

**CALENDAR ITEM
C24**

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05/05/08
WP 5040
N. Smith

**ACCEPTANCE OF LEASE QUITCLAIM DEED AND
ISSUANCE OF A GENERAL LEASE - RIGHT OF WAY USE**

LESSEE:

Pacific Gas and Electric Company
245 Market Street
San Francisco, California 94105

APPLICANT:

San Pablo Bay Pipeline Company LLC
c/o Shell Pipeline Company LP
P.O. Box 2648
Houston, Texas 77252-2648

AREA, LAND TYPE, AND LOCATION:

6.58 acres, more or less, of sovereign lands in Pacheco Creek and Hastings Slough west of the city of Martinez, and filled sovereign lands in the town of Crockett, Contra Costa County.

AUTHORIZED USE:

Maintenance of an existing non-operational 16-inch steel pipeline.

LEASE TERM:

15 years, beginning October 19, 2005.

CONSIDERATION:

\$7,560 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: Combined single limit coverage of \$5,000,000

Surety:

\$25,000

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Other:

Prior approval from the Commission is required before the pipeline can be re-activated and used to transport any product.

OTHER PERTINENT INFORMATION:

1. On July 24, 1975, the Commission approved the issuance of an Industrial Lease to Pacific Gas and Electric Company (PG&E) for a period of 15 years beginning August 1, 1975, with three successive renewal periods of ten years each for a 16-inch pipeline that crosses Pacheco Slough and Hastings Slough. On October 23, 1976, the Commission authorized an amendment of the lease to include the parcels located on filled sovereign lands located in the town of Crockett. On October 29, 1990, the Commission approved the first ten-year renewal option for continued use and maintenance of the pipeline. On December 3, 1999, the Commission approved an amendment to the lease for the relocation of the pipeline in the town of Crockett because of the construction of the new Carquinez Bridge. In 2000, PG&E did not exercise one of its remaining ten-year renewal options and the lease has been in holdover since that time.
2. In 2000, the California Fire Marshal classified the pipeline as "inactive." In order for San Pablo Bay Pipeline Company LLC (SPBPC) to reactivate the pipeline to transport petroleum products, SPBPC is required to submit a request to the Fire Marshal to change the status of the pipeline from "inactive" to "active" and must also obtain approval from the Commission and other regulating agencies.
3. The California Public Utilities Commission (CPUC) prepared a Mitigated Negative Declaration (MND) that analyzed the potential impacts to the environment that could result from the PG&E's sale of its Richmond-to-Pittsburg Fuel Oil Pipeline (Pipeline Assets), and Hercules Pump Station to SPBPC. The CPUC approved the sale of the Pipeline Assets to SPBPC on July 16, 2005. The MND adopted by the CPUC also analyzed the replacement of a 5,500-foot pipeline segment in the city of Martinez. That replacement project is not located on lands under the jurisdiction of the Commission.

PG&E has a provided a lease quitclaim deed releasing all of its right, title and interest in lease PRC 5040 and SPBPC has applied for a new General Lease – Right of Way Use.
4. SPBPC has a right to use the uplands adjoining the lease premises.

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5. PG&E has paid rent in full for the period August 1, 2000, through October 18, 2005, and the Applicant has paid the rent in full for the period October 19, 2005, through October 18, 2008.
6. **Acceptance of Lease Quitclaim Deed:** 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 has determined that this activity is not subject to the provisions of the CEQA because it is not a "project" as defined by the CEQA and the State CEQA Guidelines.

Authority: Public Resources Code section 21065 and Title 14, California Code of Regulations, sections 15060 (c)(3) and 15378.
7. **Issuance of New Lease:** a Mitigated Negative Declaration was prepared and adopted for this project by the California Public Utilities Commission. The California State Lands Commission's staff has reviewed such document. A Mitigation Monitoring Program was adopted by California Public Utilities Commission.
8. 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.

APPROVALS OBTAINED:

California Public Utilities Commission

EXHIBITS:

- A. Location Map
- B. Land Description
- C. Mitigation Monitoring and Reporting Program

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

ACCEPTANCE OF LEASE QUITCLAIM DEED: FIND THAT THE ACTIVITY IS NOT SUBJECT TO THE REQUIREMENTS OF THE 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.

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ISSUANCE OF NEW LEASE: FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN EXHIBIT C, ATTACHED HERETO.

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. ACCEPT LEASE QUITCLAIM DEED FROM PACIFIC GAS AND ELECTRIC COMPANY FOR LEASE NO. PRC 5040.1 AS DESCRIBED ON EXHIBIT B AND BY THIS REFERENCE MADE A PART HEREOF.
2. AUTHORIZE ISSUANCE OF A GENERAL LEASE - RIGHT OF WAY USE, TO SAN PABLO BAY PIPELINE LLC BEGINNING OCTOBER 19, 2005, FOR A TERM OF 15 YEARS, FOR AN EXISTING NON-OPERATIONAL 16-INCH STEEL PIPELINE AS SHOWN ON EXHIBIT A ATTACHED AND AS DESCRIBED ON EXHIBIT B AND BY THIS REFERENCE MADE A PART HEREOF; ANNUAL RENT IN THE AMOUNT OF \$7,560, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; LIABILITY INSURANCE FOR COMBINED SINGLE LIMIT COVERAGE OF \$5,000,000; AND SURETY IN THE AMOUNT OF \$25,000.