

STAFF REPORT

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R. Lee

CONSIDER APPLICATION FOR A MODIFICATION OF THE STATE'S RIGHT OF SURFACE ENTRY ON STATE RESERVED MINERAL INTEREST SCHOOL LAND

APPLICANT:

IP Athos III, LLC

AREA, LAND TYPE, AND LOCATION:

Approximately 424.6 acres of State 100 percent reserved mineral interest (RMI) school land, Assessor's Parcel Numbers: 879-090-036, 879-090-037, 879-090-038, 879-090-039, 863-030-002, 863-030-003, 863-030-004, 863-030-005, 863-030-006, 863-030-007, 863-030-008, 863-030-009, 863-030-010, 863-030-013, 863-030-014, 863-030-015, 863-030-016, 863-030-017, located about 2 miles south of the Blythe Airport, near Blythe, in Section 6, Township 7 South, Range 22 East, SBM, Riverside County (Rivera Site); and Section 11, Township 7 South, Range 21 East, SBM, Riverside County (Gila Site). See Exhibit A and Exhibit B, attached.

AUTHORIZED USE:

Modification of the State's right to use or cause to be used, for purposes of developing its mineral reservation, the surface, including its right to enter such lands to a depth of 500 feet below the surface of the lands described in Exhibit A.

LEASE TERM:

25 years, beginning October 24, 2019, through October 23, 2044.

CONSIDERATION:

\$2,790 per year, with an annual Consumer Price Index adjustment.

BACKGROUND:

On July 16, 2019, IP Athos III, LLC (Athos), applied for a Modification of the State's Right of Surface Entry (Modification) for mineral interest in school lands. The project area has been approved by the County of Riverside for construction of a 485-megawatt solar facility on approximately 3,660 acres of land owned by Athos and other parties. Of those 3,660 acres, the State retains 424.6 acres of a 100 percent RMI that are split into two discreet areas known as the Gila Site and

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the Rivera Site. The State sold its surface interest to the Gila Site and Rivera Site on March 12, 1954, and August 16, 1951, respectively.

The proposed solar facility will include approximately 3,397.62 acres of photovoltaic panels or concentrated photovoltaic collectors (Blythe Mesa Solar Project) across the approximately 3,660-acre site. Photovoltaic panels convert solar energy into electricity using semiconducting materials. In March 2015, the County of Riverside certified an Environmental Impact Report for the Blythe Mesa Solar Project (State Clearinghouse No. 2011111056). Athos has acquired a Conditional Use Permit (No. 3685), Public Use Permit (No. 913), Development Agreement (DA No. 79), and approved variance from the County of Riverside, all approved by the County on March 20, 2015.

Athos is seeking a Modification of the State's Right of Surface Entry to prevent the possibility of future conflict between development of the school land minerals and operation of the solar facility over the next 25 years. The concern addressed by this Modification is to prevent the leasing of the State's mineral interest that would allow mineral development sufficient to interfere or harm the site's use as a solar facility. The subject parcels are currently vacant and are sparsely vegetated with a variety of low-lying brush and other plants typically found in arid environments.

The Commission may limit its right to enter the surface overlaying the State's RMI, to a depth of 500 feet below the surface, to allow for the orderly use and development of lands where the State has sold the surface but retained the mineral interest. The Commission may modify its right of surface entry upon findings that: there are no known deposits of commercially valuable minerals in and above a plane located 500 feet below the surface of the lands; and that such modifications are not inconsistent with federal laws pertaining to the grant of school lands (i.e., the RMI is not sold or otherwise disposed of).

Consequently, one of the essential elements to such applications is the submission of a detailed Mineral Potential Report prepared by a California Professional Geologist. This report must document what mineral potential exists within 500 feet of the surface and evaluate what mineral potential may exist at greater depths such as the existence of oil and gas or geothermal resources. Athos submitted a Mineral Potential Report, in June 2019, prepared by California Professional Geologist, Steve Kupferman (License No. 3844) of the Lilburn Corporation.

