

**STAFF REPORT
C32**

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02/04/19
PRC 3277.1
M. Schroeder

**CONSIDER ADOPTION OF A MITIGATED NEGATIVE DECLARATION AND
ADOPTION OF A MITIGATION MONITORING PROGRAM AND
AN AMENDMENT OF LEASE**

LESSEE:

Chevron U.S.A., Inc.

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Honker Bay, Solano and Contra Costa Counties; Roaring River Slough, Montezuma Slough, and Grizzly Slough, Solano County; and the Sacramento River, Yolo and Sacramento Counties.

AUTHORIZED USE:

Continued use and maintenance of an existing 8-inch-diameter refined petroleum products pipeline, the decommissioning and abandonment-in-place of pipeline segments, construction of a temporary work platform, installation of temporary pilings and buoys, installation of a new horizontal directional drilled (HDD) 8-inch-diameter pipeline, and placement of articulated concrete blankets over the pipeline tie-ins. The decommissioned and abandoned-in-place segments of the pipeline will remain under lease.

LEASE TERM:

25 years, beginning October 13, 2016.

CONSIDERATION:

\$9,511 per year, with an annual Consumer Price Index adjustment, and with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

PROPOSED AMENDMENT:

Section 2, Paragraph 10 is amended to add the following provision:

Lessee desires to install a new HDD pipeline under Montezuma Slough. Upon activation of the new HDD pipeline, Lessee shall decommission and abandon in place segments of the 8-inch-diameter refined petroleum products pipeline consisting of approximately 500 linear feet lying approximately 45 feet beneath the bed of Montezuma Slough, Solano County.

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The amendment shall be effective February 4, 2019. All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Environmental Review:

The Commission is the lead agency for the project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) and conducted an Initial Study to determine if the Project may have a significant effect on the environment (State CEQA Guidelines, § 15063). Although the Initial Study identified several potentially significant impacts to the environment for aesthetics, biological resources (terrestrial and marine), cultural and paleontological resources, and Tribal cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, and land use and planning, mitigation measures (MMs) were proposed and agreed to by the Applicant prior to public review that would avoid or mitigate the identified potentially significant impacts “to a point where clearly no significant effects would occur” (State CEQA Guidelines, § 15070, subd. (b)(1)). See Exhibit C, Mitigation Monitoring Program, for identified MMs. Consequently, the Initial Study concluded that “there is no substantial evidence, in light of the whole record before the agency, that the Project as revised may have a significant effect on the environment” (State CEQA Guidelines, § 15070, subd. (b)(2)).

Pursuant to the Commission’s delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15025), staff prepared a Mitigated Negative Declaration (MND) identified as CSLC MND No. 798, State Clearinghouse No. 2018122022. The proposed MND and Initial Study were circulated for a 30-day public review period from December 11, 2018, to January 14, 2019, and staff received one comment letter from the California Department of Conservation Oil, Gas and Geothermal Resources.

- Charlene Wardlow, Northern District Deputy, comments identified abandoned natural gas wells within the area of the Project. The comments, however, did not address any specific environmental issues related to the Project or activities within the scope of the Project.

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The comments received did not require any revisions to the MND; however, staff did make minor revisions to the MND to correct typos and other minor corrections that were identified after publication.

Tribal Cultural Resources

In keeping with its Tribal coordination practices and pursuant to the Commission's Tribal Consultation Policy, staff also separately notified the three California Native American Tribes identified by the Native American Heritage Commission (NAHC) of the availability of the MND for public comment. The NAHC also provided a Native American contact list that staff used for outreach and coordination. One of the three Tribes with geographical or cultural affiliation in Solano County, United Auburn Indian Community of the Auburn Rancheria, submitted a written request to the Commission for notification of CEQA projects pursuant to AB 52. In October 2018, the Commission staff contacted the Tribal Chairpersons identified for United Auburn Indian Community of the Auburn Rancheria to ensure the Tribe had an opportunity to provide meaningful input on the potential Tribal cultural resources in the Project area, and what steps should be taken to ensure adverse impacts to Tribal cultural resources are avoided. Commission staff also sent outreach letters in October 2018 to two other Tribes identified by the NAHC:

- Yocha Dehe Wintun Nation
- Cortina Rancheria - Kletsel Dehe Band of Wintun Indians

On November 19, 2018, Commission staff received one letter from the Yocha Dehe Wintun Nation, within whose aboriginal territory the project is located. The letter recommends the inclusion of a provision requiring cultural sensitivity training prior to the start of project-related activities; this requirement is included in Mitigation Measure CUL-1 (see Exhibit C, Mitigation Monitoring Program).

