

Staff Report 47

APPLICANT:

Southern California Edison Company

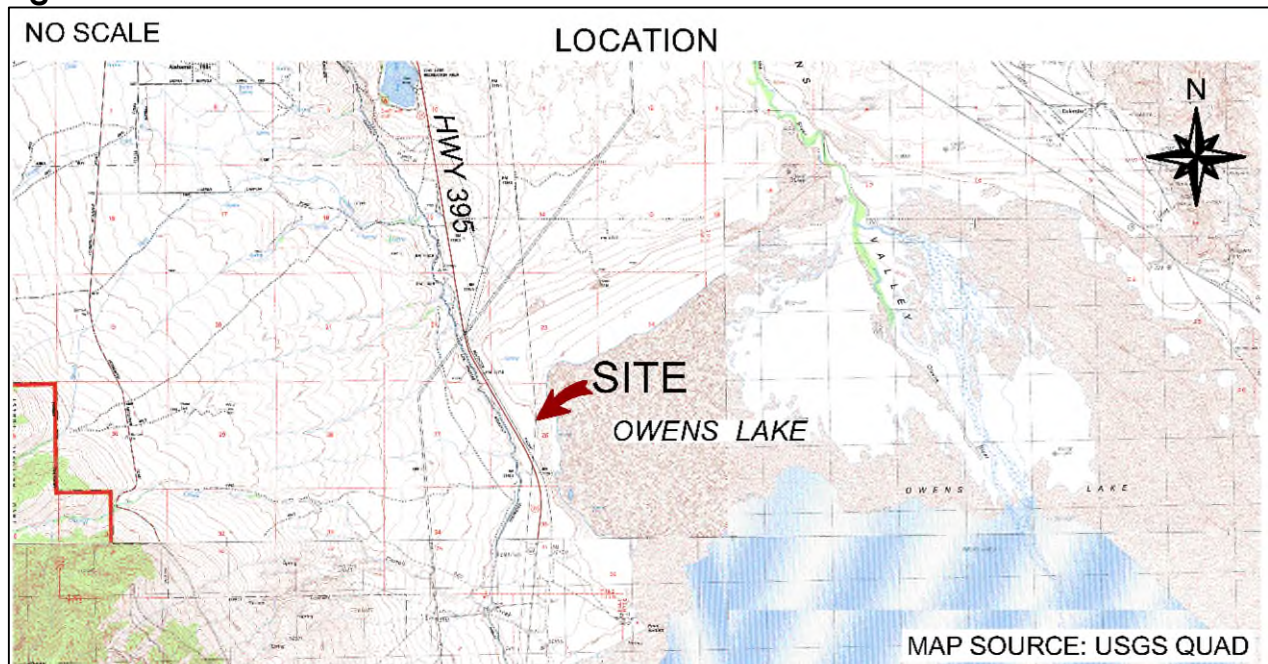
PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

9.54 acres, more or less, of sovereign land, located within a portion of Sections 23 and 26, Township 16 South, Range 36 East, MDM, near Owens Lake, Inyo County (as shown in Figure 1).

