

**CALENDAR ITEM
C26**

A	13	12/06/16
S	5	W 27052 A. Franzoia

CONSIDERATION OF AN INDEMNIFICATION AGREEMENT

PARTIES:

Pacific Gas and Electric Company (PG&E)

California State Lands Commission

BACKGROUND:

On June 28, 2007, the Commission authorized Lease No. PRC 8752.9 to the City of Lathrop (City) for the construction, use and maintenance of two parallel bridges, containing public and private utility conduits, riprap, and temporary construction trestles at Bradshaw's Crossing on the San Joaquin River ([Calendar Item C35, June 28, 2007](#)). The southeasterly span of the new bridge is under construction and is expected to be completed by the end of 2016 with natural gas utility conduits to serve the River Island Community.

PG&E maintains a franchise agreement with the City for the right to use City easements and rights-of-way adjoining the lease premises for the installation, use, operation, and maintenance of gas pipes, mains, and appurtenances (collectively, improvements) for the conveyance, distribution, and supply of natural gas to the public. Consequently, Commission authorization of a separate lease with PG&E for the improvements, including a six-inch-diameter natural gas pipeline within a 10-inch-diameter conduit on the new Bradshaw's Crossing Bridge is not required.

The proposed Indemnification Agreement is intended to indemnify the State for any harm that may occur or arise from the installation, use, operation, and maintenance of the PG&E improvements on the bridge.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

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

CALENDAR ITEM NO. **C26** (CONT'D)

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 these sovereign lands within the bed of the San Joaquin River.

Commission staff and PG&E have negotiated an Indemnification Agreement indemnifying the State for any harm that may occur or arise from the installation, use, operation, and maintenance of PG&E improvements attached to bridge structures. PG&E agrees to indemnify the State, without limitation, for any claim or liability arising from the installation, use, operation, or maintenance of the PG&E improvements and any PG&E facilities or improvements located within the lease premises of Lease No. PRC 8752.9.

PG&E further agrees to promptly remove all improvements upon the earlier occurrence of either the termination or expiration of Lease No. PRC 8752.9 or their franchise agreement with the City. All improvements removed from the new Bradshaw's Crossing Bridge shall be at PG&E's sole cost and expense.

Based on a review of the project design plans for the bridge and PG&E's pipeline, Commission staff believes the PG&E improvements will be attached in a fashion that does not interfere, inhibit or cause an unreasonable risk to public access or navigation on sovereign land.

Based on information provided to Commission staff, PG&E inspects distribution pipelines for leaks every 5 years and conducts pipeline corrosion inspections every 3 years. California Public Utilities Commission (CPUC) General Order 112-E requires pipeline operators to submit to the CPUC annual reports required by title 49 Code of Federal Regulations Parts 191.11 and 191.17.

Commission staff believes that the PG&E improvements on the Bradshaw's Crossing Bridge do not substantially interfere with the Public Trust needs and values in the area at this location at this time. Further, the

CALENDAR ITEM NO. **C26** (CONT'D)

proposed Indemnification Agreement will provide sufficient liability protection for the State.

For all the reasons above, Commission staff believes approval of the Indemnification Agreement is consistent with the common law Public Trust Doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This Indemnification Agreement shall be unlimited as to amount or duration, and it shall be binding upon and inure to the benefit of the parties, their successors, assigns and officers, agents, employees, and representatives.
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.
3. Authorizing the Indemnification Agreement between the Commission and PG&E is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBITS:

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

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed Indemnification Agreement will not substantially interfere with the public rights to navigation or the 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.

CALENDAR ITEM NO. **C26** (CONT'D)

AUTHORIZATION:

Authorize the Indemnification Agreement, substantially in the form on file at the Sacramento office of the Commission, between the Commission and PG&E, effective beginning December 6, 2016; concerning the installation, use, operation, and maintenance a 6-inch-diameter natural gas pipeline within a 10-inch-diameter steel casing on the Bradshaw's Crossing Bridge, as described in Exhibit A and shown on Exhibit B (for reference purpose only), attached and by this reference made a part hereof.