Conclusion

Staff believes that the changes made to the MND by staff do not constitute a "substantial revision," as defined in State CEQA Guidelines section 15073.5, subdivision (b), and that recirculation of the MND prior to Commission consideration is not required pursuant to in State CEQA Guidelines section 15073.5, subdivision (c).

Based upon the Initial Study, the MND, and the comments received during the public review process, staff believes there is no substantial evidence that the project will have a significant effect on the environment (Cal. Code Regs., tit. 14, § 15074, subd. (b)).

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A Mitigation Monitoring Program has been prepared in conformance with the provisions of CEQA (Pub. Resources Code, § 21081.6), and is contained in Exhibit C, attached.

Public Trust and State's Best Interests Analysis:

The Lessee has authorization to use the uplands adjoining the lease premises. On October 13, 2016, the Commission terminated Lease No. PRC 3277.1, adopted a MND and Mitigation Monitoring Program, and authorized a General Lease – Right-of-Way Use to Chevron U.S.A., Inc., (Chevron) for a 25-year term to continue the use and maintenance of the existing 8-inch-diameter refined petroleum products pipeline, abandon segments of the pipeline in place, and install temporary work platforms, sheet piles, pilings, and buoys in Honker Bay for installation of a new HDD pipeline segment 75 feet below the beds of Roaring River Slough, Grizzly Slough, and a small portion of Honker Bay and Suisun Marsh ([Item C24, October 13, 2016](#)).

On February 7, 2017, the Commission authorized an amendment of the lease to install a new HDD pipeline under Roaring River Slough, Grizzly Slough, and the northernmost pipeline section under Honker Bay, and upon reactivation of the new HDD pipeline, to decommission and abandon in place segments of the pipeline under Roaring River Slough, Grizzly Slough, and the northernmost section of Honker Bay ([Item C28, February 7, 2017](#)). The lease will expire on October 12, 2041. The Lessee is now applying to amend the lease for the proposed installation of an HDD pipeline and abandonment-in-place of the existing 8-inch-diameter pipeline under Montezuma Slough, as described and shown on the attached Exhibits A and B as Lease Parcel 1.

The pipeline is continually maintained by the Lessee in compliance with the regulations and requirements established by the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration. Recent inspections of the pipeline show anomalies (i.e., minor imperfections of the pipe's walls) in the pipeline segment crossing Montezuma Slough. To eliminate these anomalies and reduce the impacts of future potential maintenance and repairs, the Lessee proposes to replace the pipeline crossing Montezuma Slough. The proposed project would not increase pipeline capacity or throughput.

The new HDD pipeline will be installed from two entry points, one located at the Birds Landing Work Site, north of Birds Landing Road, and the other point will be located at the Grizzly Landing Work Site, north of Grizzly Island Road. The HDD pipeline installation method, with the subsequent

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abandonment-in-place of the existing line, allows for fewer impacts to the Suisun Marsh and is recommended over the alternative installation techniques, such as conducting separate repairs to the existing line using the open trenching method. The decommissioned and abandoned-in-place segments of the pipeline will continue to remain under lease.

Commission staff believes that the proposed lease amendment for the installation of a HDD pipeline and abandonment-in-place of the existing 8-inch-diameter pipeline under Montezuma Slough, will not substantially interfere with the Public Trust needs and values at this location because the installation of the new pipeline and the abandonment of the existing pipeline are below the bed of the slough and will have a negligible, if any, impact on the recreational use of Montezuma Slough.

This proposed Project will satisfy U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration and California State Fire Marshal pipeline safety requirements, eliminate the existing anomalies, improve the pipeline's safety from anchor snags by placement of articulated concrete blankets over the pipeline tie-ins, and reduce the potential for product delivery interruptions.

