

**BILL EMLÉN**

Director

**TERRY SCHMIDTBAUER**

Assistant Director

**MIKE YANKOVICH**

Planning Services Manager

**DEPARTMENT OF RESOURCE MANAGEMENT**



**SOLANO  
COUNTY**

675 Texas Street, Suite 5500  
Fairfield, CA 94533-6342  
(707) 784-6765  
Fax (707) 784-4805

[www.solanocounty.com](http://www.solanocounty.com)

Planning Services Division

**ZONING ADMINISTRATOR STAFF REPORT  
Use Permit Renewal**

**Application: U-10-02-EX1**

**Applicant:** CPN Pipeline Company

**Project Planner:** Travis Kroger

**Meeting of** October 1, 2015

**Agenda Item No. 4**

**Location:** Grizzly Island Road

**Assessor Parcel Number:** 0046-230-030, 0046-230-040

**General Plan:** Marsh

**Zoning:** Marsh Protection 'MP'

**Proposal**

The applicant has requested extension No. 1 of use permit U-10-02, pursuant to condition of approval No. 14. Per Zoning Regulations Section 28.106(N), the Zoning Administrator shall administratively approve a use permit renewal request so long as the following requirements are satisfied:

- 1) The permittee has requested renewal
- 2) The permittee has paid the applicable renewal fee
- 3) The use is being conducted in compliance with the conditions of the use permit

**Background**

On August 19<sup>th</sup>, 2010 the Planning Commission granted Use Permit U-10-02, permitting installation of a gas pipeline facility on the above mentioned parcels. On July 30<sup>th</sup>, 2015 applicant requested extension No.1 for the above mentioned Land Use permit.

**Review and Recommendation**

Upon review of the permit conditions of approval and based on the absence of code compliance cases on file, staff has determined that the facility is being operated in compliance with use permit no. U-10-02.

**Permit Term**

Per condition 14 of U-10-02, staff recommends that this permit be extended for a 5 year term with provision that an extension may be granted if requested by the applicant prior to the expiration date of August 19<sup>th</sup>, 2020.

**Attachment:**

**Exhibit A** –Solano County Planning Commission Resolution No. 4537.

## SOLANO COUNTY PLANNING COMMISSION RESOLUTION NO. 4537

---

**WHEREAS**, the Solano County Planning Commission has considered Use Permit Application No. U-10-02 of **CPN Pipeline Company** to build a permanent 30' x 200' pad and facilities to support the installation of a gas pipeline and to transport gas into CPN's existing pipeline. The project is located near Grizzly Island Road 4.5 miles south of the City of Suisun in an "MP" Marsh Preservation Zoning District, APN's: 0046-230-040 and 0046-240-030, and

**WHEREAS**, said Commission has reviewed the report of the Department of Resource Management and heard testimony relative to the subject application at the duly noticed public hearing held on August 19, 2010, and

**WHEREAS**, after due consideration, the said Planning Commission has made the following findings in regard to said proposal:

### **Use Permit Mandatory Findings**

**1. That the establishment, maintenance or operation of the use applied for is in conformity to the General Plan for the County with regard to traffic circulation, population densities and distribution, and other aspects of the General Plan considered by the Planning Commission.**

Both the construction phase and the operation phase are consistent with the intent of the Marsh designation of the Solano County General Plan which allows uses that do not adversely impact the sensitive habitat of the Suisun Marsh. This project is also consistent with the Resources Chapter which permits new natural gas transmission lines as long as they minimize destruction of natural vegetation and agricultural activities.

**2. Adequate utilities, access roads, drainage and other necessary facilities have been or are being provided.**

Access to the site will be developed from Grizzly Island Road. A grading permit from BCDC will be required for the additional fill associated with the construction of the of the production pad. Potable water and temporary chemical toilets will be brought to the project site for use during the temporary drilling phase.

