

Staff Report 57

LESSEE:

Windhub Solar B, LLC

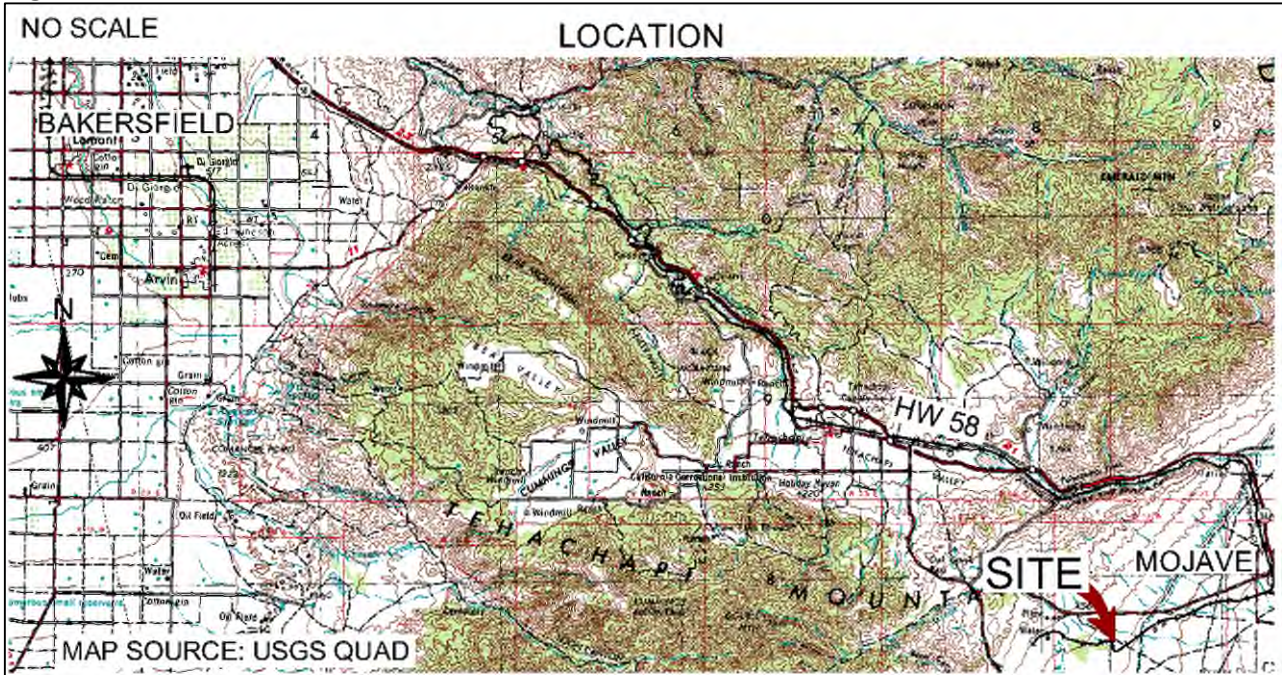
PROPOSED ACTION:

Amendment of General Lease – Industrial Use.

AREA, LAND TYPE, AND LOCATION:

160 acres, more or less, of State indemnity school land in Section 28, Township 11 North, Range 13 West, SBM, west of Mojave, Kern County (as shown in Figure 1).

