

# Staff Report 47

## APPLICANT:

Geysers Power Company, LLC

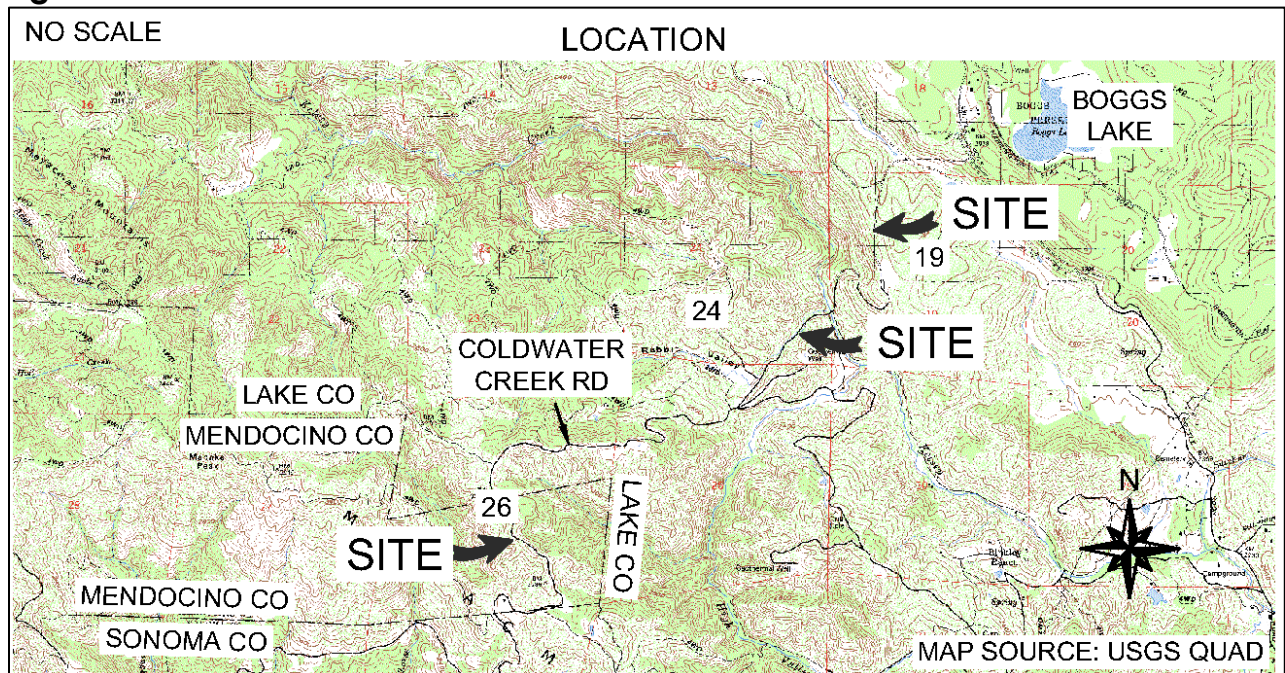
## PROPOSED ACTION:

Issuance of a General Lease – Right-of-Way Use.

## AREA, LAND TYPE, AND LOCATION:

5.91 acres, more or less, of State Indemnity school lands located east of Cloverdale in Section 19, Township 12 North, Range 8 West, MDM, Lake County; Section 24, Township 12 North, Range 9 West, MDM, Lake County; and Section 26, Township 12 North, Range 9 West, MDM, Mendocino County (as shown in Figure 1).