**3. The subject use will not, under the circumstances of this particular case, constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.**

The project has been reviewed and processed in accordance with the California Environmental Quality Act (CEQA) and the County EIR Guidelines. A Mitigated Negative Declaration with mitigation measures was prepared and made available for public review. The Planning Commission has considered the Mitigated Negative Declaration and public comments thereon prior to acting on the project and finds that the Mitigated Negative Declaration is adequate and there is no evidence that the project will have a significant impact on the environment.

EXHIBIT A

### **Suggested Findings**

4. Said Planning Commission heard testimony relative to the subject application at a duly noticed public hearing.
5. The proposed project is located within the Primary Management Area of the Suisun Marsh and requires a Marsh Development Permit from the San Francisco Bay Conservation and Development Commission.

**BE IT, THEREFORE, RESOLVED**, that the Planning Commission of the County of Solano does hereby adopt the Negative Declaration, the mandatory and suggested findings, and approve Use Permit Application No. U-10-02 subject to the following recommended conditions of approval:

1. The above use shall be established in accord with the plans and information submitted with Use Permit Application No. U-10-02 and approved by the Solano County Planning Commission.
2. The permittee shall take all necessary measures to prevent dust, noise, light, glare, odor and other objectionable elements from adversely affecting the surrounding area beyond acceptable limits.
3. Measures shall be taken to prevent significant pollution of groundwater, surface water or watercourses.
4. All buildings, tanks, or other facilities related to drilling or natural gas production shall be removed when the site is no longer being utilized for gas production.
5. Any change of use or intensification of use will require permit revision and possible further environmental review. Any deviation from the project description or requirements of the Planning Commission will subject the use permit to review and possible revocation.
6. The permittee shall obtain permits or other clearances from any and all agencies having jurisdiction over the proposed project, including, but not limited to: the San Francisco Bay Conservation and Development Commission, the US Army Corps of Engineers, the California Department of Fish and Game, and the San Francisco Regional Water Quality Control Board. The permittee shall comply with all requirements of Solano County including the Policies and Regulations Governing the Suisun Marsh.
7. All vehicles traveling to and from the job site must be equipped with spark arrestors.
8. To reduce potential aesthetic impacts to less than significant levels, the following shall be required:
  - a) Following initial construction activities the pad shall be reduced and graded to preconstruction contours, restored and revegetated with an appropriate seed mix. In addition, all aboveground facilities will be painted with non-glare, earth-tone colors to blend with the surrounding vegetation/landscape.
9. To reduce potential air quality impacts to less than significant levels, the following shall be required:
  - a) *Mitigation Measure AIR-1: Implement BAAQMD Control Measures to Control Construction-Related Dust*

In accordance with the BAAQMD's current CEQA guidelines (1999), the project applicant will implement the following BAAQMD-recommended basic control measures to reduce particulate

matter emissions from construction activities. Enhanced and optional control measures are recommended and will be implemented to the extent feasible and where applicable.

*Basic Control Measures*

- All active construction areas will be watered at least twice daily.
- All trucks hauling soil, sand, and other loose debris will be covered, or all trucks will be required to maintain at least 2 feet of freeboard on public roads.
- All unpaved access roads, parking areas, and staging areas at construction sites will be paved or watered three times daily, or nontoxic soil stabilizers will be applied.
- All paved access roads, parking areas, and staging areas at construction sites will be swept daily (with water sweepers).
- If visible soil material is carried onto adjacent public streets, adjacent streets will be swept daily (with water sweepers).

