

# Staff Report 80

**APPLICANT:**

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California Highway Patrol

**PROPOSED ACTION:**

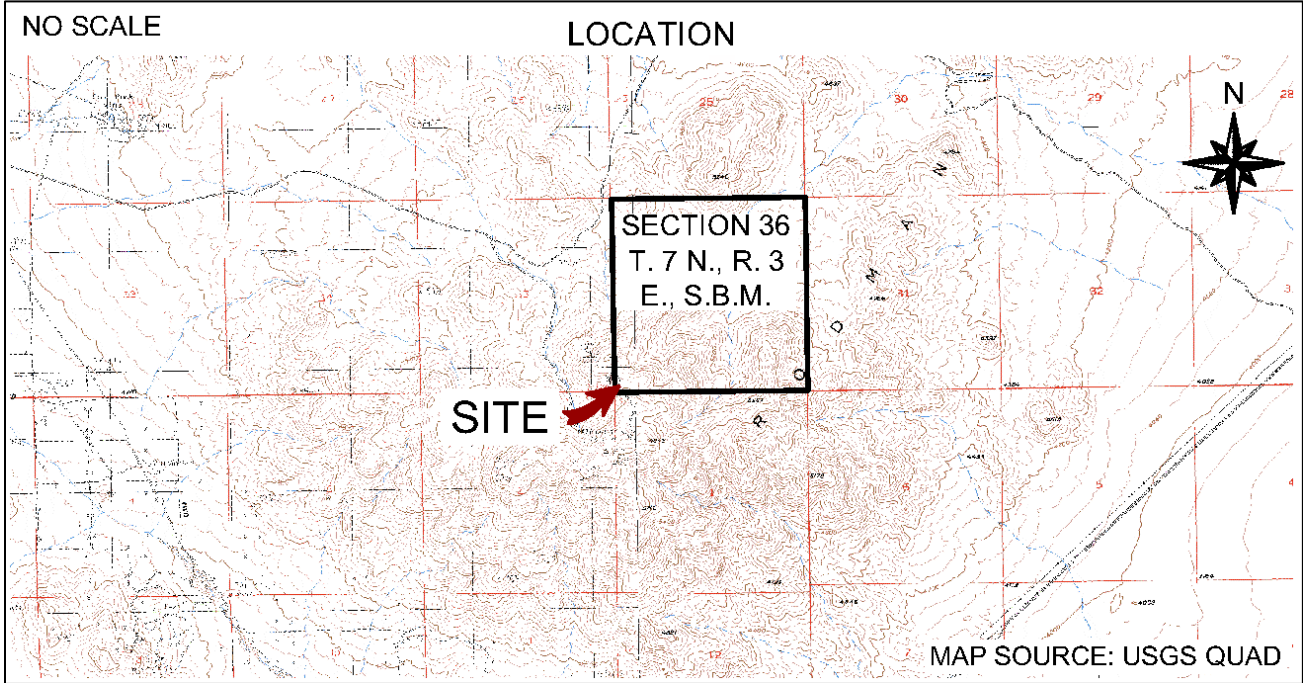
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Issuance of a General Lease – Right-of-Way Use.

**AREA, LAND TYPE, AND LOCATION:**

0.21 acre, more or less, of State school land in a portion of Section 36, Township 7 North, Range 3 East, SBM, near Barstow, San Bernardino County (as shown in Figure 1).