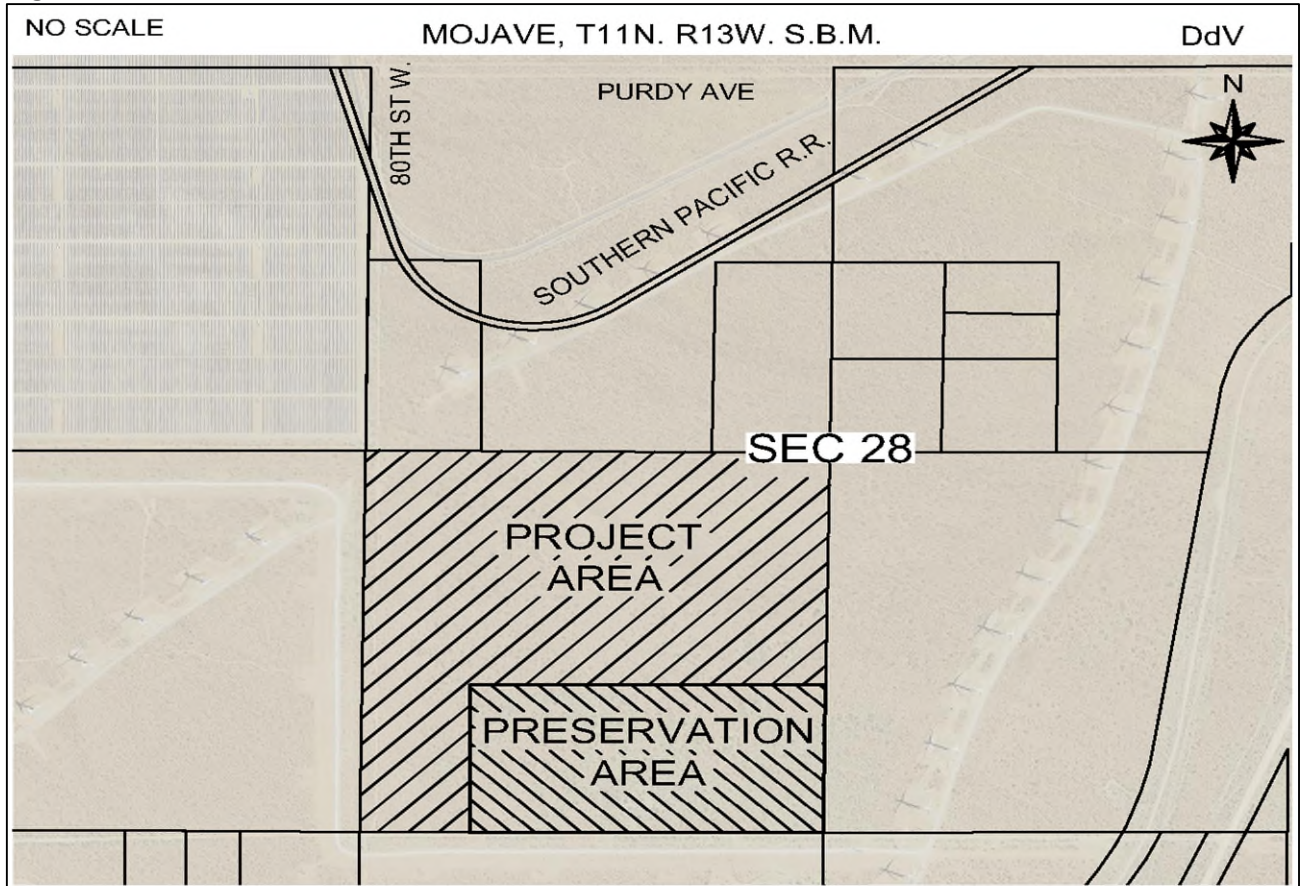
Figure 1. Location



AUTHORIZED USE:

Construction, use, maintenance, and decommissioning of a 112-acre solar energy facility; and the preservation of a 48-acre Joshua Tree grove (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:

40 years, beginning February 28, 2023.

CONSIDERATION:

Base Rent in the amount of \$69,300 per year, with an annual Consumer Price Index adjustment, or a Royalty Fee of 4 percent of the Gross Value of Electrical Power, whichever is greater, as described in Section 2, Paragraph 6 of the Lease and subject to modification by Lessor as specified in Section 2, Paragraph 6 and Section 3 - General Provisions, Paragraph 3(c).

PROPOSED AMENDMENT:

Amend Section 1, Basic Provisions, Liability Insurance: Commercial general liability insurance in an amount no less than \$2,000,000 per occurrence and \$4,000,000 aggregate, umbrella liability insurance with minimum limits of \$5,000,000 per occurrence and \$6,000,000 aggregate; Lessee may satisfy all or part of the insurance requirement through maintenance of a staff-approved self-insurance program as specified in the lease.

STAFF ANALYSIS AND RECOMMENDATION:

AUTHORITY:

Public Resources Code sections 6005, 6216, 6217.5, 6501.1, 6503, and 8705; California Code of Regulations, title 2 sections 2000 and 2003.

STATE'S BEST INTERESTS:

On February 28, 2023, the Commission authorized issuance of Lease No. 9726, a General Lease – Industrial Use to Windhub Solar B, LLC, for construction, use, maintenance, and decommissioning of a 112-acre solar energy facility; and the preservation of a Joshua Tree grove, including the construction, use, and maintenance of a fence on 48-acres of State-owned school lands in Kern County ([Item 85, February 28, 2023](#)).

On August 30, 2024, the Executive Officer consented to a change of control from Balanced Rock Power (owner of Windhub Solar B, LLC) to SSI DevCo, LLC, whereby SSI DevCo, LLC, acquired ownership of Windhub Solar B, LLC and the lease.

During a compliance review of the lease, staff discovered that the liability insurance requirements, specifically the commercial general liability limits, did not match the limits required in the lease. In order to remedy the discrepancy and bring the lease into full compliance, staff is recommending that the lease be amended to revise the insurance limit requirements. The proposed limits vary slightly from what was originally authorized by the Commission but provide similar and adequate liability coverage to the State.

CONCLUSION:

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

OTHER PERTINENT INFORMATION:

1. Approval or denial of the lease amendment 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 lessee will be out of compliance with the terms of the lease.
2. Kern County and Commission staff are currently reviewing construction plans for the project. The lessee anticipates beginning construction in late 2024 or early 2025.
3. This action is consistent with the "Leading Climate Activism" and "Prioritizing Social, Economic, and Environmental Justice" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
4. Amendment of the lease to change the general liability insurance requirement 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 lease is in the best interests of the State.

AUTHORIZATION:

Authorize the amendment of Lease Number 9726, a General Lease – Industrial Use, effective December 17, 2024, to amend Section 1, Basic Provisions, Liability insurance to the following: Commercial general liability insurance in an amount no less than \$2,000,000 per occurrence and \$4,000,000 aggregate, umbrella liability insurance with minimum limits of \$5,000,000 per occurrence and \$6,000,000 aggregate; Lessee may satisfy all or part of the insurance requirement through

maintenance of a staff-approved self-insurance program as specified in the lease;
all other terms and conditions of the lease will remain in effect without amendment.