

**CALENDAR ITEM
C32**

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06/28/16
PRC 7832.1
A. Franzoia

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

APPLICANT:

Delta Gas Gathering, Inc.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

0.23 acre, more or less, of sovereign land in Miner Slough, Ryer Island, Solano County.

AUTHORIZED USE:

Continued operation, maintenance, and monitoring of a six-inch-diameter steel welded natural gas pipeline.

LEASE TERM:

20 years, beginning July 1, 2015.

CONSIDERATION:

\$450 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.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in an amount no less than \$1,000,000 per occurrence.

Surety:

\$10,000

Other:

Within 90 days of the lease execution, Lessee shall provide updated "as-built" drawings, certified by a California licensed land surveyor or licensed Civil/Structural Engineer, showing the

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pipeline's horizontal alignment and vertical profile (including river bottom) through the lease area with all pertinent existing features such as valves, flanges, reducers, pipeline anchors, supports, thrust blocks etc. The drawings shall also include delineation of the high and/or low water marks in the waterway and State Lands Commission's lease boundaries.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, and 6301; California Code of Regulations, Title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the State for statewide Public Trust purposes that include, but are not limited to, waterborne commerce, navigation, fisheries, water-related recreation, visitor-serving amenities, habitat preservation, and open space. The Commission is the trustee of the State's sovereign land at Miner's Slough.

Natural gas pipeline facilities serve the energy needs of all Californians and do not generally interfere with public trust needs and values.

The pipeline is underneath the bed of the slough and does not interfere with navigation. The facilities do not significantly alter the land, the lease does not alienate the State's sovereign interest, and neither permanently impairs public rights. Upon termination of the lease, the Lessee may be required to remove any improvements and restore the lease premises to their original condition. Based on the foregoing, Commission staff believes that the existing natural gas pipeline facilities will not substantially interfere with Public Trust needs, at this location, for the foreseeable term of the proposed lease.

The proposed lease requires the lessee to insure the lease premises and indemnify the state for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and in the best interests of the State.

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OTHER PERTINENT INFORMATION:

1. Applicant has an easement for the upland adjoining the lease premises.
2. On July 6, 1995, the Commission authorized a General Lease - Right-of-Way Use to Delta Gas Gathering, Inc., for the construction of a six-inch-diameter welded steel pipeline, crossing Miner and Elkhorn Sloughs, to carry natural gas from the Delta Gas Gathering, Inc., meter station to a Sacramento Valley Pipeline Company interconnect point in the vicinity of Jefferson Boulevard and Willow Point Road, Yolo County (Calendar Item C2). That lease expired on June 30, 2015. The Applicant has submitted a lease application.
3. The Applicant has informed staff, in writing, that the pipeline previously authorized across Elkhorn Slough was never installed. The new application does not include a crossing of Elkhorn Slough.
4. On August 19, 2015, the Commission authorized a General Lease – Right-of-Way Use to Delta Gas Gathering, Inc., but that lease was never executed (Calendar Item C47). Staff's current recommendation differs from the prior recommendation by reducing the surety requirement from \$20,000 to \$10,000, to reflect the surety requirements of similar leases, and reserves the Commission's right to fix a different rent periodically during the lease term, as provided in the lease.
5. A pipeline leak detection inspection was last conducted on August 17, 2015 by Clyde Gregg of Energy Operations Management, Inc. noting that the pipe was in good condition and no leaks were detected. The next inspection is scheduled for August 2016.
6. 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.
7. The 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 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.

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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.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially interfere with Public Trust needs and values at this location at this time, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

1. Authorize rescission of the authorization to enter into Lease No. 7832.1, a General Lease – Right-of-Way Use, approved by the Commission on August 19, 2015, to Delta Gas Gathering, Inc. (Calendar Item C47).
2. Authorize issuance of a General Lease – Right-of-Way Use to Delta Gas Gathering, Inc., beginning July 1, 2015, for a term of 20 years, for the continued operation, maintenance, and monitoring of a six-inch-diameter natural gas 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 consideration of \$450,

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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; liability insurance in an amount no less than \$1,000,000 per occurrence; and surety in an amount no less than \$10,000.

EXHIBIT A

PRC 7832.1

LAND DESCRIPTION

Parcel 1
Miner Slough Crossing

A parcel of State owned tide and submerged land lying in the bed of Miner Slough, Solano County, California, within projected Section 10, T05N, R03E, MDM, adjacent to Swamp and Overflowed Surveys 143 and 534, said parcel described as follows:

A strip of land fifty (50.00) feet in width, lying twenty-five (25.00) feet on each side of the following described centerline:

BEGINNING at a point on the south levee of Miner Slough that is South $36^{\circ} 38' 51''$ West, 51.37 feet from the northeast corner of Ranch 14 as said corner appears on that map of "Ryer Nixon Ranch 14", filed January 8, 1957, in Book 5 of Surveys, at page 64, Solano County Records; thence from said point of beginning North $04^{\circ} 17' 08''$ East, 322.22 feet to a point on the north levee of Miner Slough and the end of said strip.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water marks of Miner Slough.

