CALENDAR ITEM

C14

A 25 02/01/10
WP 6703.2
S 12 C. Hudson

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

APPLICANT:

Pacific Gas and Electric Company
77 Beale Street
San Francisco, California 94106

AREA, LAND TYPE, AND LOCATION:

A 0.355 acre parcel, more or less, of State Indemnity school lands in a portion of Section 28, Township 4 South, Range 18 East, MDM, near the town of Mariposa, Mariposa County.

AUTHORIZED USE:

Continued use and maintenance of existing 70kV overhead transmission lines, one wood pole, and an unpaved access road as shown on the attached Exhibit A.

LEASE TERM:

25 years, beginning July 1, 2009.

CONSIDERATION:

$100 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 with coverage of no less than $2,000,000. Applicant may satisfy all or part of the insurance requirements through maintenance of a staff-approved self-insurance program as outlined in the Lease.

BACKGROUND:

School Lands were granted to the State of California by the federal government under the Act of March 3, 1853 (10 Stat. 244), and consisted of the 16th and 36th sections of land in each township (with the exceptions of lands reserved for public use, lands taken by private land claims, and lands known to be mineral in

character). In cases of preemption due to the exceptions described above, the State was given the opportunity to select replacement lands from the United States in lieu of a Section 16 or a Section 36. These replacement lands are now known as Indemnity School Lands or Lieu Lands.

OTHER PERTINENT INFORMATION:

1. On July 12, 1984, the Commission authorized a General Lease - Right of Way Use with Pacific Gas and Electric Company. That lease expired on June 30, 2009. A new General Lease – Right of Way Use was approved by the Commission at its October 22, 2009 meeting, but that lease did not contain a provision allowing for self-insurance, which the applicant desires. Staff is now recommending rescission of the lease approval and issuance of a new General Lease – Right of Way Use containing a provision for a self-insurance program.

2. The electrical transmission lines are maintained annually in accordance with General Order 95 (California Public Utility Commission), which governs Pacific Gas and Electric Company's maintenance of its overhead electric facilities.

3. **Rescind Approval 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 15060(c)(3)], the staff has 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, 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 14, California Code of Regulations, section 15301(b).

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

5. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. However, the Commission has 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 upon the requirements and criteria of Public Resources Code sections 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.

EXHIBITS:

A. Site and Location 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 14, California Code of Regulations, section 15301(b).

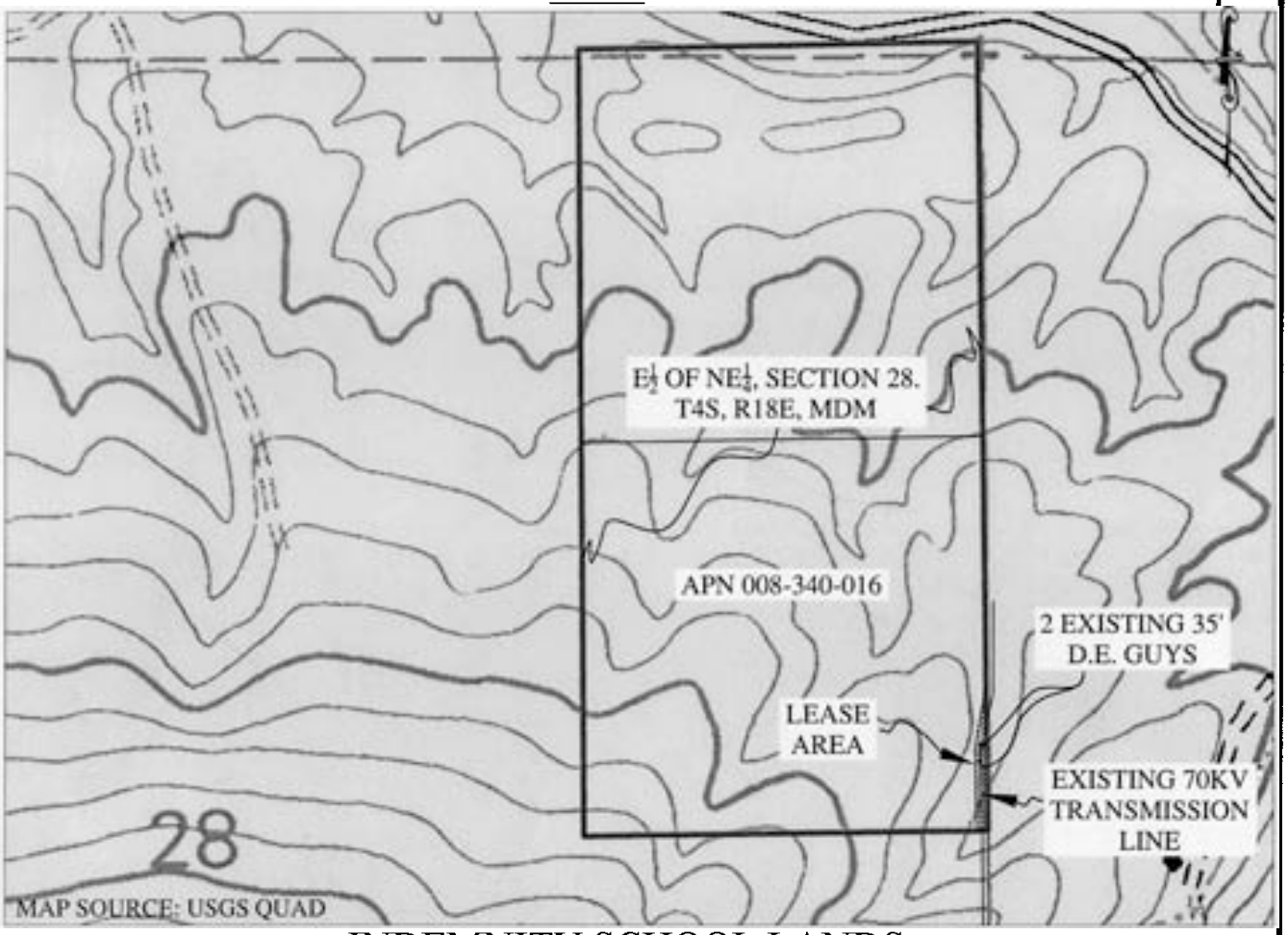
AUTHORIZATION:

