MINUTE ITEM
This Calendar Item No. C19 was approved as Minute Item No. 19 by the California State Lands Commission by a vote of 3 to 0 at its 4-20-00 meeting.

# CALENDAR ITEM
# C19

A 11

S 7

April 20, 2000
G02-01
D. Jones

## AMENDMENT OF TRUST LANDS USE PLAN AND APPROVAL OF PROPOSED PIPELINE LEASE

**LEGISLATIVE TIDELANDS GRANTEE:**

City of Antioch
P. O. Box 5007
Antioch, California 94531

**LESSEE OF TIDELANDS GRANTEE:**

CPN Pipeline Company, A Delaware Corporation
6700 Koll Center Parkway, Suite 200
Pleasanton, California 94566

**PROPOSED AUTHORIZATION:**

1. Amendment of the City of Antioch Trust Lands Use Plan pursuant to its Legislative Grant.

2. Approval of Lease Between the Legislative Grantee City of Antioch and its proposed Lessee CPN Pipeline Company.

**THE PROJECT:**

CNP Pipeline Company is proposing to construct, through directional boring, a 24-inch natural gas pipeline, 100 feet underneath the San Joaquin River in the city of Antioch to provide fuel to a new electrical generation facility known as the Delta Energy Center (DEC). The DEC is a limited liability corporation established by Calpine Corporation and Bechtel Enterprises, Inc., to develop, construct, and operate a 880 megawatt (MW) natural gas-fired power plant site proposed to be located on a 20-acre parcel owned by Dow Chemical in the city of Pittsburg. Among other things, the power plant is designed to supply the adjacent Dow Chemical facility with process steam and about 20 MW of electricity. Associated facilities include a new 3.3-mile, 230 kilovolt (kV) electric overhead/underground transmission line that will interconnect to the existing PG&E substation near the Pittsburg Power Plant; the above-referenced natural gas pipeline; and



CALENDAR PAGE [redacted]
MINUTE PAGE 0007866

wastewater supply and discharge pipelines that connect to the adjacent Delta Diablo Sanitation District. Except for the natural gas pipeline, all facilities are outside the granted tide and submerged lands.

DEC's electrical output will be sold into the California Power Exchange, as well as to wholesale power consumers. The estimated cost for the entire DEC project is between $350-$450 million.

**AMENDMENT OF TRUST LANDS USE PLAN**

The sovereign lands in the San Joaquin River at this location have been granted to the city of Antioch, in trust, pursuant to Chapter 1067, Statutes of 1989. These lands are to be held by the grantee for the statewide purposes of commerce, navigation, fisheries and other public trust purposes. Any uses of these lands must be consistent with the public trust and the granting statute.

Among other things, the granting statute requires that the City submit to the Commission on or before January 1, 1994, a Trust Lands Use Plan indicating the details of the intended development, preservation, or other use of the trust lands [Section 2(a)]. On November 15, 1994, the Commission found that the "Antioch Urban Waterfront Restoration Plan," adopted by the City in 1991, met the requirements of the Trust Lands Use Plan as defined in the granting statute.

The granting statute further requires Commission approval of all changes of, amendments to, or extensions of the Trust Lands Use Plan; and that any use of the trust lands shall be consistent with the Trust Lands Use Plan as approved by the Commission [Section 2(a)].

The City proposes to amend the Trust Lands Use Plan by adding a new element permitting its proposed lessee to construct, operate and maintain a 24-inch diameter natural gas pipeline beneath and through its granted lands as described above. On April 11, 2000, the City approved the amendment to the Trust Lands Use Plan.

Staff has reviewed the amendment to the Trust Lands Use Plan and has found that it is consistent with the granting statute and is in the best interests of the State.

## APPROVAL OF PROPOSED LEASE

Section 1(b)(7) of the statute requires that the "trustee shall not authorize a capital outlay project, lease, or agreement for port facilities, such as . . . pipelines . . . without first requesting and receiving approval, in writing, of the Commission. The statute further requires that the Commission determine the project is in, and for, the best interest of the people of the State and consistent with applicable provisions of law. Section 2(e) requires that all leases or agreements proposed or entered into after January 1, 1990, shall be consistent with the Trust Lands Use Plan and approved by the Commission.