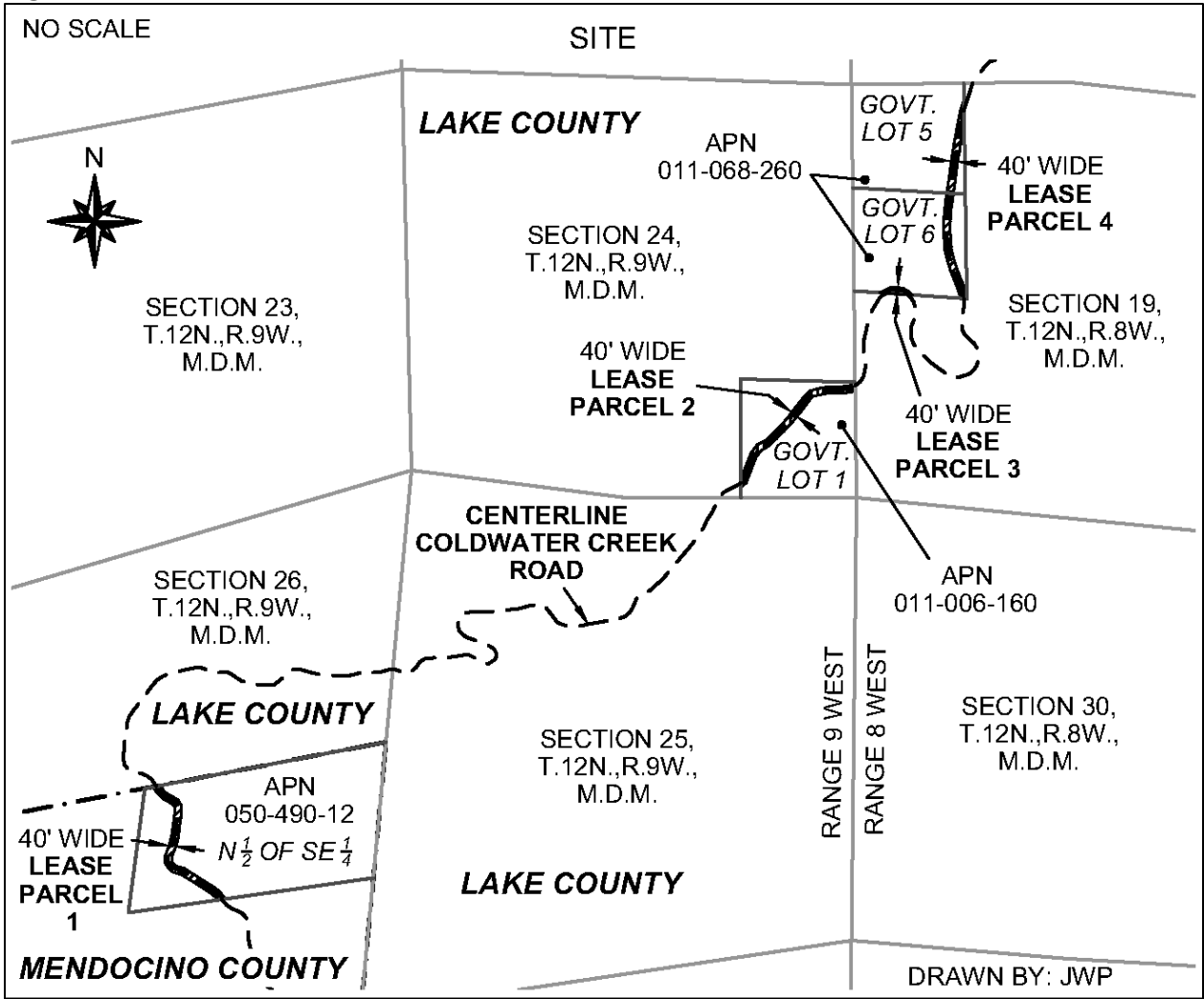
**Figure 1. Location**



**AUTHORIZED USE:**

Non-exclusive use of portions of an existing access road for vehicle navigation and vegetation management within the road and up to 5-feet on each side for fire mitigation (as shown in Figure 2).

**Figure 2. Site Map**



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

**TERM:**

10 years, beginning December 5, 2023.

**CONSIDERATION:**

\$3,707 per year, with an annual Consumer Price Index adjustment.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Lessee shall comply with all existing and subsequently enacted laws or regulations promulgated by the federal, state, and local agencies having lawful authority and jurisdiction over the subject activity and Lease Premises.
- Lessee shall take all reasonable and necessary actions to prevent, suppress, and control fires on the Lease Premises.
- No improvements or structures shall be constructed or placed on the Lease Premises without Lessor's prior approval.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**AUTHORITY:**

Public Resources Code sections 6005, 6216, 6217.5, 6501.1, 6503, and 8701; California Code of Regulations, title 2, sections 2000 and 2003.

**STATE'S BEST INTERESTS:**

On October 27, 2011, the Commission authorized a General Lease – Right-of-Way Use to Oski Energy, LLC, for the use of an existing road for non-exclusive use and maintenance of an existing access road ([Item C44, October 27, 2011](#)). On October 14, 2014, the Commission authorized acceptance of a Lease Quitclaim Deed from the Oski Energy, LLC who no longer had use for the road which led to termination of Lease 8959 ([Item C92, October 14, 2014](#)).

The Applicant is applying for a General Lease – Right-of-Way Use, for the non-exclusive use of portions of an existing access road for vehicle navigation and vegetation management within the road for fire mitigation. This includes clearing vegetation and creating a defensible space of approximately 5-feet on both sides of the subject road to facilitate wildfire response and vehicle navigation; utilizing an excavator with masticating arm to remove road/roadside vegetation where necessary. The excavator will be accompanied by a water truck for wildfire mitigation purposes. After this process, a licensed tree care contractor/arborist will clean up all rough cuttings. The subject road will provide access to a proposed geothermal project site which is located on an adjacent property that is not owned by the State. The applicant's employees and contractors will use the road for vehicular access to and from the geothermal project site.

The proposed lease does not alienate the State's fee simple interest and does not permanently impair public rights. The lease is limited to a 10-year term and does not grant the lessee exclusive rights to the lease premises. The lease requires the Applicant to indemnify the State for any liability incurred as a result of the lessee's activities on the lease premises. 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:**

The combination of more frequent and longer duration weather patterns contributing to high winds, low humidity, extreme heat, and thunderstorm and lightning events for California's forested mountain regions has contributed to an increasingly aggressive wildland fire season as a related product of climate change. This threat can be further elevated through prolonged drought conditions and a lack of forest fuels reduction management for forest land areas. In addition, as stated in the [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, fire, drought, extreme heat, and storms.

The forest land setting of the subject State parcels and surrounding land is vulnerable to these weather events and the threat of wildland fires. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to effects of climate change. The applicant is also responsible for ensuring that the lease premises and the access road are maintained in a manner that does not contribute to wildland fire hazards. Regular maintenance of vegetation within the lease premises, the existing improvement under lease, and access to the lease premises will help minimize the threat of fire hazards to the lease premises.

### **CONCLUSION:**

For the reasons stated above, staff believes issuance of this lease is in the best interests of the State.

### **OTHER PERTINENT INFORMATION:**

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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 has no right to use the road. The lessee has no right to a new lease or to renewal of any previous lease.

2. This action is consistent with addressing the challenges and opportunities described in the Commission's 2021-25 Strategic Plan to "Embrace and safeguard multi-benefit School Lands and resource management stewardship that equitably balances responsible local and regional economic development, supports living wages, environmental protection, and revenue generation."
3. 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.

## **RECOMMENDED ACTION:**

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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 – Right-of-Way Use to the Applicant, beginning December 5, 2023, for a term of 10 years, for the non-exclusive use of portions of an existing access road for vehicle navigation and vegetation management within the road and up to 5-feet on each side for fire mitigation; annual rent in the amount of \$3,707, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.