

# Staff Report 15

## APPLICANT:

Sage Exploration & Production, Inc., a Delaware Corporation

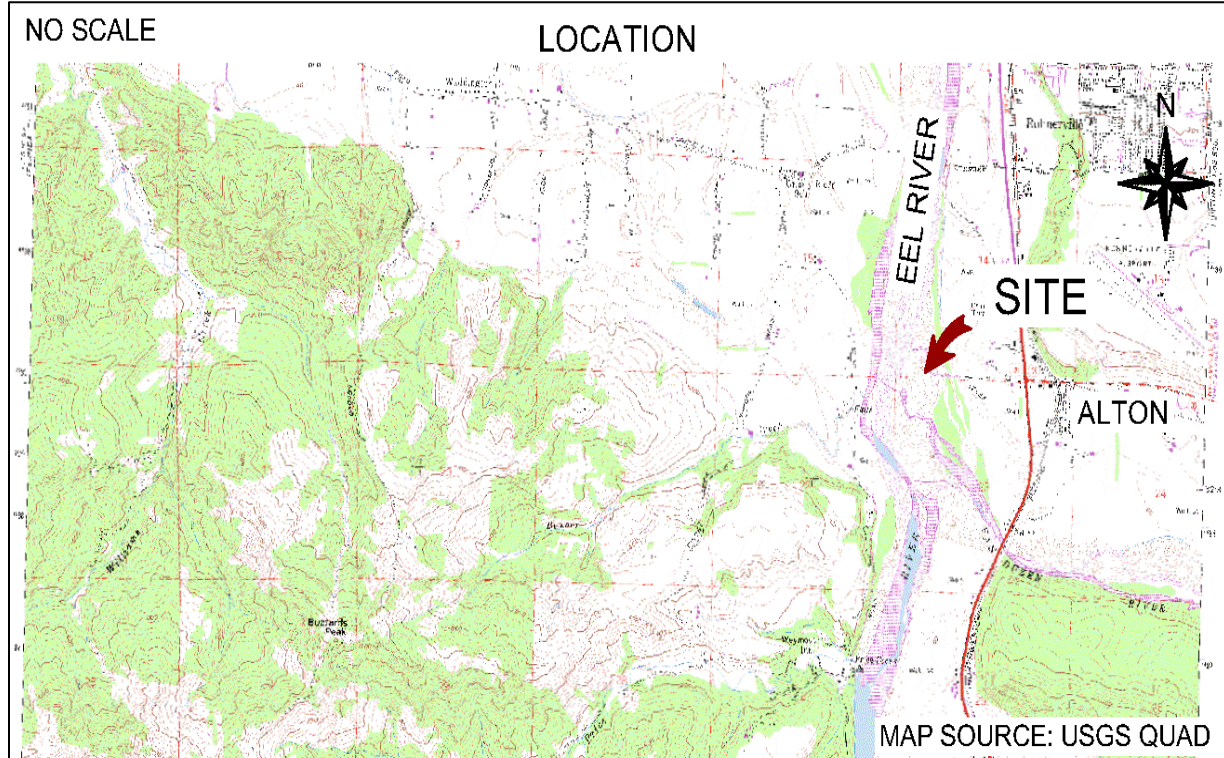
## PROPOSED ACTION:

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

## AREA, LAND TYPE, AND LOCATION:

0.42 acre, more or less, of sovereign land in the Eel River, adjacent to Assessor Parcel Numbers 201-221-09, 106-221-01 and -02, near Alton, Humboldt County (as shown in Figure 1).