MINERAL POTENTIAL REPORT:

The report evaluated the mineral potential from the surface to a depth of 500 feet, concluding that there is no known commercially valuable mineral potential in and above that plane and below that plane for oil and gas and geothermal resources.

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The parcel is characterized by alluvial sedimentary deposits consisting mainly of sand that is light brown and brown, dry to damp, loose to very dense, with varying degrees of silt inclusion. Visual observations by the licensed geologist yielded less than 5 to 10 percent composition of gravels larger than 0.5 inch. These sediments are characterized as a portion of the Palo Verde Mesa Formation.

There is no evidence of active or historic mineral prospects, mining operations, or oil and gas wells on the parcels, and historically, wildcat oil wells drilled in the project vicinity have not exhibited any oil or gas potential. The potential for the occurrence of gold and precious metals is considered nonexistent. The potential for the development of sand and gravel deposits suitable for use as construction sand and road fill is also low. The factors limiting the development include variability in lateral and vertical extent, increased processing costs and waste content, and the haul distance to any market.

Staff inspected the parcels on October 3, 2019, to conduct an independent geologic assessment and confirmed that the conclusions detailed in the consultant's mineral potential report were valid and accurate. The Gila site was formerly used for a jojoba farm but is now abandoned, evidenced by the presence of irrigation lines and remnant jojoba trees. With regard to vegetation, the Rivera site is notably more sparse than the Gila site, and therefore was not likely the site of a farm in the past. The most economically viable mineral resource that could possibly occur in this region is aggregate, which is almost nonexistent within this parcel. Staff concurs that there is low mineral development potential for other solid minerals, precious and base metals, industrial minerals, oil, gas, and geothermal resources on the site.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Codes sections 6005, 6216, 6301, and 6401; California Code of Regulations, title 2, section 2003.

State's Best Interests Analysis:

The proposed Modification of the State's Right of Surface Entry is in the State's best interests because it will facilitate the development of a large-scale solar facility. This will, in turn, help achieve the climate goals of AB 32 through the development and expansion of the State's renewable energy portfolio. Despite the temporary loss of entry onto a low mineral potential subject parcel, the State will benefit from the new energy production resulting from the alternative renewable technology of a solar facility. As consideration for the Modification of the State's Right of Surface Entry, Athos shall pay an annual rental fee of \$2,790, adjusted annually by the Consumer Price Index. This consideration value was

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determined using methods authorized by the Commission under California Code of Regulations, title 2, section 2003. Finally, this subject Modification is for a limited term of 25 years in order to preserve the ability to enter the surface if future mineral resources are discovered.

Conclusion:

For all the reasons above, staff believes the approval of the Modification is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of State school land, it exercises legislatively delegated authority and responsibility as trustee of the State's school lands as authorized by law. If the Commission denies the application, the Applicant would not be able to deny the State access to its RMI. Upon expiration or prior termination of the Modification, the Commission would no longer be bound by its terms. Athos may submit a new application for a modification, the approval of which would be at the Commission's sole discretion.
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. Authorization to issue a Modification of the State's Right of Surface Entry is not a project as defined by CEQA 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).

4. The Modification of the State's Right of Surface Entry is consistent with federal statutes pursuant to 43 U.S.C. section 870 because the State is not alienating its mineral interest and retains the ability to develop any minerals at the end of the Modification's term.

EXHIBITS:

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

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RECOMMENDED ACTION:

It is recommended that the Commission:

FINDINGS:

1. Find that there are no known commercially valuable minerals located on the subject parcel in and above a plane of 500 feet.
2. Find that the proposed Modification will permit the orderly use and development of the lands for alternative energy.
3. Find that the proposed Modification is not inconsistent with federal statutes pursuant to 43 U.S.C. section 870.

STATE'S BEST INTERESTS:

Find that the Modification is in the best interests of the State.

