

**CALENDAR ITEM
C58**

A 15
S 7

10/19/12
PRC 1725.1
N. Lavoie

GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:

E.I. du Pont de Nemours and Company

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the San Joaquin River adjacent to 6000 Bridgehead Road, near the city of Oakley, Contra Costa County.

AUTHORIZED USE:

Continued maintenance of a decommissioned 36-inch diameter outfall pipeline previously authorized by the Commission.

LEASE TERM:

Four years, beginning October 19, 2012.

CONSIDERATION:

\$480 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:

Liability insurance with coverage of no less than \$1,000,000 or equivalent staff-approved self-insurance program.

OTHER PERTINENT INFORMATION:

1. Applicant owns the upland adjoining the lease premises.
2. On August 15, 1956, the Commission authorized a 49-year Right-of-Way Easement to E.I. du Pont de Nemours and Company (du Pont). That lease expired on May 24, 2005. The Applicant applied for a new General Lease – Right-of-Way use.
3. Du Pont operated a manufacturing plant on the upland from 1956 to 1998 when they began the process of closing the operations and restoration of the upland site. The site was utilized to manufacture tetraethyl lead (a

CALENDAR ITEM NO. C58 (CONT'D)

gasoline "anti-knock" agent), a refrigeration cooling compound called Freon[®], and titanium dioxide (a white pigment used in a variety of household products and foods). Most of the buildings and site improvements were demolished in 1998 and 1999. The 36-inch outfall pipeline was used in conjunction with plant operations and was decommissioned in 1999. The pipeline extends from the bank 200-feet into the river, the first 60-feet buried to a depth of two feet, the remaining length lying on the bed of the river anchored by concrete pipe anchors. By letter dated April 18, 2008, the California Department of Toxic Substances Control (DTSC) approved the Phase III Surface Water and Sediment Request for Information Report, dated December 27, 2007. The report was prepared to satisfy the closure requirements under the National Pollution Discharge Elimination System permit and the Resource Conservation and Recovery Act. The report found that the surface water and sediment characteristics did not warrant remediation or further ecological risk evaluations.

4. Du Pont continues to conduct groundwater and soil remediation corrective action on the upland site under the direct oversight of the DTSC. Du Pont anticipates having the final phase of the upland soil remediation complete by 2015. The goal is to complete corrective action and allow for the property to be redeveloped in alignment with the city of Oakley's plan for business growth and other uses.
5. Because the prior lease expired, this lease is an interim arrangement in order to allow the Applicant the time to prepare a removal plan and obtain the necessary permits for the final removal of the outfall pipeline from the upland site and the portion on State land. Upon completion of the necessary environmental review and submission of necessary permits, the Applicant will request authorization from the Commission to remove the outfall pipeline and terminate the lease.
6. Staff recommends acceptance of rent in the amount of \$3,552 for the period of May 25, 2005, to October 18, 2012.
7. The staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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

CALENDAR ITEM NO. **C58** (CONT'D)

8. 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.

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

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.

AUTHORIZATION:

1. Authorize acceptance of rent in the amount of \$3,552 for the period of May 25, 2005, through October 18, 2012.
2. Authorize issuance of a General Lease – Right-of-Way Use to E.I. du Pont de Nemours and Company beginning October 19, 2012, for a term of four years, for the maintenance of a decommissioned 36-inch diameter outfall pipeline as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$480 with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease; and liability insurance with coverage of no less than \$1,000,000 or lessee may satisfy all or part of insurance requirement through maintenance of a self/insurance program as outlined in the lease.

EXHIBIT A

PRC 1725.1

LAND DESCRIPTION

A 100 foot wide strip of tide and submerged land lying in the bed of the San Joaquin River adjacent to Swamp and Overflow Survey No. 15 of Contra Costa County patented on October 13, 1909, County of Contra Costa, State of California, the centerline of which is described as follows:

BEGINNING at a point on the centerline of an existing 36" steel pipeline; said point lying distant S 64°17'52" E 48.11 feet from California State Lands Commission monument Gasline 1951, as shown on sheet 13 of the Survey of the Ordinary High Water Mark along the San Joaquin River Vicinity of Oakley on file with the California State Lands Commission (map index CB 608); thence along said centerline, or the prolongation thereof, N 00°52'05" E 297.00 feet to the terminus of said strip.

EXCEPTING THEREFROM any portion lying landward of the Ordinary High Water Mark of the left bank of the San Joaquin River.

