

Staff Report 34

APPLICANT:

United States of America, and its Assigns, Acting by and through the Bureau of Land Management

PROPOSED ACTION:

Issuance of a General Lease – Public Agency Use

AREA, LAND TYPE, AND LOCATION:

A strip of land, 20 feet in width and 4,779 feet long, containing 2.19 acres, more or less, of indemnity school land on State-owned school land located within a portion of Section 16, Township 7 North, Range 3 East, SBM, south of Newberry Springs, San Bernardino County.

AUTHORIZED USE:

Use, maintenance, and monitoring of a livestock fence.

TERM:

20 years, beginning June 23, 2022.

CONSIDERATION:

\$140 per year, with an annual Consumer Price Index adjustment, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

- Should the fence no longer be required, Lessee shall ensure the improvements are removed at no cost to the State and that the lease premises are restored to their original condition. Prior to removing the fence, the Lessee shall notify, in writing, the Lessor of the intent to remove the fence.

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.

STATE'S BEST INTERESTS:

On April 26, 2013 ([Item 92, April 26, 2013](#)), the Commission authorized the issuance of Lease 8410, a General Lease – Public Agency Use, beginning June 23, 2012, to the Bureau of Land Management (BLM) replacing a Memorandum of Understanding (MOU) between the BLM and the Commission that was executed in 2002 for the purpose of maintaining, monitoring, and abandoning a livestock exclusion fence. Lease 8410 expired on June 22, 2022.

The fence is comprised of 4 strands of barbed wire with the bottom strand barbless. The fence is needed to implement the seasonal exclusion of livestock from the eastern portion of the Ord Mountain Cattle allotment. The fence benefits the desert tortoise because it is a barrier to assure that critical and non-critical habitat for the desert tortoise is excluded from livestock grazing during the important spring and fall seasons.

In California, the BLM administers approximately 665 active grazing allotments utilized by 553 grazing permittees/lessees. These allotments encompass about 6.1 million acres of public land in California. Grazing in California is managed using *Standards and Guidelines for Grazing Administration* as outlined in the 43 Code of Federal Regulations Subpart 4180. Approval of California Desert District Standards and Guidelines are pending. Until approved, the BLM is using the Fallback Standards and Guidelines outlined in Subpart 4180 of the Federal Regulations.

The existing fence does not significantly alter the land; the lease does not alienate the State's fee simple interest; and neither permanently impairs public rights. The lease is limited to a 20-year term and does not grant the lessee exclusive rights to the lease premises. The lease requires the Applicant maintain and remove the improvements at its sole expense. The lease also requires the payment of annual rent, generating revenue for the California State Teachers' Retirement System, consistent with Public Resources Code section 6217.5.

CLIMATE CHANGE:

As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency

and severity of natural disasters related to flooding, drought, and storms. The lease area is open lands with moderate to low vegetation fuels and is vulnerable to the aforementioned events, including dust storms and flash flooding from thunderstorms, and, to a lesser extent, wildland fires. The leased lands and surrounding land may be vulnerable to these weather events; however, these projected climate change effects are not expected to affect the uses of the leased lands for the fence.

CONCLUSION:

For the reasons stated above, staff believes issuance of this lease 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 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 may be required to remove the livestock fence. The lessee has no right to a new lease or to renewal of any previous lease.
2. 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.

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).

STATE'S BEST INTERESTS:

Find that the proposed lease is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use to the Applicant, beginning June 23, 2022, for a term of 20 years, for use, maintenance, and monitoring of a 4,779 foot-long, 4-strand barbed wire livestock fence, as described in Exhibit A and shown on Exhibit B (for reference purposes only), attached and by this reference made a part hereof; annual rent in the amount of \$140, with an annual Consumer Price Index adjustment.

EXHIBIT A

LEASE 8410

LAND DESCRIPTION

A 20 foot wide Parcel of State owned School Lands situate in Section 16, Township 7 North, Range 3 East, SBM, as shown on Official Government Township Plat approved June 2, 1921, County of San Bernardino, State of California, lying 10 feet on each side of the following described centerline:

BEGINNING at a point on West line of said Section 16 which bears N 1°02'16" W 99.34 feet from the southwest corner of said Section, said point also being on the centerline of an existing fence; thence along the centerline of said fence the following 14 courses:

- 1) N 69°26'41" E 287.77 feet;
- 2) N 32°44'42" E 285.65 feet;
- 3) N 34°02'06" E 362.05 feet;
- 4) N 32°57'08" E 270.27 feet;
- 5) N 33°32'34" E 239.65 feet;
- 6) N 34°08'49" E 344.26 feet;
- 7) N 33°18'51" E 577.61 feet;
- 8) N 34°29'18" E 414.91 feet;
- 9) N 34°09'18" E 631.10 feet;
- 10) N 33°02'19" E 272.71 feet;
- 11) N 36°49'28" E 191.14 feet;
- 12) N 44°44'17" E 312.50 feet;
- 13) N 30°50'21" E 352.19 feet;
- 14) N 25°50'36" E 237.16 feet to the end of said fence and the terminus of said strip.

The sidelines of said strip shall be prolonged or shortened so as to commence on the westerly boundary of said Section 16 and terminate at a point perpendicular to the end of said strip.

