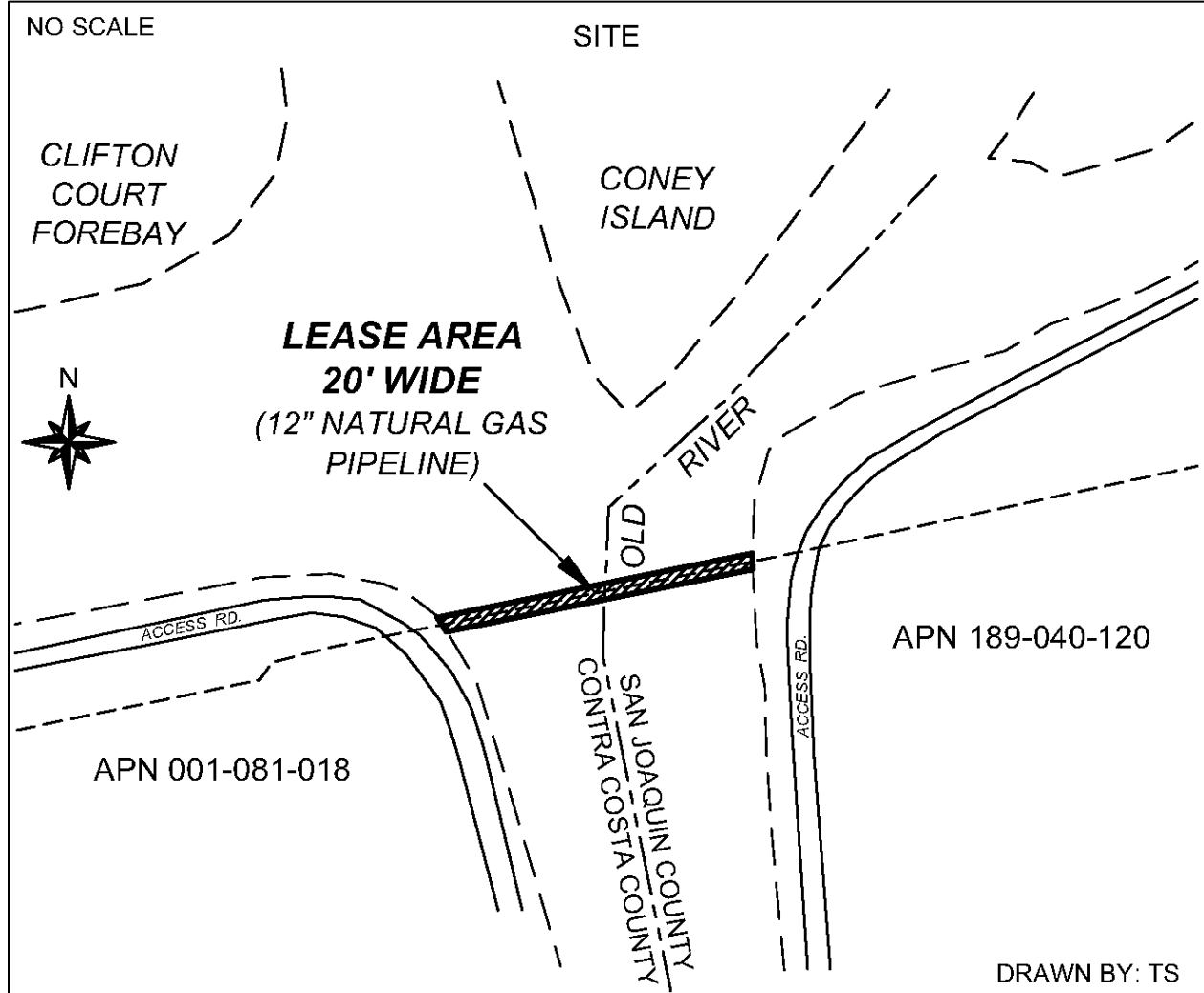


AUTHORIZED USE:

Continued use and operation of an existing 12-inch-diameter steel natural gas 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:

20 years, beginning December 5, 2023.

CONSIDERATION:

\$1,271 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 conduct a burial depth survey of the 12-inch-diameter steel natural gas pipeline. The first shall be completed no later than June 30, 2026, and subsequent surveys at least once every five years thereafter. Lessee shall submit Lessor copies of the survey results within 60 days of the survey completion.
- 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 February 6, 1991, the Commission authorized a 30-year General Lease – Right-of-Way Use, to Union Oil Company of California for the installation of a 12-inch-diameter steel natural gas pipeline crossing below the Old River ([Item 20, February 6, 1991](#)). Between 1996 and 2013, numerous assignments of lease were approved by the Commission ([Item C24, May 9, 1996](#); [Item C35, February 9, 2006](#); [Item C24, November 21, 2006](#); and [Item C46, March 25, 2008](#)). On April 26, 2013, the Commission authorized a further assignment and amendment of lease to Vintage Production California, LLC (Vintage) ([Item C67, April 26, 2013](#)). Vintage is a wholly-owned subsidiary of Oxy USA Inc (Oxy). Occidental Oil and Gas Holding Corporation (OOGHC) provided an unconditional parent guarantee. Occidental Petroleum Corporation (OPC) is the parent company of Oxy and OOGHC.

