

Staff Report 53

APPLICANT:

Southern California Edison Company

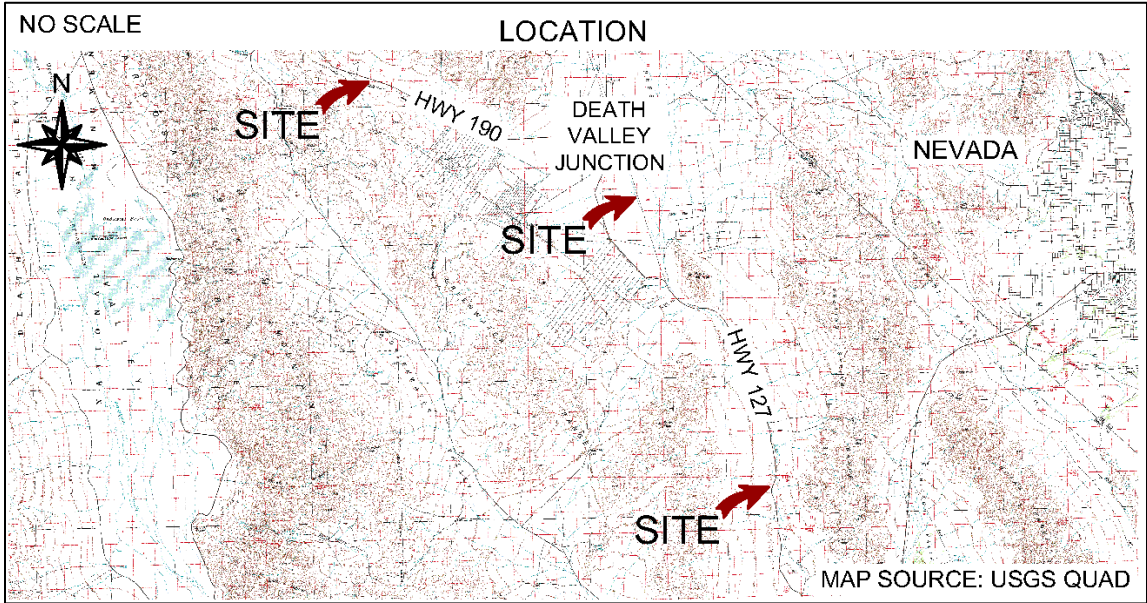
PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

17.26 acres, more or less, of State-owned school land within portions of Section 36, Township 23 North, Range 6 East, SBM (parcels 1 and 2); Section 36, Township 22.5 North, Range 6 East, SBM (parcels 3, 4, and 5); Section 16, Township 25 North, Range 5 East, SBM (parcel 6); Section 36, Township 25 North, Range 5 East, SBM (parcel 7); Section 16, Township 22 North, Range 7 East, SBM (parcels 8 and 9); and Section 36, Township 26 North, Range 3 East, SBM (parcel 10), near Death Valley Junction, Inyo County (as shown in Figure 1 below).

