

**CALENDAR ITEM
C70**

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05/24/2012

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**CONSIDER APPROVAL OF A
NEGOTIATED SUBSURFACE (NO SURFACE USE)
NATURAL GAS LEASE,
SACRAMENTO RIVER NEAR GRIMES,
COLUSA AND SUTTER COUNTIES**

APPLICANT:

Foothill Energy LLC
Attn.: Mr. Clifford L. Conkle, Attorney at Law
1 Riverway, Suite 610
Houston, TX 77056

AREA, LAND TYPE, AND LOCATION:

A parcel containing approximately 35.09 acres of State-owned submerged land lying in the bed of the Sacramento River in Sections 5 and 6, T14N, R1E, Mount Diablo Meridian, bound on the north by the westerly prolongation of the north line of said Section 6; bound on the south by the line of Latitude N 39 05 28; and bound on the east and west by the Low Water Marks of the Sacramento River in Sutter and Colusa Counties, California (Exhibit A attached hereto).

BACKGROUND:

Foothill Energy LLC (Foothill) has applied for a negotiated subsurface (no surface use) Natural Gas Lease on the above mentioned lands (Exhibit B, attached hereto). Because the State lands are waterways, surface drill sites are not available. However, natural gas resources that may underlie the State lands can be developed and hence preserved pursuant to a California State Lands Commission's (Commission) negotiated subsurface (no surface use) Natural Gas Lease. The lease would allow Commission-approved directional drilling from a County-approved drill site, and would permit inclusion of the leased lands in a Commission-approved pooled area or unit. Paragraph 21 of the proposed lease provides that the Lessee, with the consent of the State and under terms and conditions approved by the State, may pool or unitize all or part of the leased lands with lands held by Lessee or others.

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Public Resources Code section 6815, subdivision (a) authorizes the Commission to negotiate and enter into oil and gas leases on State lands if any of the following exists: wells drilled on private or public lands are draining or may drain oil and gas from the State lands; the Commission determines the State lands to be unsuitable for competitive bidding because of such factors as their small size or irregular configuration or their inaccessibility from surface drill sites reasonably available or obtainable; the State owns a fractional mineral interest in the lands; or the Commission determines the lease to be in the best interests of the State.

Because the applicant controls by lease and/or agreement, all of the private property adjacent to the State land described in Exhibit A, and because the applicant has county (lead agency) approval to drill a well near the State lands, Commission staff has concluded that the criteria of Public Resources Code section 6815 subdivision (a) have been satisfied and that a negotiated subsurface (no surface use) Natural Gas Lease with the applicant preserve from damage natural gas resources that may underlie the State lands.

OTHER PERTINENT INFORMATION:

1. The staff recommends that the Commission find that the subject Subsurface Lease Agreement does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

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

2. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. 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.
3. Annual rental of \$40.00 per acre (\$1,404 for 35.09 acres).
4. Royalty of 25 percent on natural gas.

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5. Performance bond or other security in the sum of \$10,000.
6. This item is contingent upon the Commission accepting the partial quitclaim of Compensatory Gas Agreement PRC 2628.1 coverings State lands contained in this lease.

EXHIBITS:

- A. Land Description
- B. Site Map

RECOMMENDED ACTION

It is recommended that the Commission:

CEQA FINDING:

Find that the subject Subsurface Lease Agreement is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

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 section 6370 et seq.

OTHER FINDINGS:

Determine that the criteria of Public Resources Code section 6815 subdivision (a) have been met, that a negotiated subsurface (no surface use) natural gas lease is the best instrument to develop and protect gas resources that may underlie the State land described in Exhibit A, attached hereto, and that the State land is unsuitable for competitive bidding because the applicant controls by lease and/or agreement all of the private properties adjacent to the State land and wells drilled on this adjacent private property may drain State Oil and Gas resources.

AUTHORIZATION:

1. Enter into a negotiated subsurface (no surface use) Natural Gas Lease with Foothill Energy LLC that contains the State land described in Exhibit A, attached hereto with the following terms: annual rental of \$40 per acre (\$1,404.00 for 35.09 acres), royalty on

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gas substances fixed at 25 percent, and performance bond or other security in the sum of \$10,000.

2. Authorize the Executive Officer or his designee to execute any documents necessary to implement the Commission's action.

EXHIBIT A

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LAND DESCRIPTION

A parcel of State owned submerged land lying in the bed of the Sacramento River adjacent to Sections 5 and 6, Township 14 North, Range 1 East, M.D.M., as shown on Official Government Township plat approved January 13, 1872, and also lying adjacent to Jimeno Rancho, surveyed February 1861, Counties of Sutter and Colusa, State of California, bounded as follows:

Bound on the north by the westerly prolongation of the north line of said Section 6; bound on the south by the line of Latitude N 39°05'28"; and bound on the east and west by the Low Water Marks of the Sacramento River.

Said Latitude is referenced to the North American Datum of 1983 (NAD 83).

END OF DESCRIPTION

Prepared 1/17/2012 by the California State Lands Commission Boundary Unit.



EXHIBIT B

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