*Enhanced Control Measures*

- All inactive construction areas (previously graded areas inactive for 10 days or more) will be hydro seeded, or nontoxic soil stabilizers will be applied.
- Exposed stockpiles (e.g., dirt, sand) will be enclosed, covered, and watered, or nontoxic soil binders will be applied.
- As feasible, traffic speeds on unpaved roads will be limited to 15 miles per hour (mph).
- Sandbags or other erosion-control measures will be installed to prevent silt runoff to public roadways.
- Disturbed areas will be replanted as quickly as possible.

b) *Mitigation Measure AIR-2: Implement BAAQMD Basic Construction Mitigation Measures*

In accordance with the BAAQMD's draft CEQA guidelines (2009), the project applicant will implement, to the extent feasible, the BAAQMD's BCMMs. (BCMMs that overlap with current BAAQMD-recommended dust control measures have been removed.)

- All roadways, driveways, and sidewalks to be paved will be completed as soon as possible. Building pads will be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times will be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California Airborne Toxics Control Measure—13 California Code of Regulations [CCR] 2485). Clear signage will be provided for construction workers at all access points.
- A publicly visible sign will be posted with the telephone number and person to contact at the lead agency regarding dust complaints. This person will respond and take corrective action within 48 hours. The BAAQMD's telephone number will also be visible to ensure compliance with applicable regulations.

**Verification:** The applicant shall submit a construction status update report to the Planning Services Division. This report will detail which air quality control measures are being implemented. A staff site inspection will verify proper implementation of these measures.

10. To reduce potential impacts on the area's biological and wetland resources to less than significant levels, the following shall be required:

a) *Mitigation Measure BIO-1: Conduct Environmental Awareness Training for Construction Personnel*

Before any work occurs in the construction work area, including initial site preparation (e.g., grading, vegetation removal), a qualified biologist will conduct mandatory contractor/worker awareness training for construction personnel. The awareness training will be provided to all construction personnel to brief them on the need to avoid impacts on biological resources and the penalties for not complying with biological mitigation requirements. If new construction personnel are added to the project, the contractor will ensure that the personnel receive the mandatory training from the biologist before starting work.

b) *Mitigation Measure BIO-2: Conduct a Preconstruction Survey for Salt Marsh Harvest Mouse*

CPN will retain a USFWS-approved biologist with previous salt marsh harvest mouse experience to conduct preconstruction surveys for the species before project construction.

c) *Mitigation Measure BIO-3: Remove Salt Marsh Harvest Mouse Habitat from the Designated Work Area Prior to Construction*

To ensure that salt marsh harvest mice do not attempt to use the construction area, all vegetation within the permanent and temporary work areas will be removed before construction. Vegetation will be removed by non-mechanized hand tools (i.e. by hand, trowel, hoe, rake, and shovel). Vegetation shall be removed under the supervision of a qualified biologist. Then, cover material from off site can be added to the construction area.

d) *Mitigation Measure BIO-4: Install Temporary Exclusion Fencing to Preclude Salt Marsh Harvest Mouse and Protect Environmentally Sensitive Areas*

Temporary visqueen or other DFG-approved fencing will be installed around the perimeter of the designated work area before the start of construction and immediately after the vegetation removal to prevent salt marsh harvest mice from entering the work area and to protect environmentally sensitive areas. Environmentally sensitive areas adjacent to the construction area consists of diked brackish marsh, wetland drainage, active bird or raptor nests, and habitat for salt marsh harvest mouse. The fence should be made of a material that does not allow harvest mice to pass through, and the bottom should be buried to a depth of 6 inches so that salt marsh harvest mice do not crawl under the fence. Before construction, the construction contractor will work with the project engineer and a resource specialist to identify the locations for the barrier fencing and will place stakes around the environmentally sensitive areas to indicate these locations. The protected area will be clearly identified on the construction specifications. The fencing will be installed before construction activities are initiated and will be maintained throughout the construction period. Temporary fences will be furnished, constructed, maintained, and removed as shown on the plans, as specified in the special provisions, and as directed by the project engineer. Fence stakes shall face towards the work site, away from the habitat. The qualified biologist will have the ability

to make field adjustments to the location of the fencing depending on site specific habitat conditions.

e) *Mitigation Measure BIO-5: Retain a USFWS-Approved Biologist to Monitor Construction Activities*