AUTHORIZATION:

Authorize the Executive Officer, or her designee, to issue to IP Athos III, LLC, a Modification of the State's Right of Surface Entry to use or cause to be used, for purposes of developing its mineral reservation, the surface, including its right to enter such lands to a depth of 500 feet below the surface of the lands described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof, beginning October 24, 2019, for a term of 25 years; consideration in the amount of \$2,790 per year with an annual Consumer Price Index adjustment.

EXHIBIT A

A 2172

LAND DESCRIPTION

Two parcels of indemnity school (lieu) lands situated in Section 6, Township 7 South, Range 22 East, and Section 11 Township 7 South, Range 21 East, San Bernardino Base and Meridian, County of Riverside, State of California, more particularly described as follows:

PARCEL 1 – Rivera Site

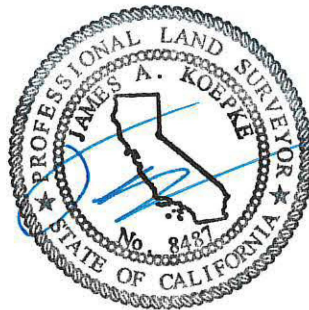
Parcels 1 through 9, 12 through 16 and Lots A through M, P through T as shown on that Parcel Map 14907 filed on January 29, 1981 in Book 87 of Parcel Maps, Pages 96-98, Riverside County Recorder's Office, State of California.

PARCEL 2 – Gila Site

Parcels 1, 2, 5 and 6 as shown on that Parcel Map No. 16,920 filed on February 8, 1983 in Book 112 of Parcel Maps, Pages 44-49, Riverside County Recorder's Office, State of California.

END OF DESCRIPTION

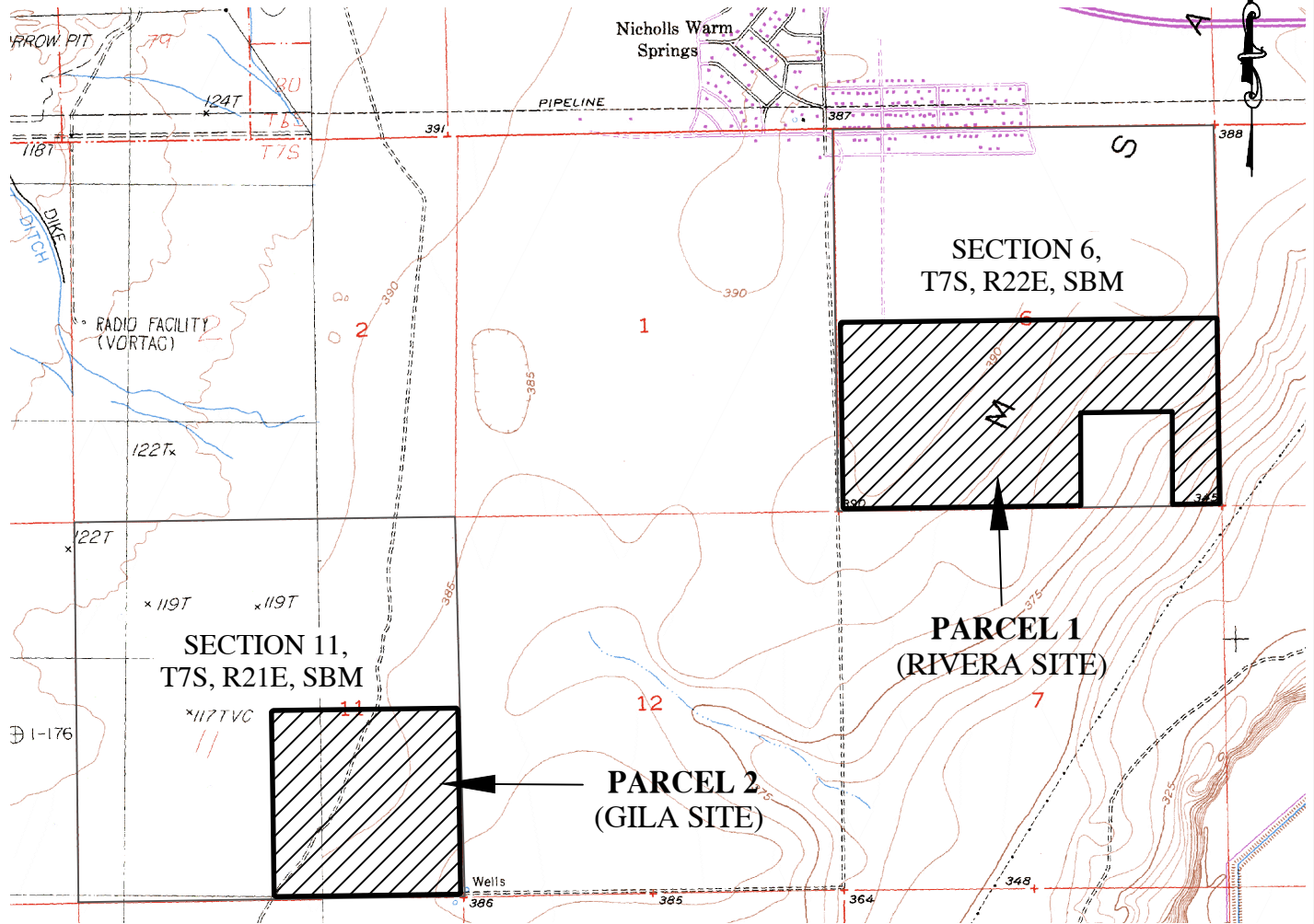
Prepared 08/08/2019 by the California State Lands Commission Boundary Unit.



