

# Staff Report 53

**APPLICANT:**

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Pacific Bell Telephone Company, doing business as AT&T California (AT&T)

**PROPOSED ACTION:**

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

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

1.44 acres, more or less, of State Indemnity school lands located within a portion of Section 16, Township 34 North, Range 4 West, MDM, near O’Brien Mountain in the Shasta National Forest, Shasta County (as shown in Figure 1).

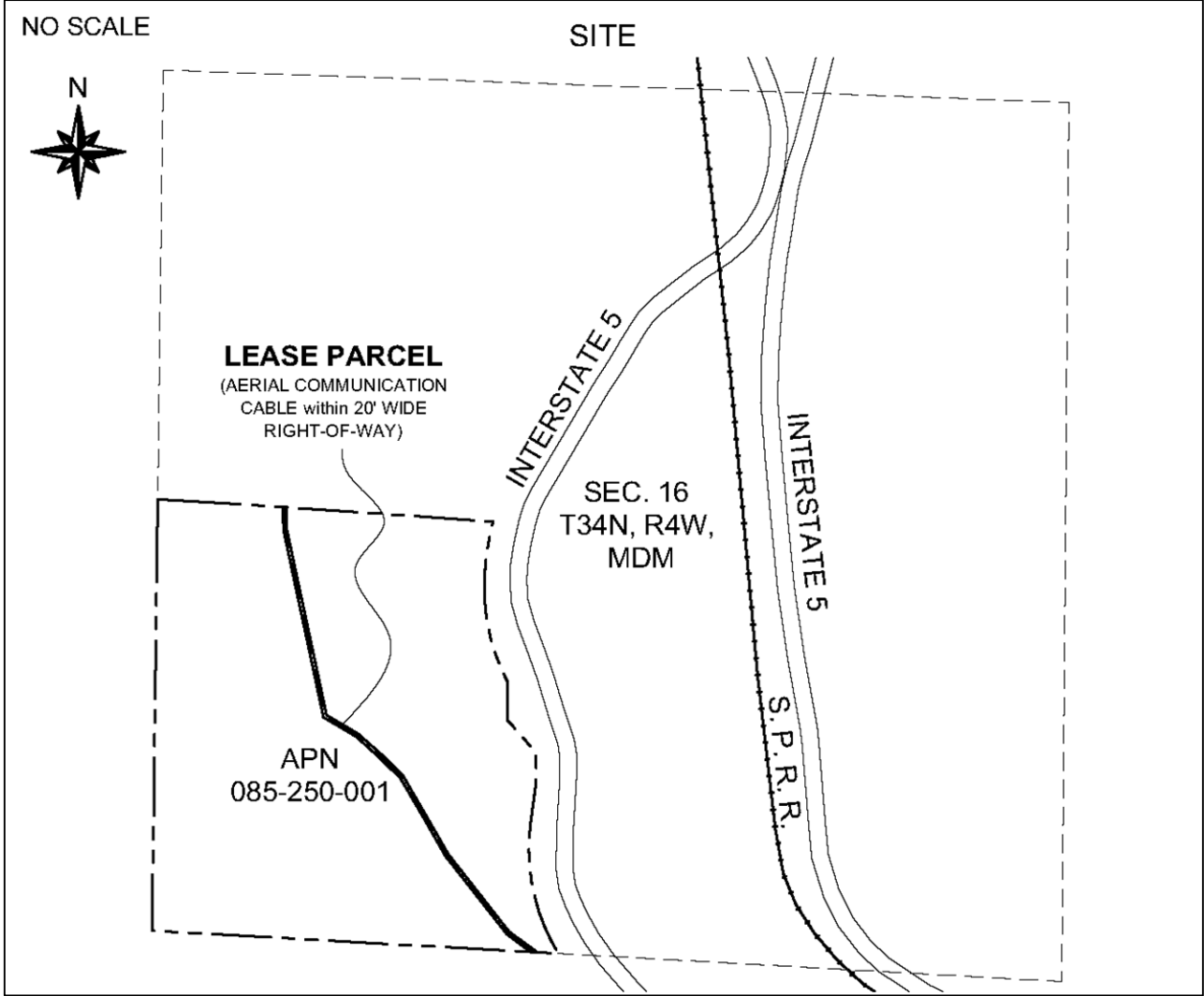
**Figure 1. Location**



**AUTHORIZED USE:**

Use of an existing aerial communication cable and wood poles (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 December 17, 2024.

**CONSIDERATION:**

\$1,095 per year, with an annual Consumer Price Index adjustment; and \$1,971 in compensation for the unauthorized occupation of State land prior to December 17, 2024.

**SPECIFIC LEASE PROVISIONS:**

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Surety Bond or other security in the amount of \$75,000, with the Lessor reserving the right to increase the bond amount.
- Lessee shall take all reasonable and necessary actions to prevent, suppress, and control fires on the Lease Premises.

**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 November 29, 1973, the Commission authorized a General Lease – Right-of-Way Use to Pacific Bell, for the installation and use of an aerial communication cable and wood poles ([Item 5, November 29, 1973](#)). The lease expired August 31, 2022.

The Applicant is applying for a General Lease – Right-of-Way Use, for the use of an existing aerial communication cable and wood poles. There are 20 wooden poles, spanning the distance is an aerial communication cable, totaling approximately 4,176 feet in length. The subject improvements serve the nearby school and local community.

Accounting records show rent was paid during the period of holdover tenancy through February 28, 2023. Unauthorized occupation of State lands by the subject aerial communication cable and wood poles occurred during the period from March 1, 2023 through December 16, 2024. Staff recommends acceptance of compensation in the amount of \$1,971 for the unauthorized occupation. Staff further recommends the lease provisions regarding indemnity be extended back to September 1, 2022, to coincide with the date the prior lease expired.

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 20-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 parcel 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 responsible for ensuring that the lease premises are maintained in a manner that does not contribute to wildland fire hazards. Regular maintenance of vegetation within the lease premises, the existing facilities 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 improvements. 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 15061 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:**

1. Authorize acceptance of compensation from the Applicant in the amount of \$1,971 for unauthorized occupation of State land 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 20 years, for the use of an existing

aerial communication cable and wood poles; annual rent in the amount of \$1,095 with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence; and a surety bond or other security in the amount of \$75,000.