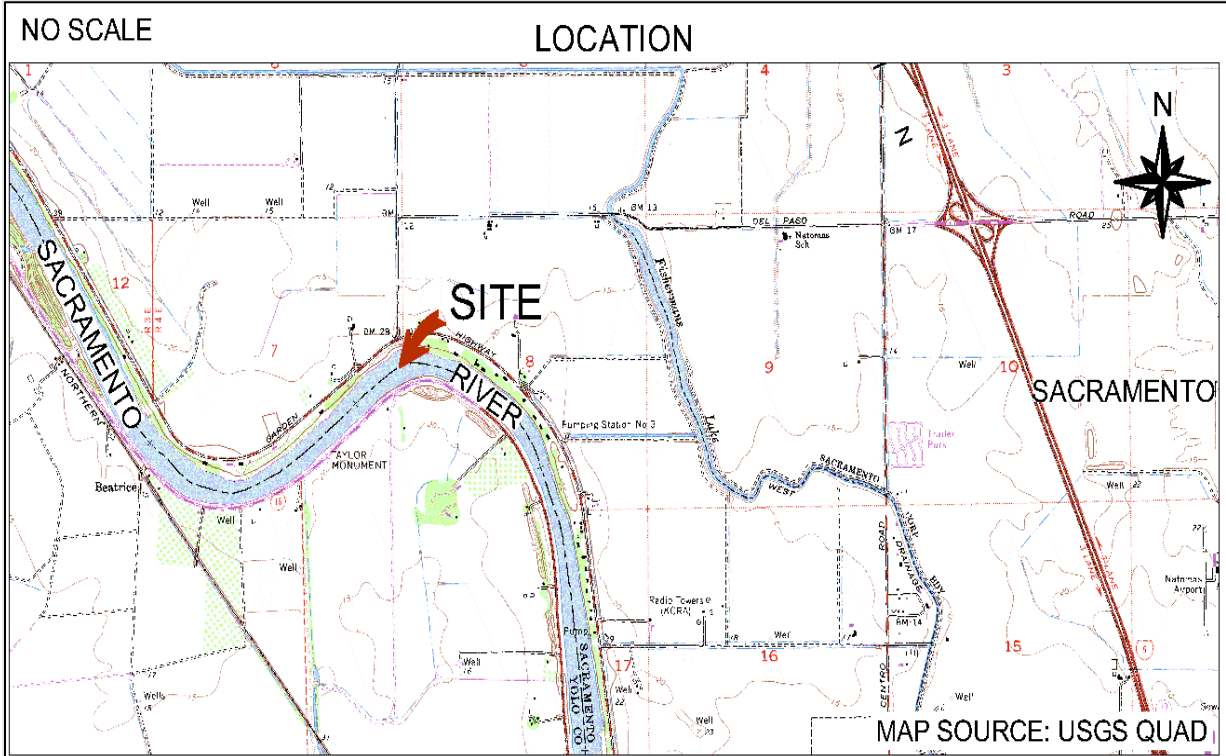
PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Sacramento River, adjacent to Assessor's Parcel Numbers 042-320-035 in Yolo County and 225-0102-047 in Sacramento County (as shown in Figure 1).