Revised 10/21/2019

NO SCALE

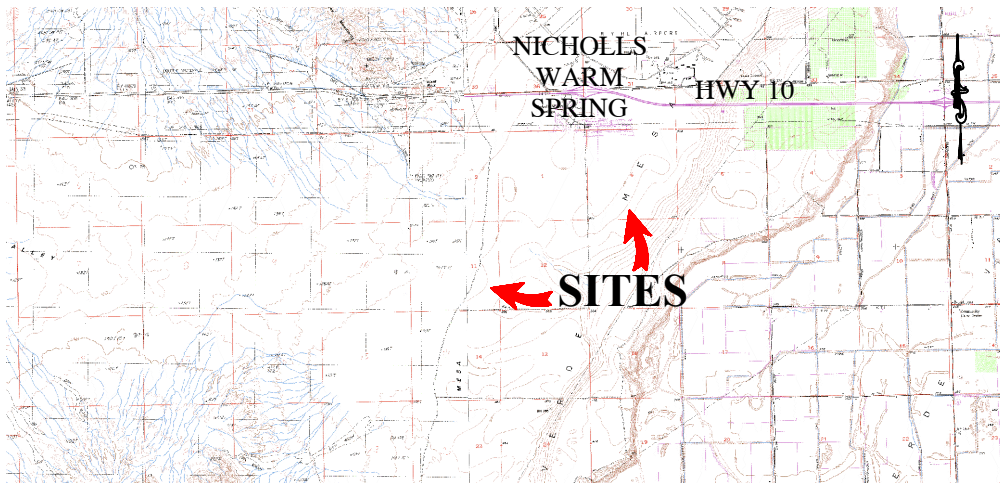
SITE



PORTIONS OF SEC. 6, T7S, R22E AND SEC. 11, T7S, R21E, SBM,
SOUTH OF NICHOLLS WARM SPRING

NO SCALE

LOCATION



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.

Exhibit B

A 2172
IP ATHOS III, LLC
APN: MULTIPLE
MODIFICATION OF
SURFACE ENTRY RIGHT
RIVERSIDE COUNTY



TS 08/08/19