

Staff Report 50

APPLICANT:

SE Athos I, LLC and SE Athos II, LLC

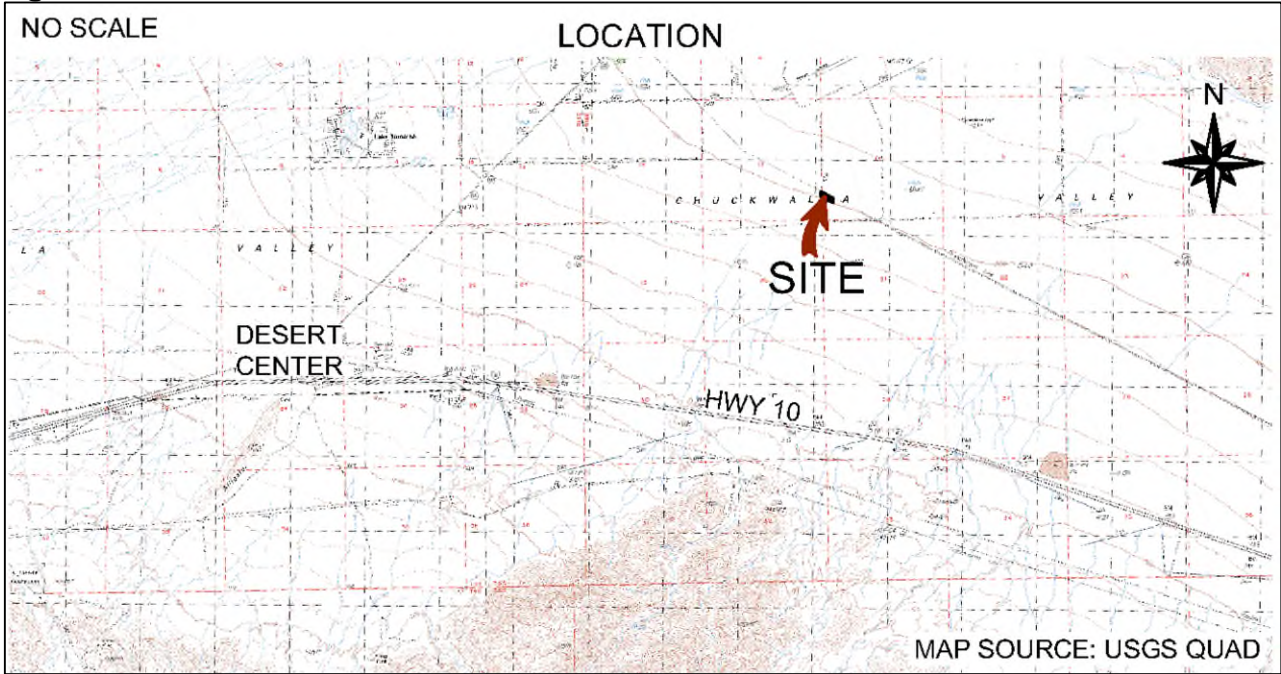
PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

1.31 acres, more or less, of State-owned school land within Section 16, Township 5 South, Range 16 East, SBM, northeast of Desert Center, Riverside County (as shown in Figure 1).