END OF DESCRIPTION

Revised by the California State Lands Commission Boundary Unit on June 16, 2015 as found in file PRC 7832.1. Parcel 1 based on that original description. Parcel 2 removed from original description at applicant's request.



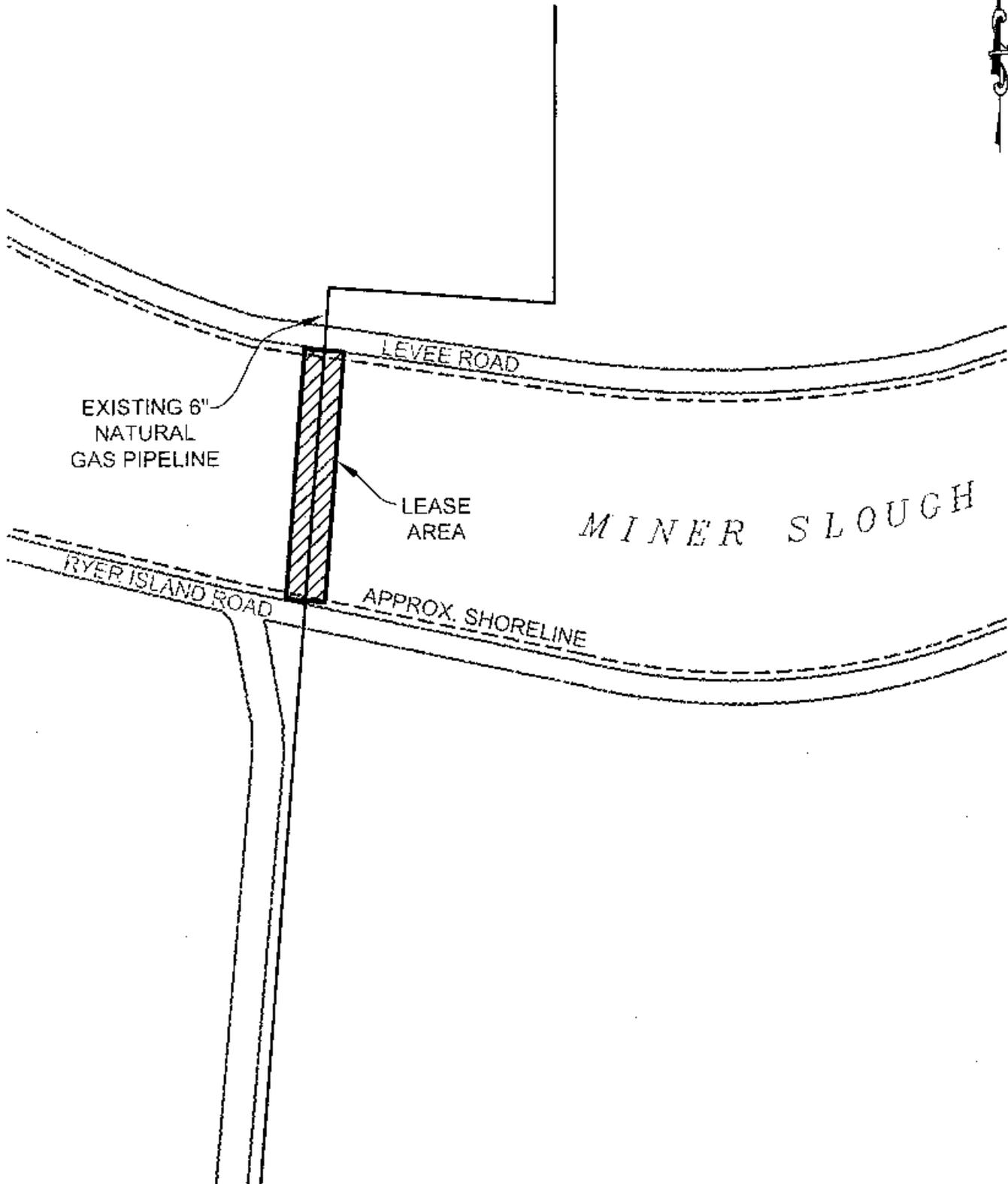


EXHIBIT A

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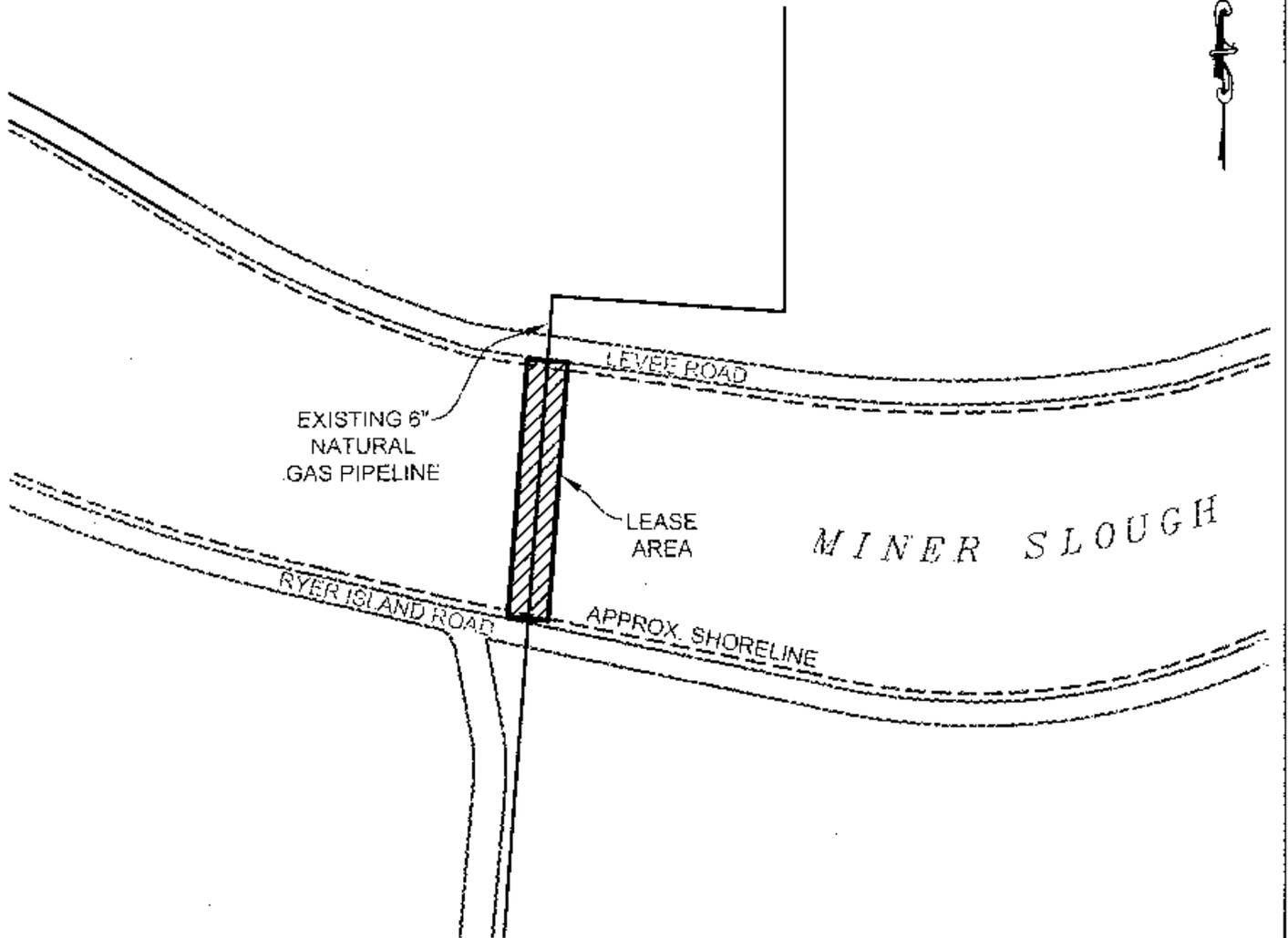
LAND DESCRIPTION PLAT