The city of Antioch and its proposed lessee, CPN Pipeline Company, which is the owner of the pipeline which is providing fuel to DEC's power plant in Pittsburg, have negotiated a lease for the pipeline. On April 11, 2000, the City approved the lease.

Staff has reviewed the lease and believes that it is consistent with the granting statute and the Trust Lands Use Plan, and in, and for, the best interests of the State.

## OTHER PERTINENT INFORMATION:

1. On February 9, 2000, the California Energy Commission (CEC) granted the final "Presiding Member's Proposed Decision for the Application for Certification for the Delta Energy Center, Calpine Corporation and Bechtel Enterprises, Inc.", Docket No. 98-AFC-3, under its certified program. (Title 14, California Code of Regulations, section 15251 (k)). The Decision contains "Conditions of Certification" which incorporate mitigation measures determined to reduce the proposed project's potential significant environmental impacts to less than significant and verification requirements designed to ensure implementation of such mitigation.

   Staff has reviewed the document and determined that the conditions, as specified in Title 14, California Code of Regulations, section 15253 (b), have been met for the Commission to use the environmental analysis document certified by the California Energy Commission as a EIR equivalent in order to comply with the requirements of the CEQA, in its exercise of its obligations under the provisions of the City's grant.

2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

**EXHIBIT:**

A. Location Map

**PERMIT STREAMLINING ACT DEADLINE:**

June 5, 2000

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

FIND THAT AN ENVIRONMENTAL ANALYSIS DOCUMENT WAS ADOPTED FOR THIS PROJECT, DOCKET NO. 98-AFC-3 BY THE CALIFORNIA ENERGY COMMISSION (CEC) UNDER ITS CERTIFIED PROGRAM TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15251 (k) AND THAT THE CALIFORNIA STATE LANDS COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION THEREIN AND CONCURS IN THE CEC'S DETERMINATION.

ADOPT THE CONDITIONS OF CERTIFICATION CONTAINED WITHIN THE CEC DECISION DATED FEBRUARY 2000, FOR THE DOCKET NO. 98-AFC-3 ON FILE IN THE SACRAMENTO OFFICE OF THE COMMISSION.

**SIGNIFICANT LANDS INVENTORY FINDING:**

FIND THAT THIS ACTIVITY IS CONSISTENT WITH THE USE CLASSIFICATION DESIGNATED BY THE COMMISSION FOR THE LAND PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET SEQ.