On February 13, 2014, the Board of Directors of OPC authorized the separation of OPC's California business into separate and independent publicly traded

companies including the Applicant. On June 19, 2014, the Commission authorized an amendment of lease to Vintage to amend the acceptance of a parent guaranty from OOGHC to California Resources Corporation ([Item C24, June 19, 2014](#)). On April 20, 2017, the Commission authorized a revision in rent ([Item C41, April 20, 2017](#)). The lease expired on February 6, 2021. The Applicant has continued to pay rent in holdover and the lease is current. The Applicant is now applying for a new lease. Staff verified with the Applicant the correct entity name is California Resources Production Corporation.

The proposed lease will require the Applicant to indemnify the State for the entire period of occupation prior to December 5, 2023, ensuring the State is protected.

The pipeline was constructed in 1991 and transports natural gas from Union Island. The Applicant conducted a depth of burial survey in 2021 that indicated a minimum of five feet of cover. The gas pipeline had a cathodic protection survey conducted in 2016 and the next survey will be conducted in 2024. Results of the survey indicated that the pipeline is in good operating condition.

The Applicant will continue to submit surveys, inspections, and pressure tests to Commission staff, and maintain the pipeline. The proposed lease includes terms requiring periodic depth of burial surveys to maintain an accurate record of pipeline location and depth of burial, and to monitor potential exposure and vulnerabilities of the pipeline for hazards. In addition, the proposed lease requires periodic inspections of the cathodic protection system operation, including pipe-to-soil potential surveys (to measure the magnitude of corrosion of pipelines and detect hot spots where the occurrence of corrosion is severe). 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 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 in the Old 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.

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 San Francisco tide gauge was used for the projected sea level rise scenario for the lease region as listed in Table 1.

Table 1. Projected Sea Level Rise for San Francisco

Year	Projection (feet)
2030	0.8
2040	1.3
2050	1.9
2100	6.9

Source: Table 13, [State of California Sea-Level Rise Guidance: 2018 Update](#)

Note: Projections are with respect to a 1991 to 2009 baseline.

This effect could increase the Old River's inundation levels within the lease area, and this risk of flood exposure is likely to increase with time. 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, fire, drought, extreme heat, 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. Climate change and sea level rise will further influence riverine areas by changing erosion and sedimentation rates. Flooding and storm flow, as well as runoff, will likely increase scour and decrease bank stability at a faster rate.

This lease authorizes the temporary occupation of state lands for an existing natural gas pipeline that is installed within a levee. 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 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 severely 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 gas¹.

The 12-inch-diameter pipeline is buried at least five feet under the Old River, and therefore the effect of sea level or climate change impacts on the pipeline should be minimal if it is properly inspected and maintained. The Applicant also acknowledges the contribution of fugitive pipeline emissions to climate change. Regular inspections and maintenance, as required by state and federal law and in compliance with the terms of the lease, may reduce the likelihood of severe

¹ There are many additional ongoing and planned actions that must co-occur 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>.

structural degradation, dislodgement, and exposure as well as reduce the potential for methane leaks and associated atmospheric impacts. Pursuant to the proposed lease, the Applicant shall submit a remediation plan for any depth of burial survey that shows the pipeline has less than five feet of cover.

ENVIRONMENTAL JUSTICE:

The [Commission's Environmental Justice Policy](#) reaffirms its commitment to an informed and open process in that all people are treated equitably and with dignity. Among other goals, the policy commits to "Strive to minimize additional burdens on and increase benefits to marginalized and disadvantaged communities resulting from a proposed project or lease." As part of its commitment to environmental justice, staff contacted community-based organizations in Contra Costa and San Joaquin Counties on February 16, 2021. The outreach included a brief description of the lease and conveyed a strong desire to learn from the perspectives of the local community. The Center for Biological Diversity (CBD) responded to the outreach with a letter. The letter highlights the need to transition to clean energy, the potential impact the pipeline may pose to the surrounding community, and they argue the need for CEQA review. CBD recommends a maximum five-year lease agreement, requiring liability insurance to cover remediation costs, and a bond to cover the cost of potential accidents and the ultimate costs of abandoning the pipeline and remediating the lease site. Commission staff sent a follow-up email on October 18, 2023. As of the posting of this staff report, no additional 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 monitor 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 December 5, 2023, for a term of 20 years, for the use and operation of a 12-inch-diameter natural gas pipeline; annual rent in the amount of \$1,271 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 bond or other surety in the amount of \$1,000,000.