PRC 7832.1, DELTA GAS GATHERING, INC.
SOLANO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



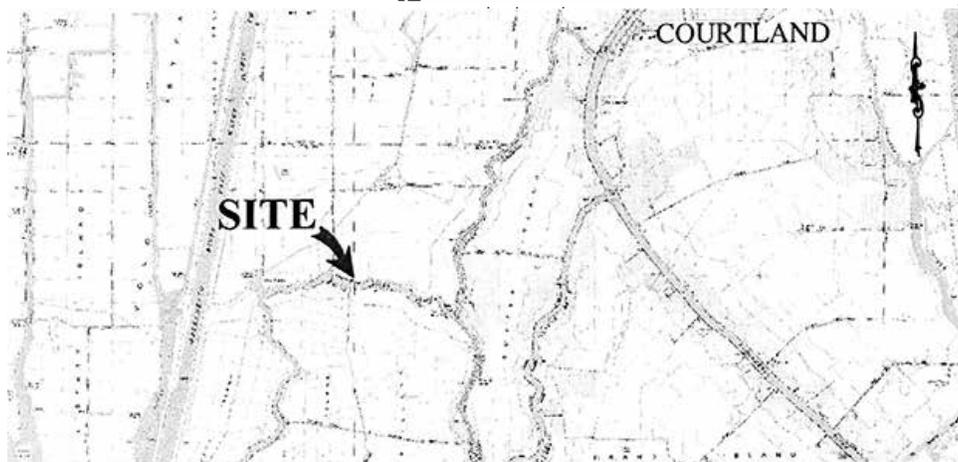
NO SCALE

SITE



RYER ISLAND, 10 MILES NORTHEAST OF RIO VISTA

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

PRC 7832.1
 DELTA GAS GATHERING, INC.
 GENERAL LEASE -
 RIGHT-OF-WAY USE
 SOLANO COUNTY



RGB 04/28/15

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.