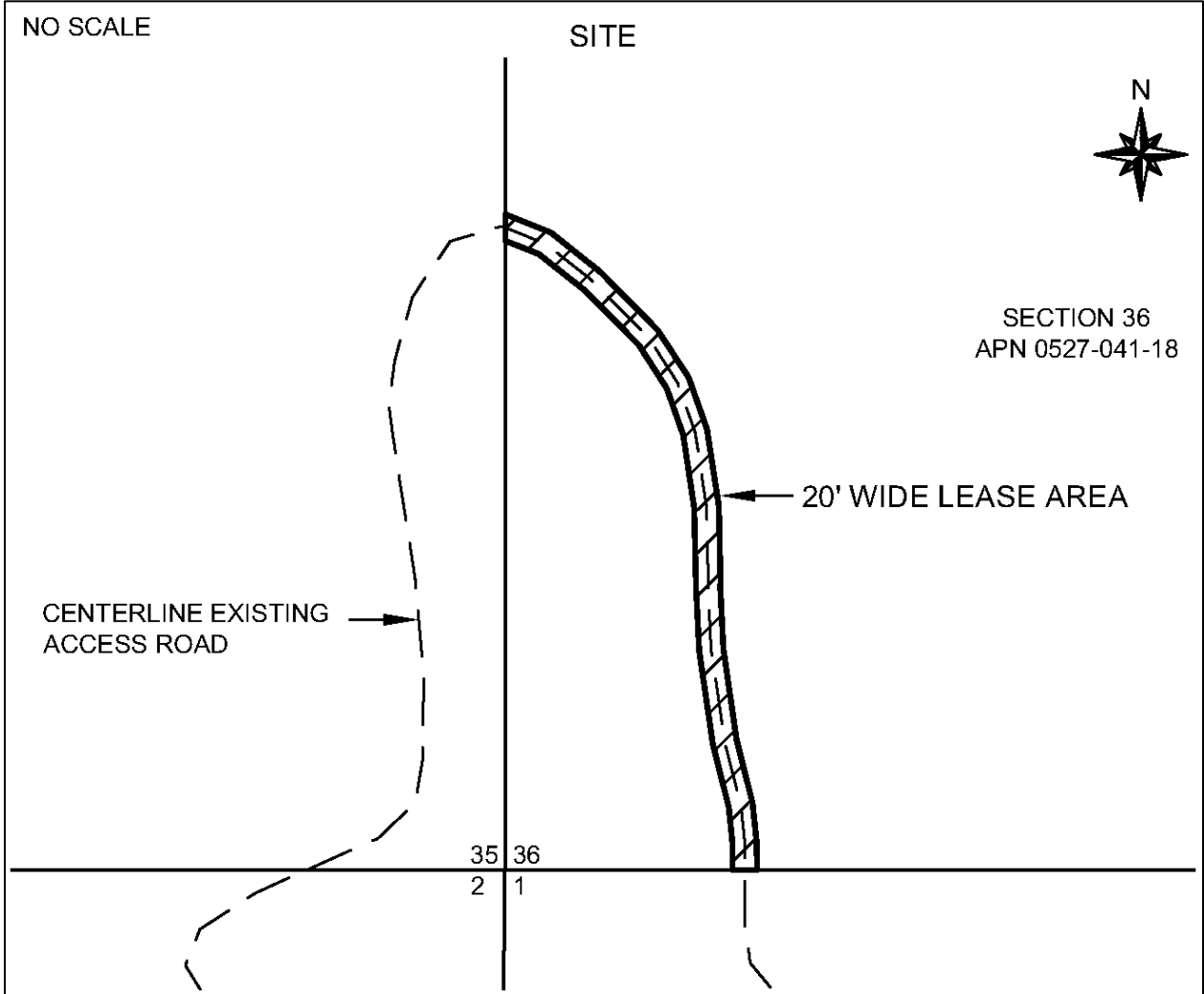
**Figure 1. Location**



**AUTHORIZED USE:**

Use and maintenance of an existing unpaved access road (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:**

20 years, beginning January 26, 2024.

**CONSIDERATION:**

\$503 per year, with an annual Consumer Price Index adjustment, as provided in the lease.

**SPECIFIC LEASE PROVISIONS:**

- Lessee will maintain the unpaved road in a passable condition and will assume all costs and expenses associated with such road maintenance. Lessor shall not be responsible for any of the costs associated with the road maintenance.
- No herbicidal chemical may be used for vegetation control without prior written consent of the Lessor.

**STAFF ANALYSIS AND RECOMMENDATION:**

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**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 January 26, 2012 ([Item 69, January 26, 2012](#)), the Commission authorized a General Lease – Right-of-Way Use to the Applicant for an unpaved access road. That lease expired on January 25, 2022. The Applicant made a rent payment on January 2, 2024 based on the rent of the prior lease. Staff recommends payment already collected be credited toward the rent under the proposed lease. The Applicant is applying for a General Lease – Right-of-Way Use for the use and maintenance of the existing unpaved access road.

In 2012, the Applicant constructed a 120-foot-tall communications antenna tower, a prefabricated radio vault, and associated support infrastructure on private land near the lease premises. The Applicant uses the unpaved access road to get to and from the California Highway Patrol communications tower.

The existing unpaved access road 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 to maintain the unpaved road in a passable condition and will assume all costs and expenses associated with such road maintenance. 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 premises and surrounding area are in the high Mojave Desert at an elevation of approximately 4,500 feet. The lease premises consists of moderately level to gently rolling topography with sparse native vegetation and is vulnerable to the above events, including dust storms and flash flooding from thunderstorms, and to a lesser extent, wildland fires. The lease premises 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 access road.

### **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 lands, 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 have no right to use the unpaved access 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 January 26, 2024, for a term of 20 years, for use and maintenance of an existing unpaved access road, 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 \$503, with an annual Consumer Price Index adjustment.