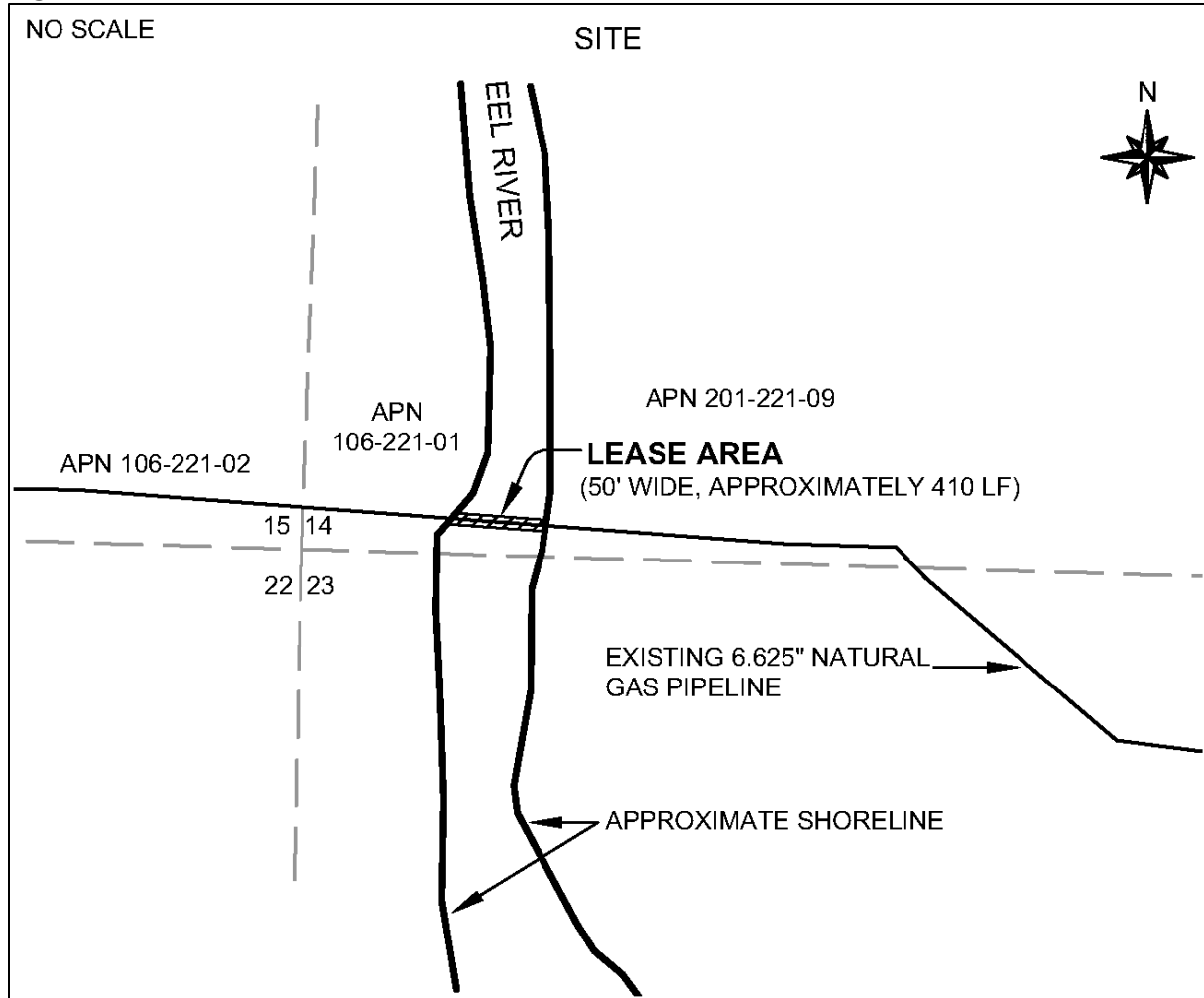
**Figure 1. Location**



**AUTHORIZED USE:**

Use of an existing 6.625-inch-diameter, horizontal directionally drilled (HDD) natural gas pipeline, at a minimum depth of 80 feet below the bottom of the Eel River (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:**

20 years, beginning August 19, 2023.

