

**STAFF REPORT
C65**

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S 40

08/17/17
PRC 6868.2
C. Hudson

GENERAL LEASE – RIGHT-OF-WAY USE

APPLICANT:
SFPP, L.P.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

11.44 acres, more or less, of State-owned indemnity school lands located on three parcels, within portions of Section 30, Township 9 South, Range 13 East, SBM; Section 12, Township 9 South, Range 11 East, SBM; Section 34, Township 8 South, Range 11 East, SBM, near the Salton Sea, Riverside and Imperial Counties.

AUTHORIZED USE:

Use and maintenance of an existing pipeline used to transport refined petroleum products.

LEASE TERM:

25 years, beginning July 1, 2017.

CONSIDERATION:

\$9,975 per year, with an annual Consumer Price Index adjustment, and the State reserving the right to adjust the rent at each 10-year anniversary, as provided in the Lease.

SPECIFIC LEASE PROVISIONS:

Insurance: Liability insurance in an amount no less than \$2,000,000 per occurrence, or equivalent staff-approved self-insurance program.

Bond: Surety bond or other security in an amount of \$20,000.

Other: Lessee shall be responsible for reimbursing all of Lessor's reasonable staff expenses, not to exceed \$5,000 per year, for ensuring compliance with all terms and conditions of the Lease.

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BACKGROUND:

On July 25, 1985 ([Item C15, July 25, 1985](#)), the Commission authorized a 30-year General Lease – Right-of-Way Use to Southern Pacific Pipe Lines, Inc., (SPPL) for the installation, use, and maintenance of a 20-inch-diameter pipeline designated as (LS) 111, used to transport refined petroleum products and an existing 12-inch-diameter refined petroleum product pipeline. It was planned that the 12-inch-diameter pipeline would be deactivated in favor of the 20-inch-diameter pipeline. On June 11, 1990 ([Item C04, June 11, 1990](#)), the Commission authorized an assignment of the lease from SPPL to SFPP, L.P., for the existing improvements.

On July 29, 1993 ([Item C04, July 29, 1993](#)), the Commission authorized an encumbrancing of the lease for a loan for capital improvements and refinancing of SFPP's existing debt. As a condition of the loan, the secured-party lenders had requested that they be named as such under the subject lease.

On April 20, 2000 ([Item C63, April 20, 2000](#)), the Commission authorized amendment of the lease to delete the idle 12-inch-diameter pipeline from the authorized improvements and reduce the annual rent. At the same meeting, the Commission authorized a separate lease for SFPP, L.P., Lease No. PRC 8150.2, to convert the existing 12-inch-diameter pipeline to a fiber optic line, a sublease to Williams Communication, and an agreement and consent to encumbrancing of the lease. Lease No. PRC 6868.2 expired on June 30, 2015.

STATE'S BEST INTERESTS ANALYSIS:

Since the pipeline was placed into operation, routine inspections and maintenance have been conducted by SFPP's personnel in accordance with title 49 of the Code of Federal Regulations, part 195, along with pipeline patrols and leak surveys. SFPP utilizes an active cathodic protection system on its pipeline to protect it against corrosion. In May 2016, the Applicant conducted an inline inspection and a cathodic protection pipeline inspection and the pipeline was found to be operating correctly. The lease requires the lessee to insure and indemnify the State for any liability incurred as a result of the lessee's activities hereon. The lease requires the lessee to maintain the land at no expense to the State. The lease also requires the payment of annual rent, generating revenue for the California State Teachers' Retirement System, consistent with the School Land Bank Act.

While the lease expired on June 30, 2015, the Applicant has been working with staff and has submitted holdover rental payments through June 30, 2017, so staff recommends the new lease start on July 1, 2017. The proposed lease is limited to a 25-year term, does not alienate the State's fee simple interest, and does not grant the lessee exclusive rights to the lease premises.

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For the reasons stated above, staff believes that issuance of this lease is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. School lands were granted to the State of California by the federal government under the Act of March 3, 1853 (Ch. 145, 10 Stat. 244), and consisted of the 16th and 36th sections in each township (with the exception 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.
2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction, and Strategy 2.1 to optimize returns for the responsible development and use of State lands and resources, both onshore and offshore.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

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

4. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 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 section 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 California Code of Regulations, title 2, section 2954 is not applicable.