Authorize rescission of Minute Item #C31 of the October 22, 2009 Commission meeting and issuance of a General Lease – Right of Way Use to Pacific Gas and Electric Company beginning July 1, 2009, for a term of 25 years, for the continued use and maintenance of existing 70kV overhead transmission lines, one wood pole, and an unpaved access road as shown on Exhibit A (for reference purposes only) and as described on Exhibit B attached and by this reference made a part hereof; annual rent in the amount of $100 with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease; and General Liability insurance with coverage of no less than $2,000,000;

Applicant may satisfy all or part of the insurance requirements through maintenance of a self-insurance program as outlined in the lease.

NO SCALE

SITE

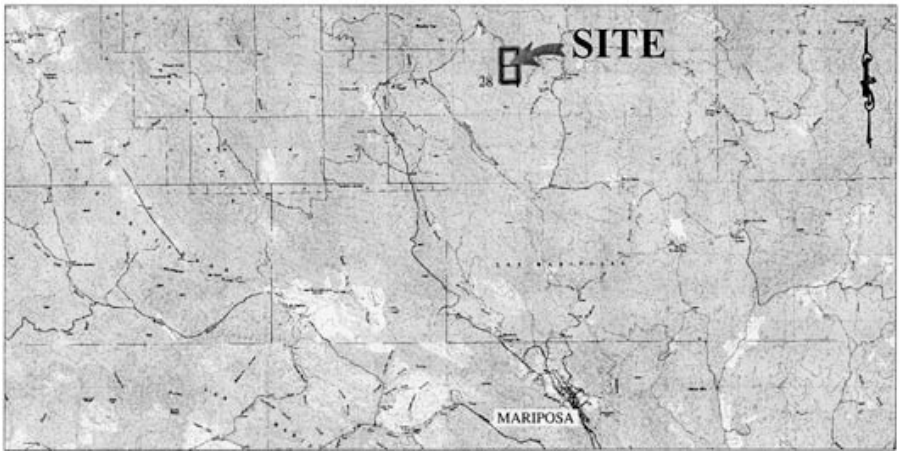


INDEMNITY SCHOOL LANDS

EAST ½ OF NORTHEAST ¼, SECTION 28, TOWNSHIP 4 SOUTH, RANGE 18 EAST, MOUNT DIABLO MERIDIAN

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit A

WP 6703.2
PACIFIC GAS AND ELECTRIC COMPANY
APN 008-340-016
GENERAL LEASE - RIGHT OF WAY USE
MARIPOSA COUNTY

JWP 06/09