A USFWS-approved biologist with salt marsh harvest mouse experience will be on site during all ground disturbance associated with the proposed project. The biologist will be responsible for ensuring that the contractor maintains environmentally sensitive area barrier fencing, and will ensure compliance with all relevant permit conditions and avoidance and conservation measures contained in the project's biological opinion. The biologist will have the authority to stop project activities if any of the requirements associated with these measures are not being fulfilled. If the biologist has requested work stoppage because of take of any listed species, the USFWS and DFG will be notified within one working day via email or telephone.

f) *Mitigation Measure BIO-6: Avoid and Minimize Disturbance of Sensitive Aquatic and Wildlife Habitats*

To avoid and minimize disturbance of sensitive aquatic and wildlife habitat adjacent to the construction work area, the following measures will be implemented. Where appropriate, these measures will be incorporated into project plans and specifications.

- Before working within the Suisun Marsh area, all heavy equipment will be checked and maintained daily to prevent leaks of materials that, if introduced to water, could be deleterious to wildlife.
- Raw cement/concrete (or washings thereof), asphalt, paint or other coating material, oil or other petroleum products, and any other substances associated with project-related activities that could be hazardous to wildlife will be prevented from contaminating the soil or entering adjacent aquatic habitats.
- During construction, the contractor will not dump any material in adjacent aquatic habitats. All such debris and waste will be picked up daily and properly disposed of at an appropriate site. All construction debris and associated materials will be removed from the work site upon completion of the project.
- Sediment fences will be installed in appropriate locations to reduce the introduction of sediment into adjacent aquatic habitats during construction
- The contractor will implement measures contained in CPN's Hazardous Materials Contingency Plan to avoid input of contaminants to adjacent aquatic habitats.
- All maintenance materials (e.g., oils, grease, lubricants, antifreeze, and similar materials) will be stored off site.
- During construction, all vehicles and equipment will be parked on-site or along Grizzly Island Road.

g) *Mitigation Measure BIO-7: Conduct a Preconstruction Survey for Western Pond Turtles and Implement Measures to Avoid Impacts*

To avoid construction-related impacts on western pond turtles, a wildlife biologist will be retained to conduct a preconstruction survey for western pond turtles no more than 48 hours before the start of construction, including vegetation removal. The wildlife biologist will look for adult pond turtles. If a western pond turtle is located in the construction area, the biologist will move the turtle to a suitable aquatic site outside the construction area. Once the preconstruction surveys are

completed, exclusion fence constructed for salt marsh harvest mouse will also ensure that pond turtles do not return to the site. If an active pond turtle nest containing either pond turtle hatchlings or eggs is found, CPN will consult the DFG to determine and implement appropriate avoidance measures, which may include a "no-disturbance" buffer around the nest site until the hatchlings have moved to a nearby aquatic site.

h) *Mitigation Measure BIO-8: Conduct Preconstruction Nesting Bird and Raptor Surveys and Implement Avoidance Measures if Active Nests are Located On or Adjacent to the Project Site*

Because project construction must take place during the typical nesting season (March through August), preconstruction surveys will be conducted by a qualified biologist no more than 30 days before the commencement of project construction, including vegetation removal. Surveys will be conducted to determine whether active nesting is occurring on or directly adjacent to the construction area. If active nests are found on or immediately adjacent to the site, consultation will be initiated with the DFG to determine appropriate avoidance measures. If no nesting is found to occur, necessary vegetation removal and other project activities could then proceed.

i) *Mitigation Measure BIO-9: Compensate for the Placement of Permanent Fill Material into Waters of the United States at a 3:1 Ratio*