Climate Change:

Given the replaced pipeline will be as much as 120 feet below tidal areas of Suisun Marsh and Montezuma Slough, sea-level rise as a function of the global climate change process is not expected to have any effect on the Project. Additional background information on climate change and sea-level rise is provided in Section 5.1 of the MND.

Conclusion:

For all the reasons above, staff believes the lease amendment will not result in significant changes in the use of, or impacts to, Public Trust resources; does not substantially interfere with Public Trust needs and values at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. 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 1.5 to ensure the highest level of environmental protection and public safety in the production and transportation of oil and gas resources.

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2. The Project involves lands identified as possessing significant environmental values within the Commission's Significant Lands Inventory, pursuant to Public Resources Code section 6370 et seq. The Project area is in the Significant Lands Inventory as parcel number 48-128-000, which includes the tidelands of Montezuma Slough. The subject lands are classified in use category Class B, which authorizes limited use. Environmental values identified for these lands are mostly biological, including endangered species, fish spawning, fishery and wildlife support, and critical ecosystem, but also having recreational values. Based upon Commission staff's review of the Significant Lands Inventory, consultation with California Department of Fish and Wildlife, and through the CEQA analysis provided in this MND, the project, as proposed, will not significantly affect those lands and is consistent with the use classification.

APPROVALS REQUIRED:

San Francisco Bay Conservation and Development Commission
California Department of Water Resources
California Department of Fish and Wildlife
San Francisco Bay Regional Water Quality Control Board
U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service
Solano County

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that an MND, CSLC MND No. 798 (January 2019), State Clearinghouse No. 2018122022, was prepared for this project pursuant to the provisions of CEQA, that the Commission has reviewed and considered the information contained therein and in the comments received in response thereto and that the MND reflects the Commission's independent judgment and analysis.

Adopt the MND and determine that the project, as approved, will not have a significant effect on the environment.

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Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment will not substantially impair the public rights to navigation, fishing, and commerce; or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

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:

Authorize the amendment of Lease No. PRC 3277.1, a General Lease – Right-of-Way Use, of sovereign land located in Montezuma Slough, Honker Bay, Roaring River Slough, Grizzly Slough, and the Sacramento River as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached, and by this reference made a part hereof, effective February 4, 2019, to Chevron U.S.A., Inc.; to install a new horizontal directional drilled 8-inch-diameter refined petroleum products pipeline and abandon in place the existing 8-inch-diameter pipeline under Montezuma Slough; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 3277.1

LAND DESCRIPTION

Five (5) parcels of tide and submerged lands along a pipeline as shown on map entitled "Pipeline San Francisco Area", dated August 28, 1969, No. PL SK 69-5, a copy of which is located in State Lands Commission file WP 3277, more particularly described as follows:

PARCEL 1

A strip of tide and submerged land 25 feet wide across the bed of Montezuma Slough approximately one mile south of Mein's Landing, Solano County, California, said strip lying 12.5 feet on each side of the following described center line:

BEGINNING at a point on the southerly bank of Montezuma Slough which bears S 8°00'19"W 7,419.95 feet from U.S.C.&G.S. triangulation station "Meins 2", said station having California Zone 3 coordinates of X = 1,596,701.75 and Y = 599,696.59; thence from the point of beginning N 23°19'18"E approximately 320 feet to the northerly bank of Montezuma Slough; containing 0.184 acre more or less.

EXCEPTING THEREFROM any land lying above the ordinary high water mark of Montezuma Slough.

Bearings and distances used in the above description are based on the California Coordinate System Zone 3.

PARCEL 2

A strip of tide and submerged land 100 feet wide in Suisun Bay and Honker Bay at their junction with the Sacramento River, Contra Costa and Solano Counties, approximately 3 miles west of Pittsburg, California, said strip lying 35 feet westerly and 65 feet easterly of the following described line:

BEGINNING at a point on the mean high tide line of Suisun Bay which bears N 6°48'44"E 7,278.85 feet more or less from Shell Oil Company water tank, said water tank having California Zone 3 coordinates of X = 1,584,136.14 and Y = 559,631.32; thence from the point of beginning leaving the mean high tide line N 10°53'00"E 300.00 feet and N 19°40'04"E approximately 12,575 feet to the southerly high water mark of Honker Bay.