EXHIBIT A
LAND DESCRIPTION
BRADSHAW'S CROSSING
LEASE AREA ACROSS THE SAN JOAQUIN RIVER
LATHROP, CALIFORNIA

A STRIP OF TIDE AND SUBMERGED LAND 146.00 FEET WIDE, SITUATE IN THE INCORPORATED TERRITORY OF THE CITY OF LATHROP, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING ADJACENT TO PROTRACTED SECTION 33, TOWNSHIP 1 SOUTH, RANGE 6 EAST, MOUNT DIABLO MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT BEING ON THE NORTHEASTERN LINE OF TRACT 39, AS SAID TRACT IS SHOWN AND SO DESIGNATED ON THAT CERTAIN RECORD OF SURVEY, RECORDED AUGUST 4, 2004, IN BOOK 35 OF SURVEYS AT PAGE 142, IN THE OFFICE OF THE COUNTY RECORDER OF SAN JOAQUIN COUNTY, SAID POINT BEARS SOUTH $76^{\circ}12'33''$ EAST 6,229.35 FEET FROM USGS STATION TIDAL 6 RESET 1958 (PID HS0159), STAMPED "NO. 6 1949 RESET 1958", HAVING CALIFORNIA STATE PLANE COORDINATES (CCS83, EPOCH 1997.30) OF NORTH= 2,117,914.04 FEET, EAST= 6,320,437.87 FEET;

THENCE, FROM SAID POINT OF COMMENCEMENT, LEAVING SAID NORTHEASTERN LINE, NORTH $31^{\circ}37'00''$ EAST 8.56 FEET TO A POINT AT THE INTERSECTION OF THE CENTERLINE OF SAID 146.00 FOOT-WIDE LEASE AREA WITH THE WEST BANK OF THE SAN JOAQUIN RIVER, SAID POINT ALSO BEING THE TRUE POINT OF BEGINNING FOR THIS DESCRIPTION;

THENCE, FROM SAID POINT OF BEGINNING, LEAVING SAID CENTERLINE, ALONG SAID WEST BANK, NORTH $51^{\circ}26'22''$ WEST 73.54 FEET;

THENCE, LEAVING SAID WEST BANK, NORTH $31^{\circ}37'00''$ EAST 245.72 FEET TO THE EAST BANK OF THE SAN JOAQUIN RIVER;

THENCE, ALONG SAID EAST BANK, SOUTH $58^{\circ}08'50''$ EAST 73.00 FEET TO A POINT BEING ON THE CENTERLINE OF SAID 146.00 FOOT-WIDE LEASE AREA THAT BEARS NORTH $31^{\circ}37'00''$ EAST FROM SAID POINT OF BEGINNING;

THENCE, LEAVING SAID CENTERLINE, ALONG SAID EAST BANK OF THE SAN JOAQUIN RIVER, SOUTH $55^{\circ}26'09''$ EAST 73.10 FEET;

THENCE, LEAVING SAID EAST BANK, SOUTH $31^{\circ}37'00''$ WEST 267.54 FEET TO SAID WEST BANK OF THE SAN JOAQUIN RIVER;

LAND DESCRIPTION
BRADSHAW'S CROSSING
LEASE AREA ACROSS THE SAN JOAQUIN RIVER

THENCE, ALONG SAID WEST BANK OF THE SAN JOAQUIN RIVER THE FOLLOWING
TWO (2) COURSES:

- 1) NORTH 42°12'39" WEST 51.54 FEET, AND
- 2) NORTH 51°58'01" WEST 23.65 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM ANY PORTION LYING LANDWARD OF THE ORDINARY HIGH
WATER MARK OF THE SAN JOAQUIN RIVER:

CONTAINING AN AREA OF 37,195 SQUARE FEET, MORE OR LESS. NOTE THAT THE
AREA IS APPROXIMATE AND IS BASED UPON SAID BANKS. SAID BANKS RUN ALONG
THE APPROXIMATE WATER LINE OF THE SAN JOAQUIN RIVER, AND WERE COMPILED
USING PHOTOGRAMMETRIC TECHNIQUES BASED ON AERIAL PHOTOGRAPHY DATED
FEBRUARY 28, 2003, FOR TOPOGRAPHY AT A SCALE OF 1"=40' WITH A 1-FOOT
CONTOUR INTERVAL.