CPN will obtain a CWA Section 404 permit from the Corps before construction activities are initiated. As part of the CWA Section 404 permit from the Corps, CPN will mitigate the placement of an estimated 0.06 acre of permanent fill material into diked brackish marsh and wetland drainage habitat at a 3:1 ratio (3 acres of mitigation for every 1 acre of permanent impact). As part of this mitigation measure, CPN will implement one of the following options 1) contribute funds (equal in amount to this 0.18 acre) to DFG or another appropriate resource agency to support restoration efforts in Suisun Marsh, which is subject to approval by the permitting agencies; 2) purchase lands within the Suisun Marsh (e.g., duck club lands) and establish a conservation easement; or 3) purchase out-of-kind, off-site mitigation bank credits from an approved bank that has a service area that covers the project site (e.g., Elsie Gridley Mitigation Bank). The mitigation will be approved by Corps, BCDC, RWQCB, and DFG and may be modified during the permitting process.

**Verification:**

**Prior to the commencement of any construction activities, CPN Pipeline Company shall submit a report provided by a USFWS-approved biologist to the Planning Services Division, addressing the following:**

- **verification that awareness training has been performed**
- **summarizing the results of the pre-construction biological survey**
- **verification of compliance status of the project with mitigation measures and conditions of approval pertaining to biological resources**

11. To reduce potential impacts on the area's cultural resources to less than significant levels, the following shall be required:

a) *Mitigation Measure CR-1: Stop Construction if Signs of an Archeological Site Are Discovered during Construction*

The construction contractor shall stop construction and notify Solano County if signs of an archeological site are discovered during construction of the project. Solano County will then notify a qualified archeologist to evaluate the site and implement a treatment plan.

b) *Mitigation Measure CR-2: Implement Plan to Address Discovery of Human Remains*

If remains of Native American origin are discovered during project construction, it will be necessary to comply with state laws concerning the disposition of Native American burials, which fall within the NAHC's jurisdiction (PRC 5097). If any human remains are discovered or recognized in any location other than a dedicated cemetery, there will be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent human remains until the following steps occur:

- The Solano County Coroner's Office has been informed and has determined that no investigation of the cause of death is required.
- If the remains are of Native American origin, either of the following occurs:
  - The descendants of the deceased Native Americans have made a recommendation to the landowner or person responsible for the excavation work for means of treating or disposing of, with appropriate dignity, the human remains and any associated grave goods as provided in PRC 5097.98.
  - The NAHC was unable to identify a descendant, or the descendant failed to make a recommendation within 24 hours after being notified.

**Verification:**

**The construction contractor shall stop construction and notify Solano County if signs of an archeological site are discovered during construction of the project.**

12. All requirements of the Solano County Environmental Health Services Division shall be met including:

- a) The permittee shall contract with a licensed sanitation company to provide and maintain a portable chemical toilet on-site for the duration of construction.
- b) If hazardous materials are stored or produced on-site, then a Hazardous Materials Management Plan shall be submitted by the permittee and approved by this division.

13. All requirements of the Solano County Public Works Engineering Division shall be met including:

- a) The applicant shall apply for, secure and abide by the conditions of a Minor Grading Permit for any and all work within the project limits.
- b) The applicant shall apply for, secure and abide by the conditions of an Encroachment Permit for the connection to Grizzly Island Road.

14. The permit shall be in effect for a five (5) year period, with the provision that an extension may be granted if said request is received prior to the expiration date of August 19, 2015, and the use shall remain the same and in compliance with the conditions of approval.

\*\*\*\*\*

I hereby certify that the foregoing resolution was adopted at the regular meeting of the Solano County Planning Commission on August 19, 2010 by the following vote:

|          |               |   |
|----------|---------------|---|
| AYES:    | Commissioners | <u>Barnes, Boschee, Rhoads-Poston, Karah and</u><br><u>Chairman Mahoney</u> |
| NOES:    | Commissioners | <u>None</u>   |
| ABSTAIN: | Commissioners | <u>None</u>   |
| ABSENT:  | Commissioners | <u>None</u>   |

By:   
Clifford K. Covey, Interim Secretary