SUBJECT TO the effect of the decree in the judgment quieting title in Solano County Superior Court Case No. 16074, Homer S. King v. State of California.

The bearings and distances used in the above description are based on the California Coordinate System Zone 3.

PARCEL 3

A strip of tide and submerged land 25 feet wide across the bed of the Sacramento River situate near Frederick A. Miller Park, Sacramento and Yolo Counties; said strip lying 12.5 feet on each side of the following described center line:

BEGINNING at a point on the right bank of the Sacramento River which bears N 44°16'15"E 163.91 feet from an iron pipe designated R.E. 53 and having California Zone 2 coordinates of X = 2,138,327.40 and Y = 324,959.69; thence from said point of beginning N 47°45'42"E approximately 600 feet to the left bank of the Sacramento River, containing 0.344 acre more or less.

EXCEPTING THEREFROM any land, if any, lying above the ordinary high water mark of the Sacramento River.

Bearings and distances used in the above description are based on the California Coordinate System Zone 2.

PARCEL 4

A strip of land 25 feet wide and approximately 100 feet in length across the bed of Grizzly Slough, Solano County, extending from the mean high tide line on the right bank to the mean high tide line on the left bank, the center line of said strip being a line having a bearing of N 25°32'04"E and being distant at right angles 458.74 feet from U.S.C.&G.S. triangulation station "Wheeler", said station having California Zone 3 coordinates of X = 1,588,837.86 and Y = 579,114.76, containing 0.057 acre more or less.

Bearings and distances used in the above description are based on the California Coordinate System Zone 3.

PARCEL 5

A strip of land 25 feet wide and approximately 100 feet in length across the bed of Roaring River Slough, Solano County, extending from the mean high tide line on the right bank to the mean high tide line on the left bank, the center line of said strip being a line having a bearing of N 25°32'04"E

and being distant at right angles 458.74 feet from U.S.C.&G.S. triangulation station "Wheeler", said station having California Zone 3 coordinates of X = 1,588,837.86 and Y = 579,114.76, containing 0.057 acre more or less.

Bearings and distances used in the above description are based on the California Coordinate System Zone 3.