BEARINGS ARE BASED ON THE CALIFORNIA STATE PLANE COORDINATE SYSTEM
1983, ZONE 3 (SPC CA3), NAD83 (COR5 96, EPOCH 2002). ALL DISTANCES
SHOWN ARE GROUND DISTANCES. MULTIPLY GROUND DISTANCES BY 0.99993352 TO
OBTAIN GRID DISTANCES.

END OF DESCRIPTION

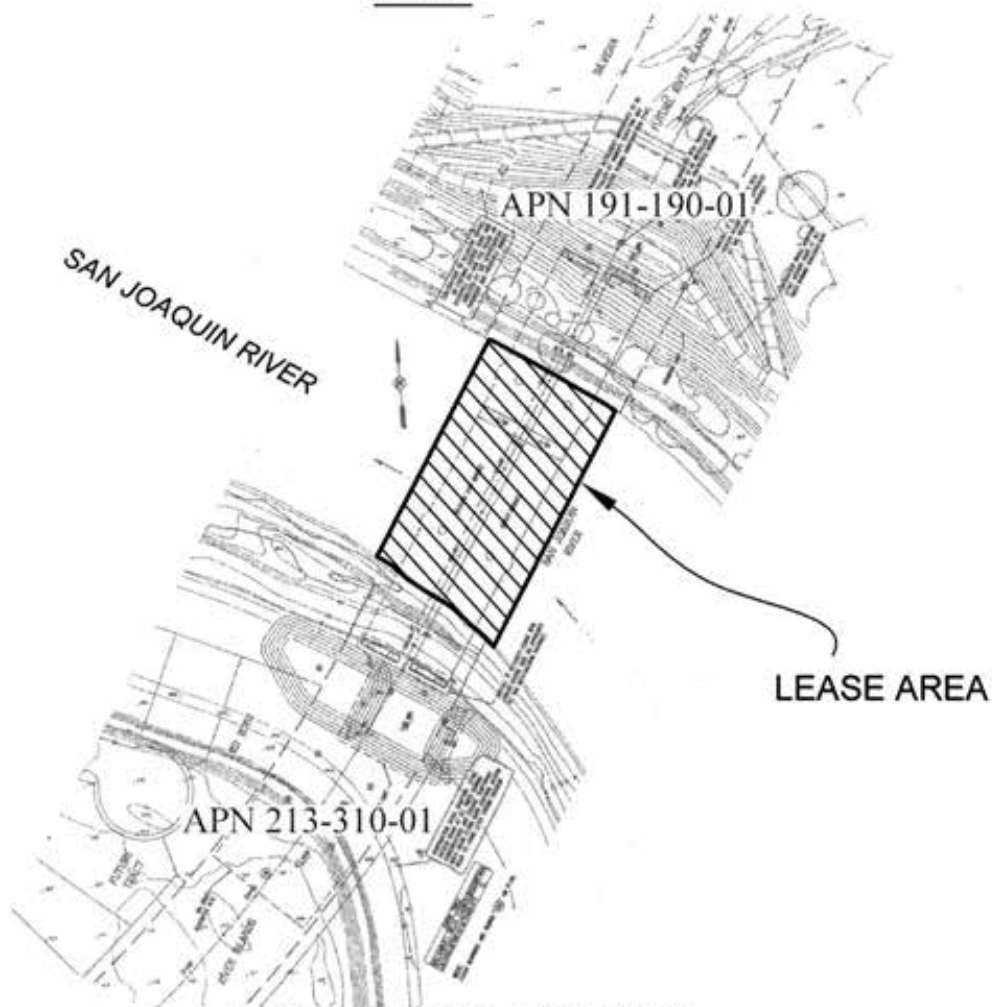


Paul A. Kittredge

PAUL A. KITTREDGE
L.S. NO. 5790
EXPIRES: JUNE 30, 2008

NO SCALE

SITE



APN: 213-310-01, 191-190-01
BRADSHAW'S CROSSING AT SAN JOAQUIN RIVER

NO SCALE

LOCATION



Exhibit B

W 27052
PG&E
GENERAL LEASE -
RIGHT-OF-WAY USE
SAN JOAQUIN RIVER
SAN JOAQUIN CO.



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.