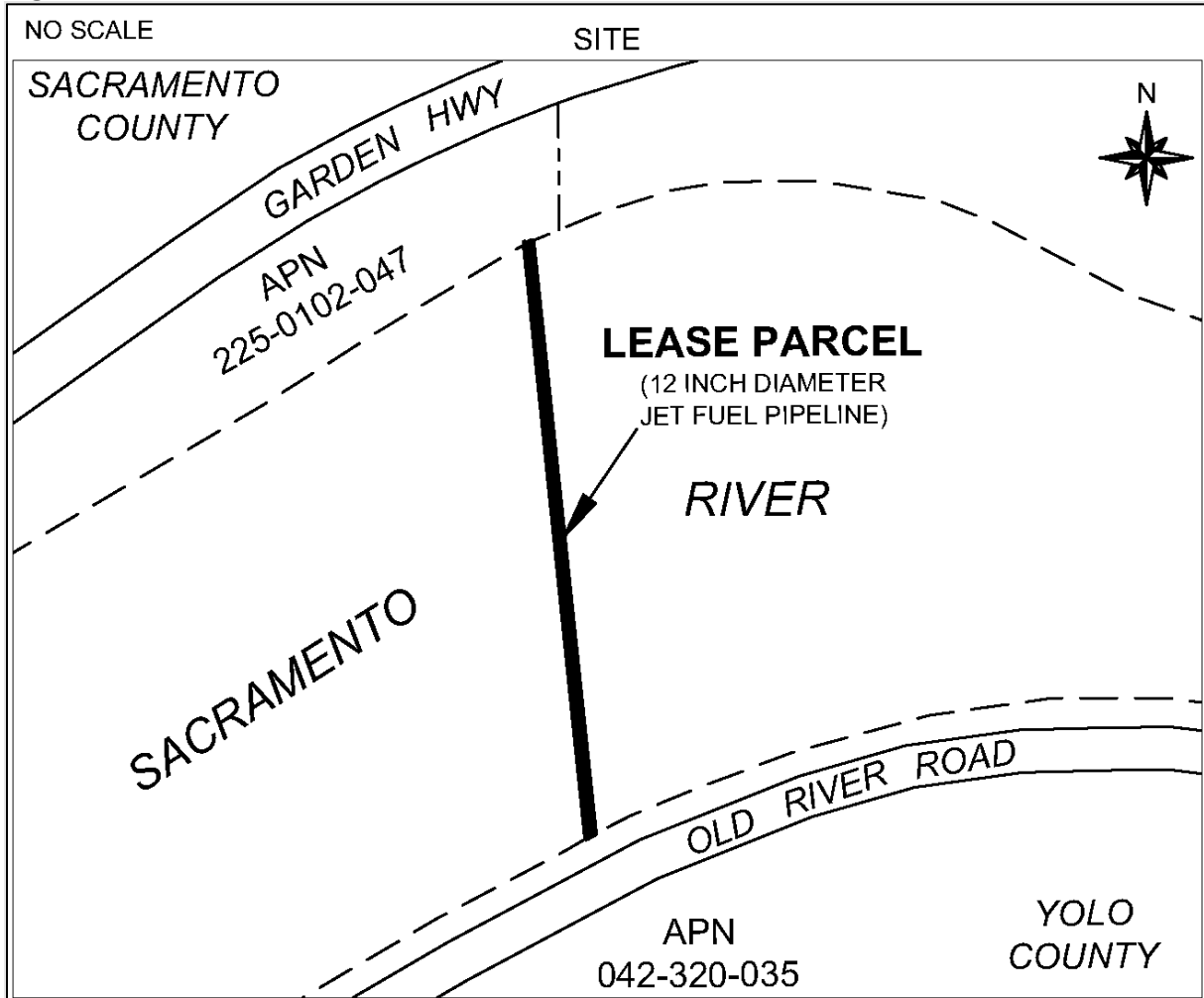
Figure 1. Location



AUTHORIZED USE:

Use of one existing 12-inch-diameter jet fuel pipeline (as shown in 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:

15 years, beginning October 1, 2022.

CONSIDERATION:

\$503 per year, with an annual Consumer Price Index adjustment, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

- General liability insurance in an amount no less than \$25,000,000 per occurrence and environmental impairment or pollution liability in an amount of \$10,000,000 per occurrence.
- Surety bond (or similar form of security) in the amount of \$300,000.
- 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.
- Lessee shall comply with all existing and subsequently enacted laws or regulations promulgated by the federal, state, and local agencies having lawful authority and jurisdiction over the pipeline.

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 October 1, 2002, the Commission authorized a 20-year General Lease – Right-of-Way Use, to the Applicant for installation of a 12-inch-diameter jet fuel pipeline below the Sacramento River in Yolo and Sacramento Counties ([Item 06, October 1, 2002](#)). The pipeline's construction was completed in 2005.

On June 26, 2006, the Commission authorized amendment of the lease to modify the existing Land Description to align with the as-built location and to consent to an encumbrance of lease ([Item 40, June 26, 2006](#)). On October 27, 2011, the Commission authorized termination and approval of an Agreement and Consent to Encumbrance of Lease and the continuation of rent at \$156 per year ([Item 11, October 27, 2011](#)).

On August 17, 2017, the Commission authorized a revision of rent from \$156 per year to \$450 per year, effective October 1, 2017 ([Item 50, August 17, 2017](#)). In 2019, a

portion of the pipeline located under the Yolo Causeway (not within the lease area) was realigned as part of the Lower Elkhorn Basin Levee Setback Project. The lease expired on September 30, 2022.