END OF DESCRIPTION

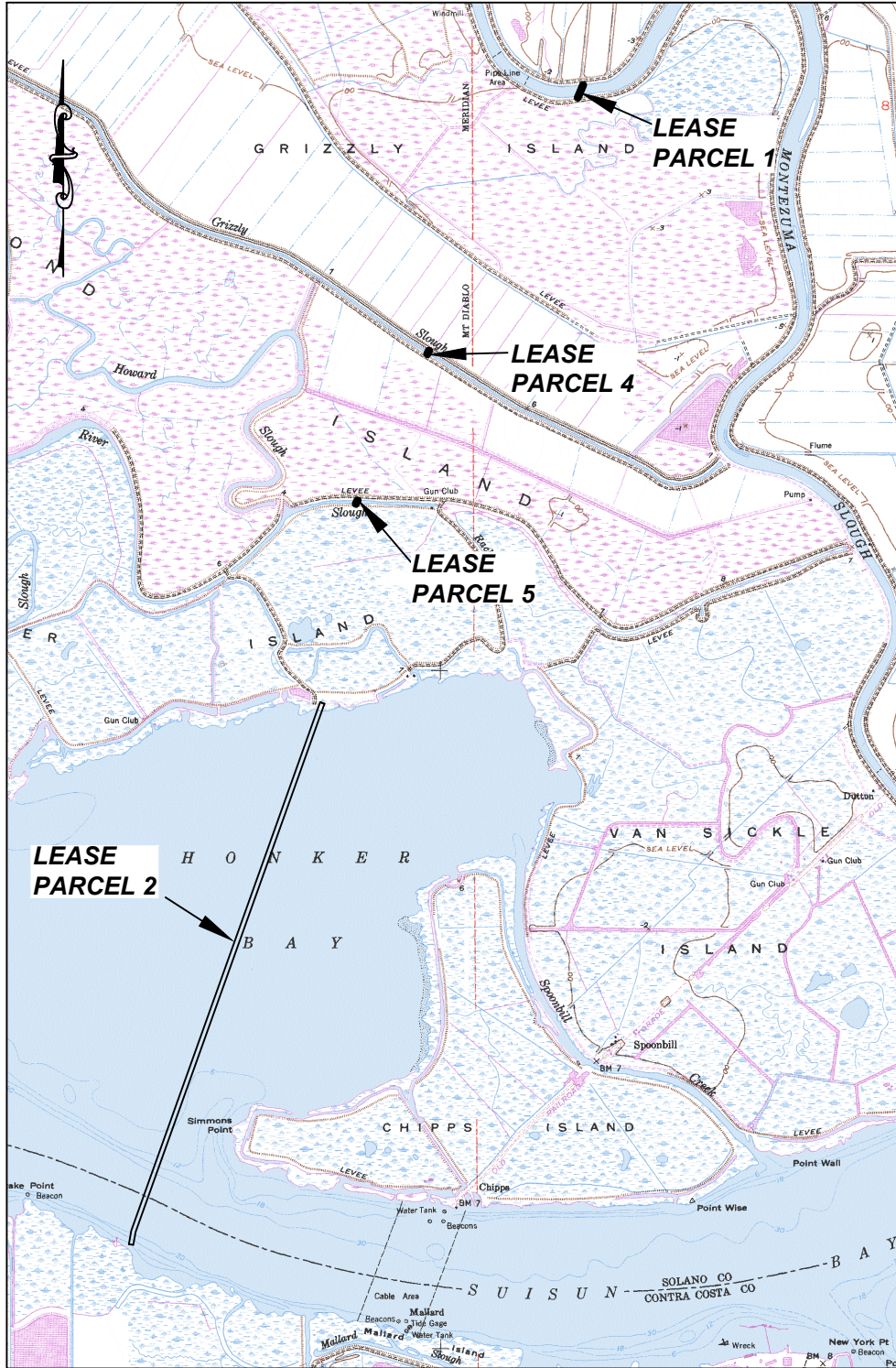
PREPARED DECEMBER 4, 1980 BY TECHNICAL SERVICES UNIT, ROY MINNICK, SUPERVISOR.

PARCEL 2 of the above description revised by California State Lands Commission Boundary Unit on September 22, 2016.



NO SCALE

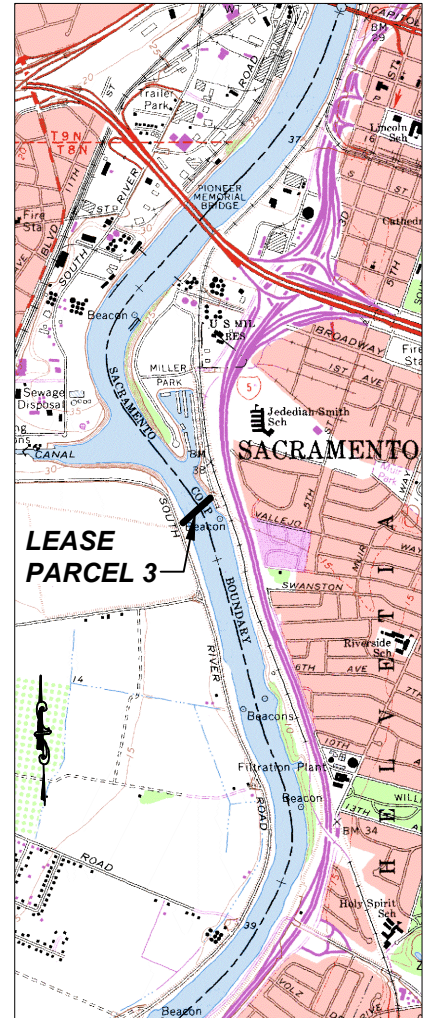
SITE



**HONKER BAY, ROARING RIVER SLOUGH,
GRIZZLY SLOUGH & MONTEZUMA SLOUGH**

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.



SACRAMENTO RIVER

Exhibit B

PRC 3277.1
CHEVRON U.S.A. INC.
GENERAL LEASE-
RIGHT-OF-WAY USE
CONTRA COSTA, SOLANO,
SACRAMENTO & YOLO
COUNTIES



SITE

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