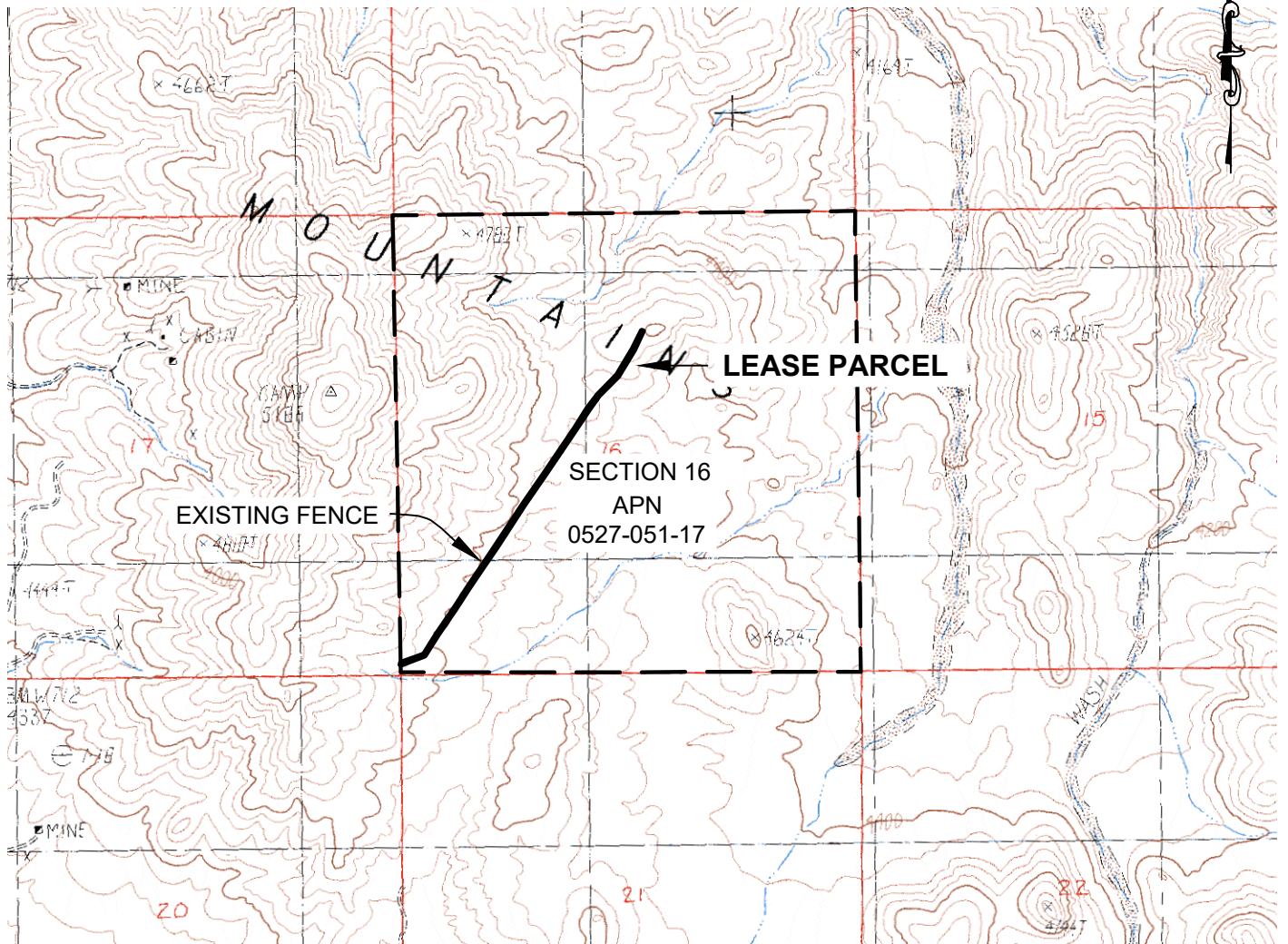
END OF DESCRIPTION

Prepared 6/2/2022 by the California State Lands Commission Boundary Unit.



NO SCALE

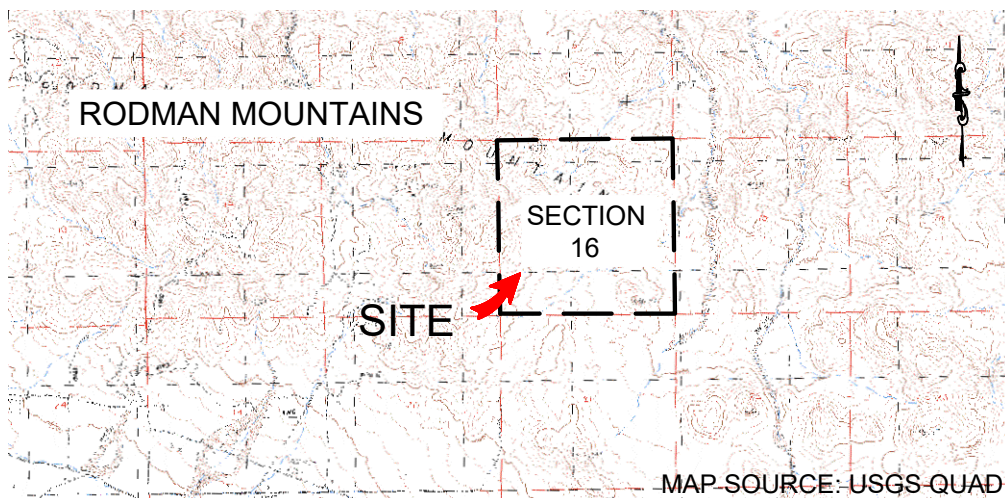
SITE



SECTION 16, TOWNSHIP 7 NORTH, RANGE 3 EAST, S.B.B.&M.

NO SCALE

LOCATION



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

LEASE 8410
U.S. BUREAU OF LAND
MANAGEMENT
APN 0527-051-17
GENERAL LEASE -
PUBLIC AGENCY USE
SAN BERNARDINO COUNTY



DJF 6/10/2022