STAFF REPORT NO. **C65** (CONT'D)

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 14, section 15301.

STATE'S BEST INTERESTS:

Find that the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Right-of-Way Use to SFPP, L.P., beginning July 1, 2017, for a term of 25 years, for the use and maintenance of an existing 20-inch-diameter pipeline (LS) 111, used to transport refined petroleum products 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 \$9,975 per year, with an annual Consumer Price Index adjustment and the State reserving the right to adjust the rent at each 10-year anniversary, as provided in the lease; liability insurance in an amount no less than \$2,000,000 per occurrence, or equivalent staff-approved self-insurance program; and surety bond or other security in an amount of \$20,000.

EXHIBIT A

PRC 6868.2

LAND DESCRIPTION

Three parcels of California State lieu lands in Riverside and Imperial Counties, California, said parcels being strips of land lying 10 feet on each side of a gas fuel line, the centerline of said strips being more particularly described as follows:

PARCEL 1

BEGINNING at a point on the north line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of Section 34, T8S, R11E, SBM, Riverside County, said point being 420 feet easterly of the W $\frac{1}{4}$ corner of said Section 34; thence from said point of beginning S 50° 13' E, 1154 feet to a point on the east line of the W $\frac{1}{2}$ of the SW $\frac{1}{4}$ of said Section 34 and the end of the herein described line.

PARCEL 2

BEGINNING at a point on the west line of Section 12, T9S, R11E, SBM, Imperial County, said point being 975 feet southerly of the NW corner of said Section 12; thence from said point of beginning S 68° 04' E, 5715 feet to a point on the east line of said Section 12 and the end of the herein described line.

PARCEL 3

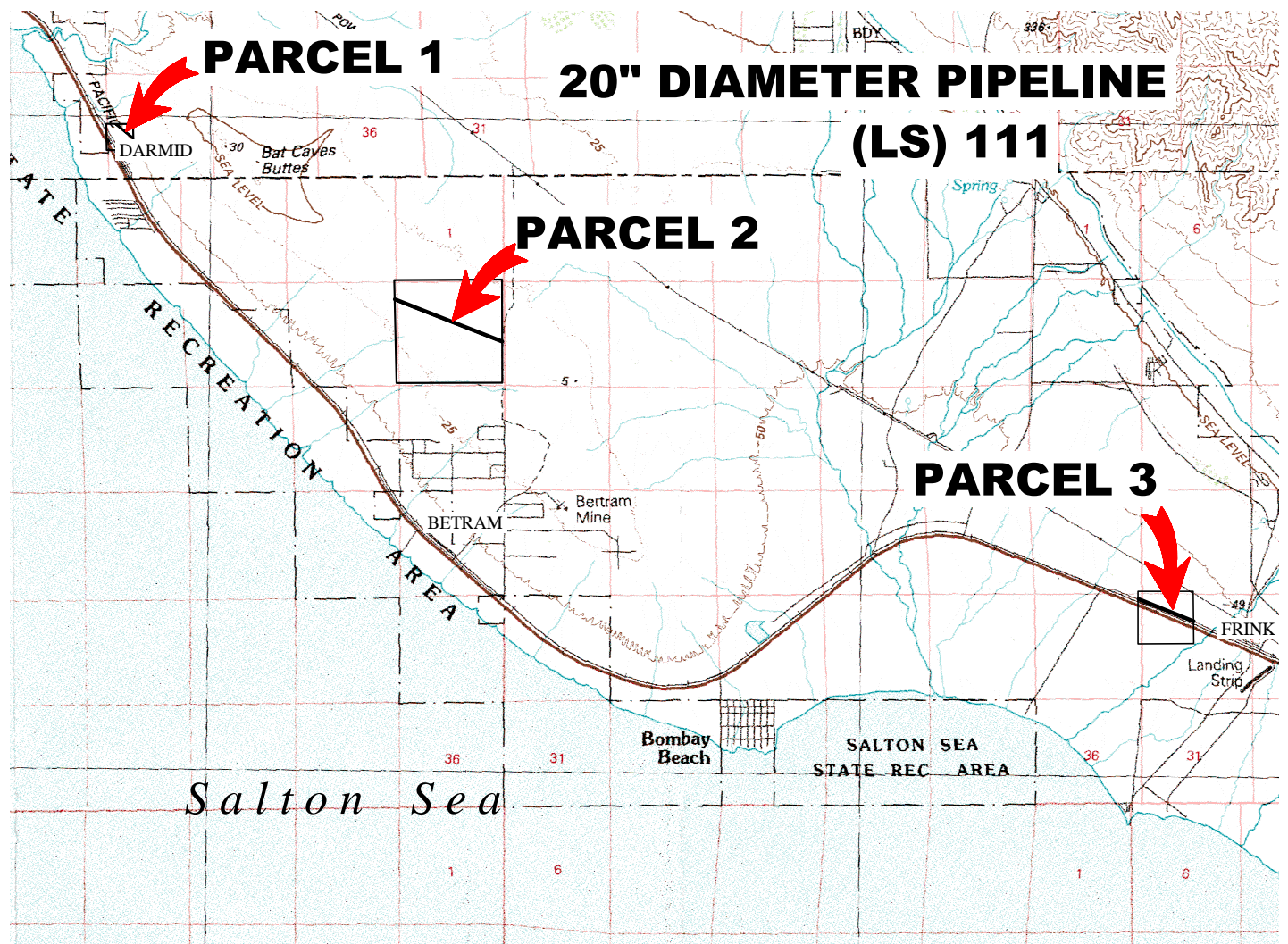
BEGINNING at a point on the west line of Section 30, T9S, R13E, SBM, Imperial County, said point being 4730.3 feet northerly of the SW corner of said Section 30; thence from said point of beginning S 68° 04' E, 2179 feet; thence S 71° 13' E, 328 feet; thence S 65° 53' E, 468 feet; thence S 68° 04' E, 125 feet to the east line of Lot 1 of the NW $\frac{1}{4}$ of said Section 30 and the end of the herein described line.