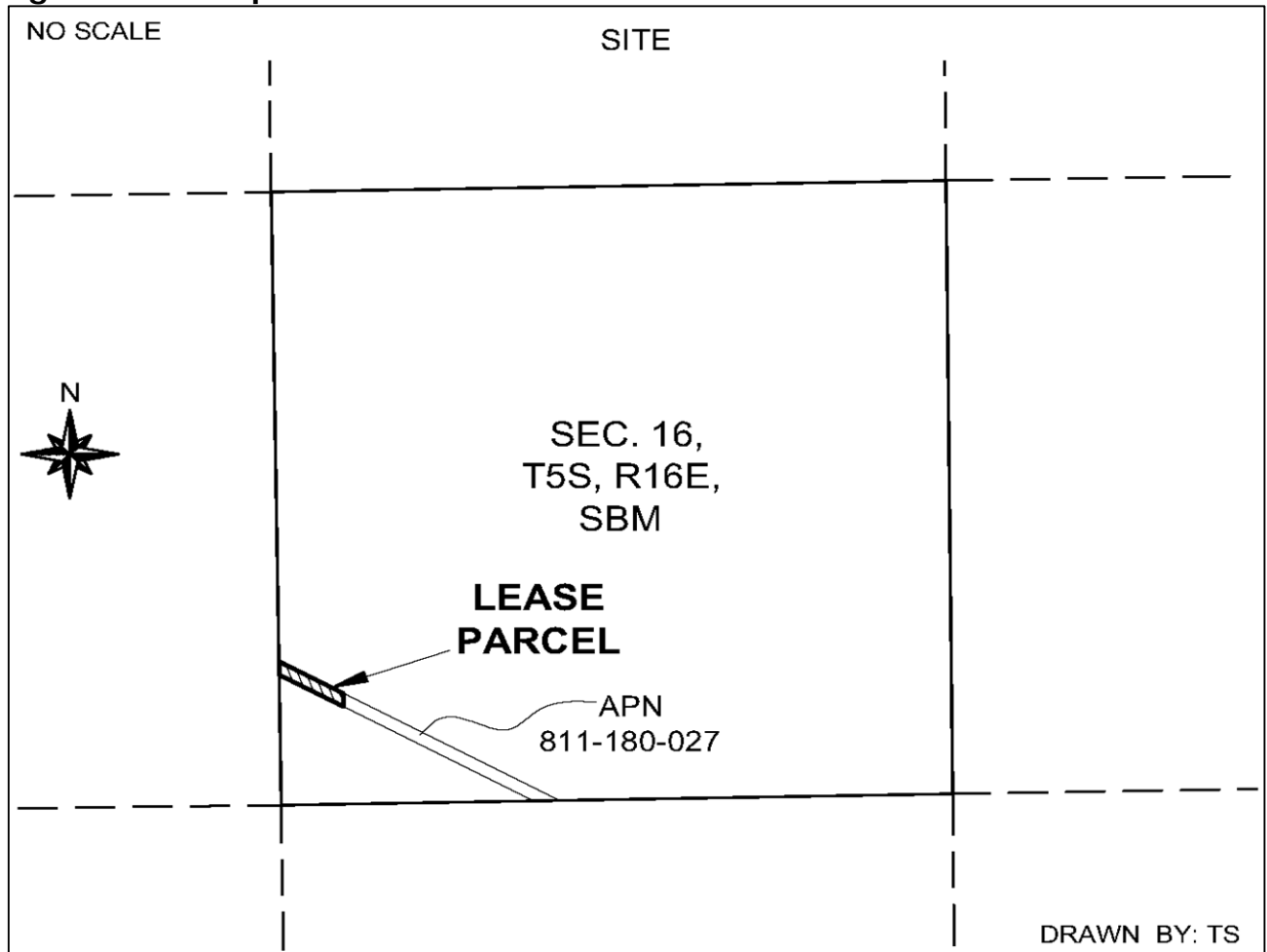
Figure 1. Location



AUTHORIZED USE:

Construction, use, and maintenance of two overhead 230-kilovolt (kV) transmission lines and up to three steel poles, up to 12, 34.5-kV underground circuits, one 12-kV underground distribution circuit, up to 14 underground fiber-optic cables, and an 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:

34 years, beginning August 23, 2019.

CONSIDERATION:

\$503 per year, with an annual Consumer Price Index adjustment.

PROPOSED AMENDMENT:

Amend Section 1, Basic Provisions to add Athos Storage LLC as a Lessee.

BACKGROUND:

On August 23, 2019, the Commission authorized a General Lease – Right- of-Way Use to IP Athos, LLC and IP Athos II, LLC for the construction, use, and maintenance of one overhead 230-kilovolt (kV) transmission line and up to three steel poles, up to 12, 34.5-kV underground circuits, one 12-kV underground distribution circuit, up to 14 underground fiber-optic cables, and an unpaved access road ([Item 61, August 23, 2019](#)).

On December 17, 2020, the Commission authorized an amendment of the lease to change the name of the Lessee from IP Athos, LLC and IP ATHOS II, LLC to SE Athos I, LLC and SE Athos II, LLC, add a second overhead 230-kilovolt (kV) transmission line, extend the term of the lease from 20 years to 34 years beginning August 23, 2019, and ending August 22, 2053 ([Item 52, December 17, 2020](#)).

On June 29, 2021, the Commission authorized an Agreement and Consent to Encumbrance of Lease Number PRC 9579 ([Item 45, June 29, 2021](#)).

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6501.1, 6503, and 8705; California Code of Regulations, title 2, sections 2000 and 2003.

STATE’S BEST INTERESTS:

The Lessee is now applying for an amendment of a General Lease – Right-of-Way Use to amend Section 1, Basic Provisions to add Athos Storage LLC as an additional Lessee. The authorized improvements are infrastructure serving the Lessee’s Athos Renewable Energy Project, a solar energy project on adjacent privately-owned lands. The Athos project comprises three interconnected components: two fully operational solar energy generation facilities and one planned battery storage project. The solar projects have a combined capacity of 450 megawatts (MW), can generate approximately 1,400 gigawatt hours (GWh) per year of renewable energy, and became fully operational in 2022. When constructed, a new battery storage component will have a capacity of up to 450 MW, with the ability to store

and subsequently discharge up to 1,800 MWh. The battery storage project will be located on privately-owned lands and utilize the existing lease improvements. No new infrastructure will be installed in the lease premises. The Lessee as well as Athos Storage LLC are wholly owned subsidiaries of SB Energy DevCo., LLC.

The lease requires the lessee to insure and indemnify the State for any liability incurred as a result of the lessee's activities on the lease premises and maintain the electrical transmission lines and circuits, fiber-optic cables, and access road 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:

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 desert regions has contributed to an increasingly aggressive wildland fire season as a related product of climate change. 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 lease area is open lands with moderate to low vegetation fuels, and is vulnerable to the above events, including dust storms and flash flooding from thunderstorms, and to a lesser extent, wildland fires.

The lease is a 34-year General Lease – Right of Way Use that began on August 23, 2019, and may be subject to the climate change effects provided above. Further climate change impact analyses on the leased facilities would be assessed if a new lease is considered in 2053 and would be based on projected climate change scenarios at that time.

CONCLUSION:

For all the reasons stated above, staff believes approval of the proposed lease amendment will not result in a change in the use of, or impacts to, State-owned school lands and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the authorization to amend the lease 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. Upon expiration or prior termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Leading Climate Activism" Strategic Focus Area of the Commission's 2021-2025 Strategic Plan.
3. Amendment of the lease to add a lessee is not a project as defined by the California Environmental Quality Act 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, sections 15060, subdivision (c)(3), and 15378, subdivision (b)(5).

RECOMMENDED ACTION:

It is recommended that the Commission:

STATE'S BEST INTERESTS:

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

AUTHORIZATION:

Authorize the amendment of Lease Number 9579, a General Lease – Right-of-Way Use, effective October 17, 2024, to amend the Section 1, Basic Provisions and add Athos Storage LLC as a Lessee; all other terms and conditions of the lease shall remain in effect without amendment.