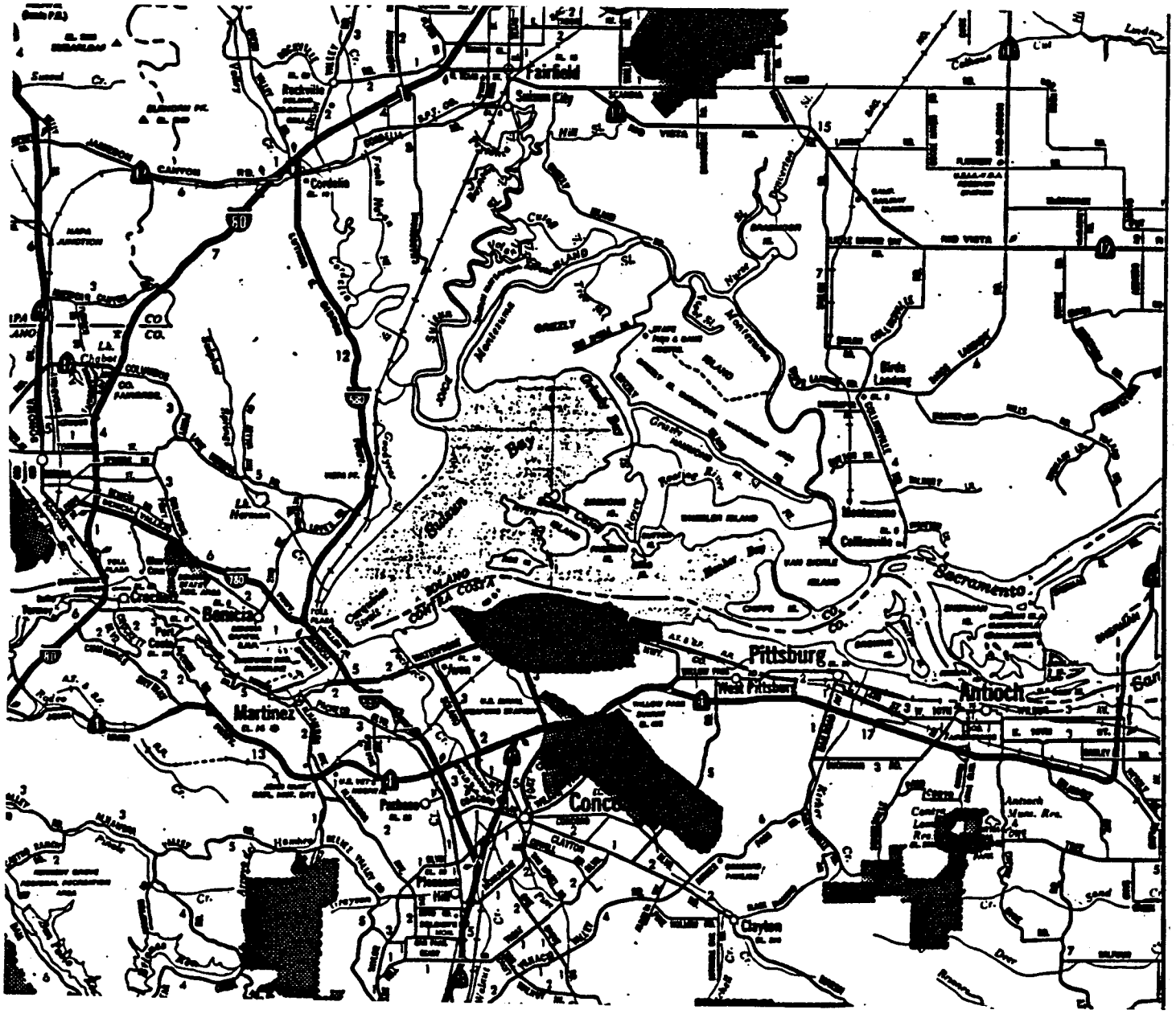
**AUTHORIZATION:**

1. AMENDMENT OF TRUST LANDS USE PLAN PURSUANT TO CHAPTER 1067, STATUTES OF 1989:

   A. FIND THAT THE GRANTEE HAS SUBMITTED A PROJECT DESCRIPTION OF THE PROPOSED USE, THE STATEWIDE BENEFIT ARISING FROM IT, THE FINANCING OF THE PROJECT, A TIME TABLE FOR IMPLEMENTATION OF THE PROJECT AND A DESCRIPTION OF HOW THE GRANTEE PROPOSES TO PROTECT AND PRESERVE NATURAL AND MANMADE RESOURCES IN CONNECTION WITH THE USE OF THE TRUST LANDS. [SECTION 2(C) (1 THROUGH 5)].

   B. FIND THAT THE PROPOSED USE OF THE TRUST LANDS FOR A DIRECTIONALLY BORED 24-INCH NATURAL GAS PIPELINE UNDERNEATH AND THROUGH THE SOVEREIGN TIDE AND SUBMERGED LANDS OF THE SAN JOAQUIN RIVER IS CONSISTENT WITH THE PUBLIC TRUST; IS IN THE BEST INTEREST OF THE STATE; THAT THE TRUSTEE HAS MET THE REQUIREMENTS OF THE LEGISLATIVE GRANT FOR THE AMENDMENT OF THE TRUST LANDS USE PLAN; AND AMEND THE TRUST LANDS USE PLAN TO INCLUDE SUCH A USE WHICH AMENDMENT WAS APPROVED BY THE ANTIOCH CITY COUNSEL ON APRIL 11, 2000, [SECTIONS 2(a) AND 2(b)].

   C. APPROVE THE LEASE BETWEEN THE CITY OF ANTIOCH AND CPN PIPELINE COMPANY, A DELAWARE CORPORATION, APPROVED BY THE CITY OF ANTIOCH AT ITS APRIL 11, 2000, MEETING.




CALENDAR PAGE 0000180
MINUTE PAGE 0007874

This exhibit is solely for purposes of generally defining the area to be leased, and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or other property.

**Exhibit A**
**G 02-01**