END OF DESCRIPTION



NO SCALE

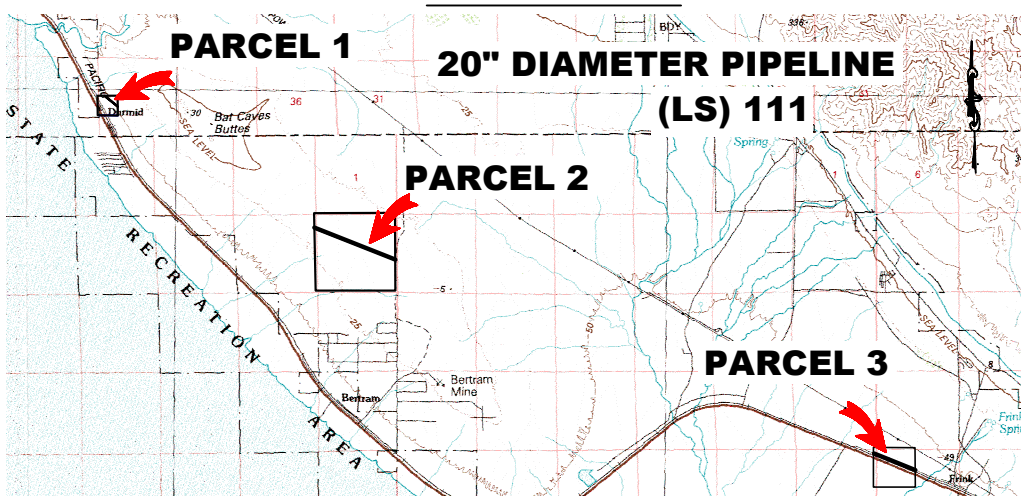
SITE



SECTION 30 T9S R13E; SECTION 12 T9S R11E; SECTION 34 T8S R11E SBMB

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 6868.2
 SFPP, L.P. PIPELINE
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 RIVERSIDE & IMPERIAL
 COUNTIES



MJJ 7/17/2017

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.