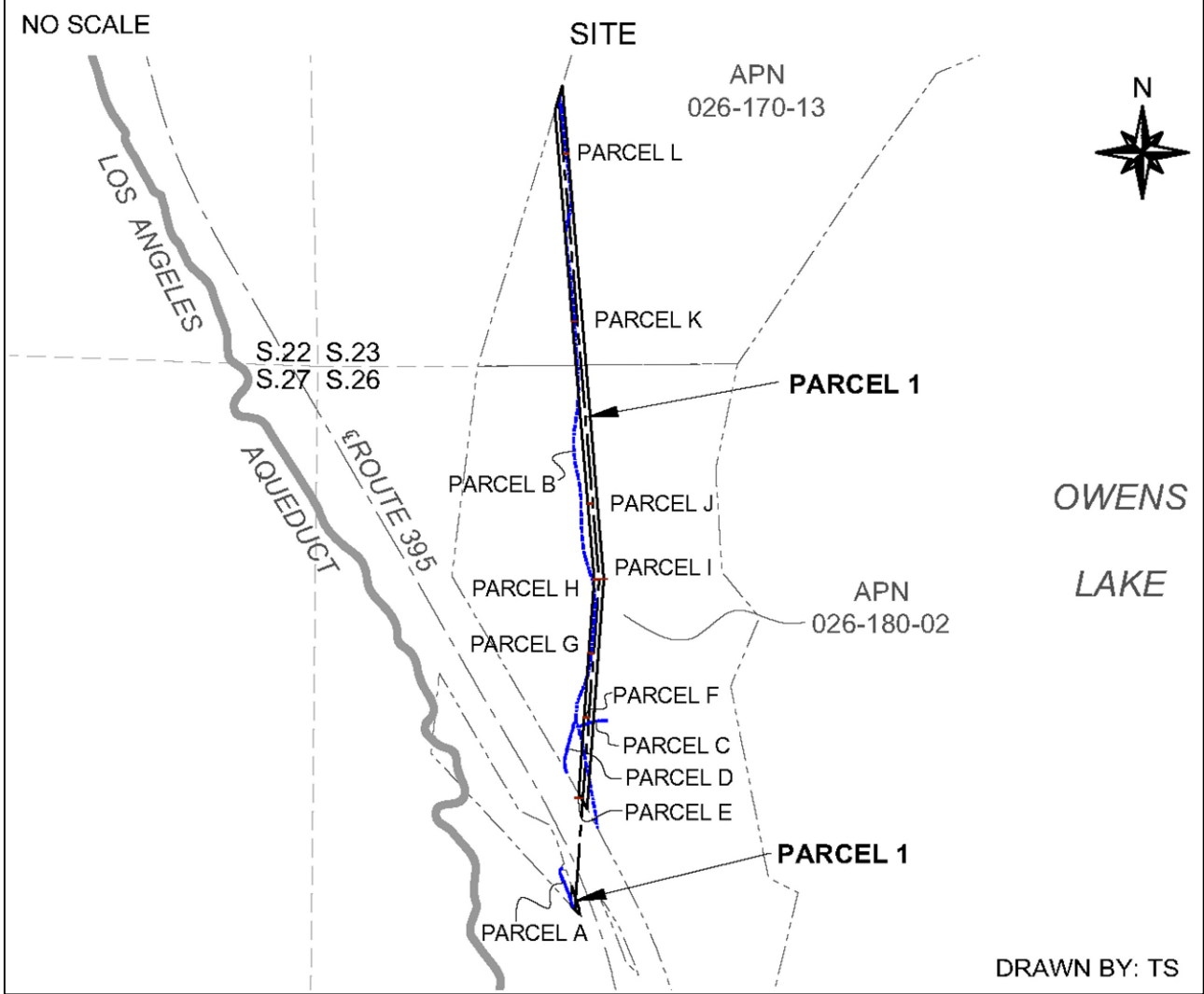
Figure 1. Location



AUTHORIZED USE:

Operation and maintenance of an existing 115 kV overhead electric transmission line and access road not previously authorized by the Commission (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:

25 years; beginning December 17, 2024.

CONSIDERATION:

\$657 per year, with an annual Consumer Price Index adjustment, and the State reserving the right to fix a different rent on the 10th anniversary of the lease term, as provided in the lease; and \$3,290 for the unauthorized occupation of State-owned school lands prior to December 17, 2024.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$2,000,000 per occurrence, or equivalent staff-approved self-insurance program.
- Lessee agrees to maintain its previously executed performance guaranty until such time as all conditions governing termination of this guaranty, as described in the guaranty, are met.
- Lessor shall have the right to examine and obtain copies of all records and data associated with maintenance activities of the electrical transmission lines on the Lease Premises.
- Lessee shall take all reasonable and necessary actions to prevent, suppress, and control fires on the Lease Premises.
- No herbicidal chemical may be used for vegetation control without prior written consent from Lessor. All herbicidal chemicals used by Lessee or its contractors for vegetation control on the Lease Premises must be registered with the California Department of Pesticide Regulation and must be applied in conformity with current Material Safety Data Sheets.
- No refueling or maintenance of vehicles or equipment shall take place within the Lease Premises.
- Lessee agrees the provisions of Section 3, Paragraph 11 shall also extend to the period of Lessee's unauthorized occupation of state-owned lands prior to December 17, 2024.

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.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

The Applicant is applying for a General Lease – Right-of-Way use for the use and maintenance of an existing 115 kV overhead electric transmission line and access road not previously authorized by the Commission. Staff recommends issuance of a General Lease – Right-of-Way Use to the Applicant, to take effect on December 17, 2024.

The Applicant has occupied State Land without authorization since the installation of the improvements. To ensure the State is compensated for this period of unauthorized occupation, staff recommends that the Applicant be charged compensation in the amount of \$3,290 for the period prior to December 17, 2024. Additionally, the proposed lease will require that the Applicant indemnify the State for the entire period of unauthorized occupation, thereby ensuring that the State is protected from liability.

The Applicant is the primary electricity supply company for much of Southern California. It provides 15 million people with electricity across a service territory of approximately 50,000 square miles. The Applicant relies on the subject transmission line to help provide this service.

The existing overhead electrical transmission line does not significantly alter the land; the lease does not alienate the State’s fee simple interest or permanently impair public rights. The lease is limited to a 25-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee’s activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CLIMATE CHANGE:

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, drought, 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 leased lands and surrounding land may be vulnerable to these weather events; however, these projected climate change

effects are not expected to affect the use of the leased lands for the transmission line and maintenance road.

CONCLUSION:

For all the reasons above, staff believes the issuance of the proposed lease will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; and 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 sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant has no right to utilize the sovereign lands and may be required to remove the improvements. The lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" and "Leading Climate Activism" Strategic Focus Areas of the Commission's 2021 – 2025 Strategic Plan.
3. The Applicant has also submitted an application for the use of approximately 8.538 acres, more or less, of State-owned school land, located within a portion of Section 36, Township 18 South, Range 36 East, MDM, near Cartago, Inyo County for the use and maintenance of an existing 115kV overhead electric transmission line and access roads. The application will be considered by the Commission under a separate staff report.
4. 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 15061 and California Code of Regulations, title 2, section 2905.

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 will not substantially impair the public rights to navigation or substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the lease; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize acceptance of compensation from the Applicant in the amount of \$3,290 for the unauthorized occupation of State lands for the period prior to December 17, 2024.
2. Authorize issuance of a General Lease – Right-of-Way Use to the Applicant, beginning December 17, 2024, for a term of 25 years, for the use of existing 115-kV overhead electric transmission line and access road; annual rent in the amount of \$657, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$2,000,000 per occurrence, Lessee may satisfy all or part of this insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease; and security in the form of a performance guaranty.