END OF DESCRIPTION

Prepared 09/11/2012 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE

SAN JOAQUIN RIVER

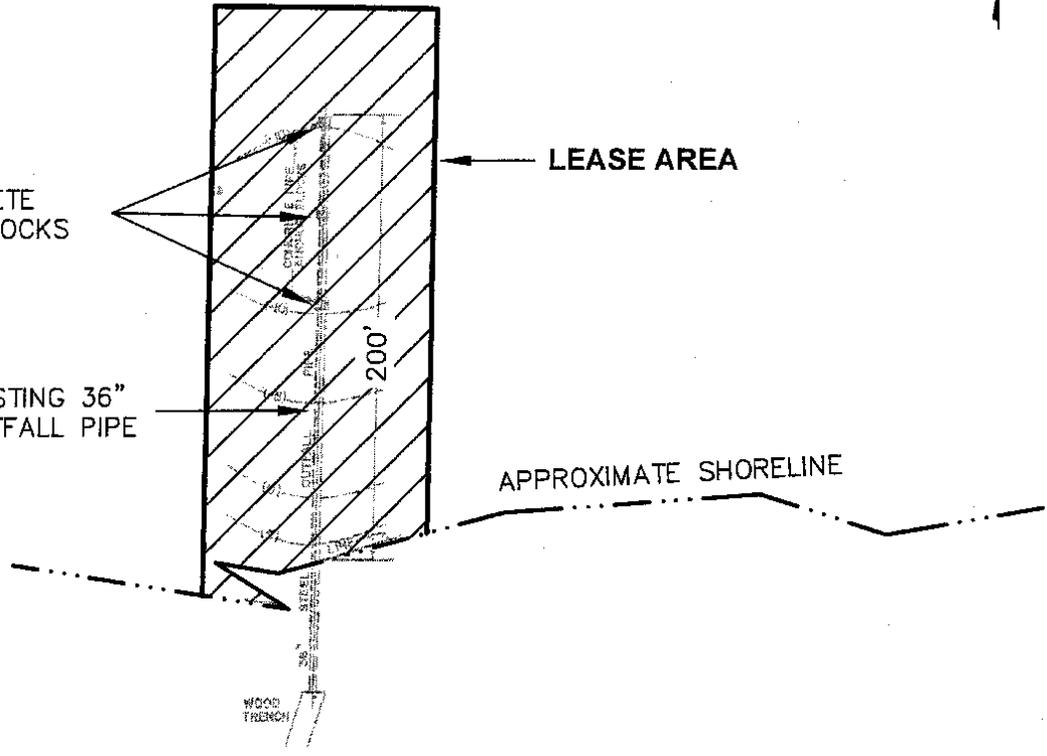


EXISTING CONCRETE PIPE ANCHOR BLOCKS

EXISTING 36" OUTFALL PIPE

LEASE AREA

APPROXIMATE SHORELINE

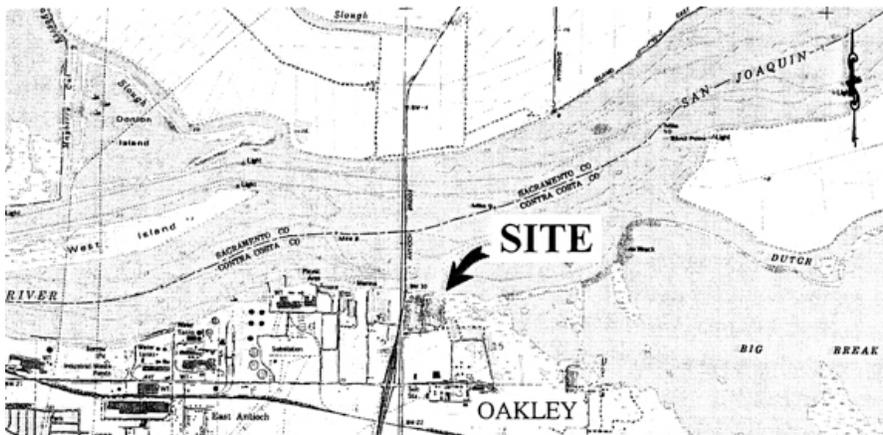


APN 037-020-015

6000 BRIDGEHEAD ROAD, OAKLEY

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 1725.1
E.I. DU PONT DE NEMOURS AND COMPANY
APN 037-020-015
GENERAL LEASE - RIGHT-OF-WAY USE
CONTRA COSTA COUNTY



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.

DIF 09/11/12