**CONSIDERATION:**

\$503 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 similar form of security) in the amount of \$300,000.
- Lessee shall provide Lessor copies of all periodic inspection results of the cathodic protection (CP) 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 In-Line Inspections (ILI)/internal inspections or pressure tests conducted on the pipeline.
- 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.
- 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 August 19, 2003, the Commission authorized a 20-year General Lease – Right-of-Way Use, to Forexco, Inc., for the construction, use, and maintenance of a horizontal directionally drilled (HDD) natural gas pipeline ([Item 17, August 19, 2003](#)). The pipeline was installed below the Eel River, west of Alton in Humboldt County. On January 10, 2012, Forexco, Inc. transferred all rights and interest to Innex California, Inc. On April 26, 2013, the Commission authorized assignment of the lease from Forexco, Inc. to Innex, Inc. ([Item 60, April 26, 2013](#)). On June 29, 2015, staff performed a rent review as directed by lease terms and conditions. This resulted in a modification of rent from \$232 per year to \$580 per year ([Item 39, June 29, 2015](#)). On June 21, 2018, the Commission authorized a continuation of rent ([Executive Officer's Report, June 21, 2018](#)).

On December 1, 2022, Innex, Inc. transferred all rights and interest to Sage Exploration & Production, Inc., a Delaware Corporation (Applicant). The lease subsequently expired on August 18, 2023. The Applicant is applying for a new

General Lease – Right-of-Way Use, for use of an existing a 6.625-inch-diameter HDD natural gas pipeline. Commission records show that the annual rent was paid through August 18, 2023. Therefore, staff recommends that the proposed lease starts on August 19, 2023, to coincide with the prior lease expiration date and rent paid-through date. The proposed lease will require the Applicant to indemnify the State during the period of the Applicant's unauthorized occupation of State-owned lands from December 1, 2022, to August 18, 2023.

The pipeline was constructed in 2003, using the HDD method at a minimum depth of 80 feet below the riverbed. The total length of the pipeline is approximately 3,103 feet, of which approximately 410 linear feet crosses lands under the jurisdiction of the Commission. The pipeline conveys natural gas from four well sites on the west side of the Eel River to a fifth existing well on the east side of the river and continues to the main line at the Pacific Gas and Electric (PG&E) station near Alton. The pipeline is a component of a broader natural gas collection and transportation system, serving consumers in Humboldt County. The pipeline was designed to operate at a maximum allowable operation pressure of 1,360 pounds per square inch (psi).

In June 2023, the Applicant performed a CP survey. Results of the survey indicated that the pipeline has sufficient protection. The use of the pipeline cycles from active to inactive. The line is activated when gas volumes and pressures at the wellheads are sufficient to send gas into the pipeline. After the pressure is alleviated, the pipeline returns to an inactive state.

The proposed lease includes terms requiring periodic inspections of the CP 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. In addition to using surveys, inspections, and pressure tests to reduce the risk of severe pipeline damage and hazards, staff will be better able to monitor the pipeline's condition throughout the lease term.

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 improvement is 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 20-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 August 19, 2023, to coincide with the prior lease expiration date. 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 subject facilities are located on the Eel 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 80 feet below the Eel 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 ([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. 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>1</sup>.

This lease authorizes the temporary occupation of state lands for an existing natural gas pipeline that is installed below the Eel 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. However, the likelihood that significant methane leaks will occur on the lease premises are low, given that the pipeline is buried at a minimum depth of 80 feet below the riverbed. Regardless, the lessee is required to comply with all regulatory 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.

### **CONCLUSION:**

For all the reasons 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 Public Trust needs and values at this location, at this time, and for the 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

---

<sup>1</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](#).

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" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Staff recommends that the Commission find that the 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 the Public Trust needs and values at this location, at this time, and for the 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 August 19, 2023, for a term of 20 years, for the use of an existing horizontal directional drilled, 6.625-inch-diameter natural gas pipeline; 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 \$5,000,000 per occurrence; and surety in an amount of \$300,000.