The Applicant is applying for a new General Lease – Right-of-Way Use, for use of one existing 12-inch-diameter jet fuel pipeline in the Sacramento River, adjacent to Assessor's Parcel Numbers 042-320-035 in Yolo County and 225-0102-047 in Sacramento County. The portion of the pipeline which crosses state land is buried approximately 50 feet below the bottom of the river. The pipeline transports jet fuel between the Kinder Morgan pipeline system in the city of West Sacramento and the Sacramento International Airport tank storage facility. Pursuant to a Sacramento Metropolitan Air Quality Management District permit condition, the pipeline acts as the sole means of delivering commercial jet fuel to the Sacramento International Airport. On average, the pipeline is in operation 15 hours once a week, depending on the quantity of jet fuel being delivered to the airport. The remainder of the time, the pipeline is static and maintained at a positive pressure significantly lower than 400 pounds per square inch gauge (psig), below the maximum allowable working pressure of 1468 psig.

The pipeline is coated with fusion bonded epoxy and all field welds are protected with Canusa shrink sleeves. An induced cathodic protection system is functional and monitored for corrosion control. A computerized Supervisory Control and Data Acquisition system is used to operate the pipeline and constantly monitor pressure and flow. Since the pipeline began operations in 2005, it has been internally inspected utilizing smart pig technology every five years. The pipeline's last internal inspection was completed in 2020. The results were provided to the Office of the State Fire Marshal and were consistent with all prior internal inspections which indicated no significant anomalies or irregularities.

The pipeline's operation, inspection and maintenance fall under the jurisdiction and oversight of the U.S. Department of Transportation, the Office of the State Fire Marshal, the California Department of Fish and Wildlife, and the Office of Spill Prevention and Response.

Based on the application package and Commission records, the subject pipeline has existed at this location for many years. The buried pipeline does not impair public recreation or enjoyment of State resources and does not impede Public Trust uses. The subject improvements are privately owned and maintained by the Applicant. The Applicant will be responsible for monitoring and maintaining the pipeline as directed by lease terms and conditions.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 15-year term, does not grant the lessee

exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land and restore the lease premises to their original condition. 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. The lease also requires the payment of annual rent to compensate the people of the State for use of the public land involved.

Staff recommends issuance of a new lease to the Applicant beginning October 1, 2022, to coincide with the prior lease expiration date and prevent any gap in liability coverage. The new lease will require the Applicant to indemnify the State for the entire lease term, so the State will be fully protected.

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 lease area is in the Sacramento River at a tidally influenced site vulnerable to flooding at current sea levels; therefore, this area would likely be at a higher risk of flood exposure given future projection scenarios of sea level rise.

The jet fuel pipeline is buried approximately 50 feet under the Sacramento River. The pipeline would most likely not be impacted by climate change related riverine process, such as storm events of increased intensity and frequency that could erode the bed of the river. Regular maintenance, as referenced in the lease, may reduce the likelihood of severe structural degradation.

The jet fuel being carried through the pipeline and used at the Sacramento International Airport contributes to climate change by emitting greenhouse gases (GHGs). The transportation industry overall accounts for 50 percent of Statewide GHG emissions.¹ 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 4 years combined ([CAL FIRE 2021](#)). 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

¹ CARB. 2022. California Greenhouse Gas Emissions for 2000 to 2020: https://ww2.arb.ca.gov/sites/default/files/classic/cc/inventory/2000-2020_ghg_inventory_trends.pdf. This includes upstream oil extraction and refining emissions.

5.8°F by 2050 and 8.8°F by 2100 ([California Natural Resources Agency 2022](#)). These impacts severely endanger public health and natural resources.

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](#)). 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 State². The most recent California Air Resources Board's [Scoping Plan Update](#) aims to reduce emissions from aviation by reducing demand for petroleum aviation fuel by 20 percent (replaced by electric batteries or hydrogen fuel cell technology) and replacing the remaining fuel demand with sustainable aviation fuel, which is blended from non-petroleum feedstocks and reduces GHG emissions. It is possible that the type of fuel this jet fuel pipeline transports may change to sustainable aviation fuel over the course of its lifespan, which is expected to be 40 to 60 more years. Any changes to future use of the jet fuel pipeline would be evaluated by staff based on the conditions at the time a new lease application is received.

CONCLUSION:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs 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

² 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>.

application, the Applicant may be required to remove the improvements and return the premises to their original condition. 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. 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 the proposed activity 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 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 October 1, 2022, for a term of 15 years, for the use of one existing jet fuel pipeline; annual rent in the amount of \$503, with an annual Consumer Price Index adjustment; general liability insurance in an amount no less than \$25,000,000 per occurrence and environmental impairment or pollution liability in an amount of

\$10,000,000 per occurrence; surety bond (or similar form of security) in the amount of \$300,000.