

**CALENDAR ITEM
C64**

A 34
S 18

09/01/11
WP 2702.2
J. Porter

**RESCISSION OF APPROVAL OF A GENERAL LEASE
AND ISSUANCE OF A GENERAL LEASE – RIGHT-OF-WAY USE**

APPLICANT:

CALNEV Pipe Line, LLC
1100 Town & Country Road
Orange, CA 92868

AREA, LAND TYPE, AND LOCATION:

4.04 acres, more or less, of State school lands located in Tract 37, Township 16 North, Range 11 East, and Section 16, Township 16 North, Range 13 East, SBM, near Valley Wells, San Bernardino County.

AUTHORIZED USE:

Continued use and maintenance of one existing 8-inch diameter underground petroleum pipeline and one 14-inch diameter underground petroleum pipeline.

LEASE TERM:

25 years, beginning March 7, 2010.

CONSIDERATION:

\$1,548 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$10,000,000.

Bond:

\$10,000

OTHER PERTINENT INFORMATION:

1. On March 7, 1961, the Commission authorized a pipeline right-of-way easement to CALNEV Pipe Line Company for a term of 49 years. That easement expired on March 6, 2010. CALNEV Pipe Line, LLC (Applicant) is the successor in interest to CALNEV Pipe Line Company.

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2. At its meeting of June 23, 2011, the Commission authorized the issuance of a new General Lease – Right-of-Way Use to Applicant for a term of 25 years. The authorization included the requirement for a surety bond in the amount of \$3,000,000. Subsequently, staff re-analyzed the bond requirement and determined that the bond is unfairly excessive. Staff is now recommending rescission of the lease approval and authorization of a new General Lease – Right-of-Way Use requiring a surety bond in the amount of \$10,000.

3. Rescind Approval of a General Lease – Right-of-Way Use: Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines [Title 14, California Code of Regulations, section 15060 (c)(3)], the staff determined that this activity is not subject to the provisions of CEQA because it is not a “project” as defined by CEQA and State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, sections 15060 (c)(3) and 15378.

4. Issuance of a General Lease – Right-of-Way Use: Pursuant to the Commission’s delegation of authority and State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2095 (a)(2).

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905..

5. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq. However, the Commission declared that all lands are “significant” by nature of their public ownership (as opposed to “environmentally significant”). Since such declaration of significance is not based on the requirements and criteria of Public Resources Code section 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project’s consistency with the use classification as required by Title 2, California Code of Regulations, section 2954 is not applicable.

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EXHIBITS:

- A. Location and Site Map
- B. Land Description

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Rescind Approval of a General Lease – Right-of-Way Use: Find that the activity is not subject to the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15060 (c)(3) because the activity is not a project as defined by Public Resources Code section 21065 and Title 14, California Code of Regulations, section 15378.

Issuance of a General Lease – Right-of-Way Use: Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project, Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905 (a)(2).

AUTHORIZATION:

Authorize rescission of Calendar Item C96 of the June 23, 2011 Commission meeting and issuance of a General Lease – Right-of-Way Use to CAL NEV Pipe Line, LLC, beginning March 7, 2010, for a term of 25 years, for the continued use and maintenance of one existing 8-inch diameter underground petroleum pipeline and one 14-inch diameter underground petroleum pipeline, as shown on Exhibit A (for reference purposes only) and as described on Exhibit B, both Exhibits attached and by this reference made a part hereof; annual rent in the amount of \$1,548 with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease; liability insurance with coverage of no less than \$10,000,000, and surety in the amount of \$10,000.