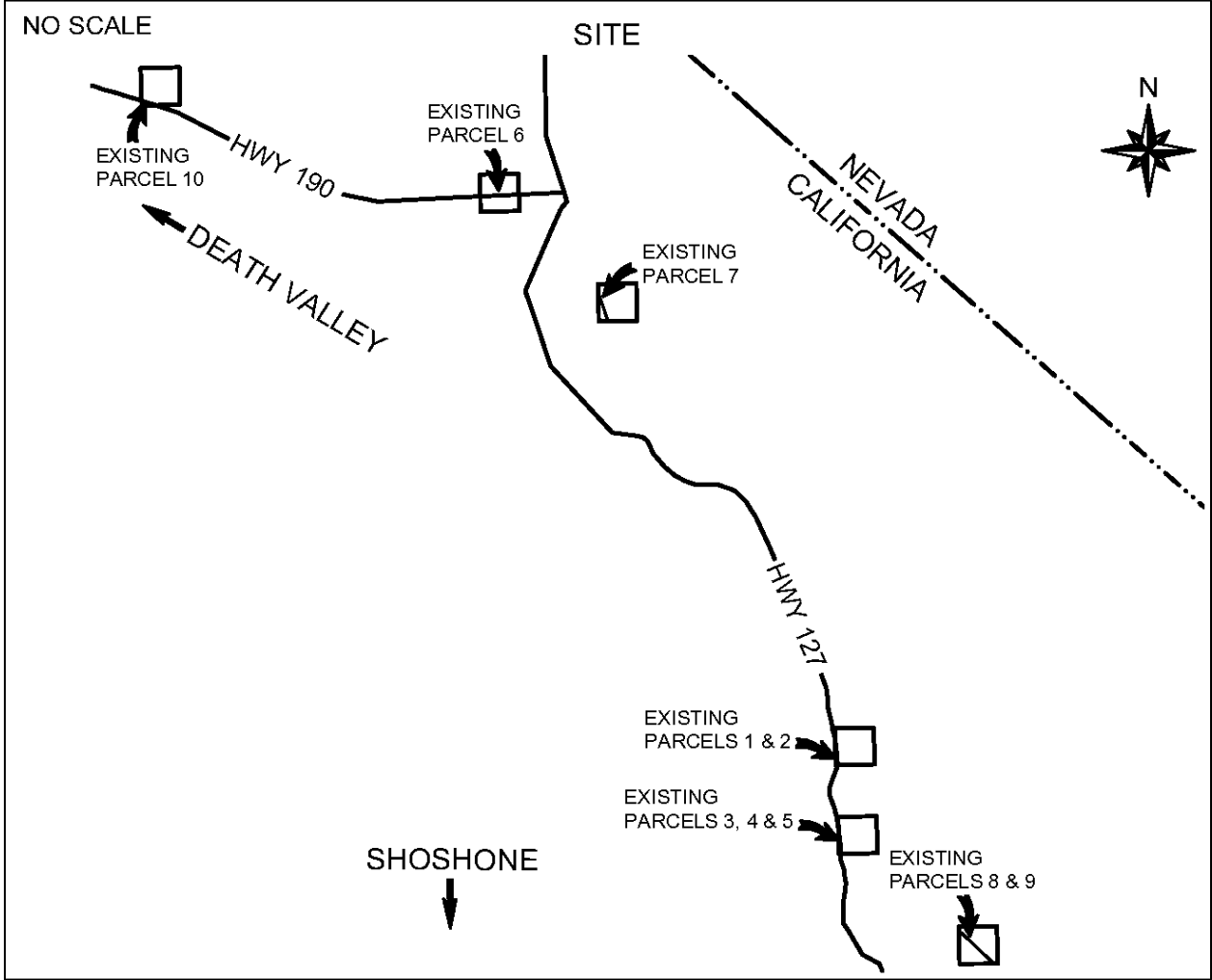
Figure 1. Location



AUTHORIZED USE:

Use and maintenance of an existing 33 kilovolt (kV) overhead electrical distribution line; and installation, use, and maintenance of two additional distribution poles (as shown in Figure 2 below).

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 March 1, 2025.

CONSIDERATION:

\$1,640 per year, effective March 1, 2025.

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.
- Within 60 days of completing the construction of authorized improvements, Lessee will provide Lessor with photographs and a set of "as-built" plans that show where the improvements have been placed. Lessor shall then replace Exhibit A, Land Description, and Exhibit B, Site and Location Map, to the lease as necessary to accurately reflect the final location of the authorized improvements. Once approved by the Lessor's Executive Officer or designee, the revised Exhibits shall replace the Exhibits incorporated in the lease at the time of lease execution. The replaced Exhibits shall be incorporated in the lease as though fully set forth therein.

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.

PUBLIC TRUST AND STATE’S BEST INTERESTS:

On February 5, 2007, the Commission authorized the termination of six General Leases – Right of Way Use and the issuance of a General Lease – Right of Way Use to Southern California Edison ([Item 29, February 5, 2007](#)). On April 23, 2014, the Commission authorized an amendment of lease to include a performance guaranty in lieu of surety bond for all Southern California Edison Company Leases ([Item 64, April 23, 2014](#)). The lease expires on March 31, 2027.

With only 3 years remaining in the original lease term, staff recommend terminating the existing lease to allow for a new 20-year term to the Applicant. The proposed termination date is February 28, 2025, the day preceding the new lease start date. The Applicant is applying for a General Lease – Right-of-Way use for the use and maintenance of an existing 33 kilovolt (kV) overhead electrical distribution line; and installation, use, and maintenance of two additional distribution poles to be installed within Section 36, Township 26 North, Range 3 East.

The project includes excavation by truck-mounted or handheld auger of 2- to 3-foot diameter by 6- to -9-foot deep pits for installation of two new poles. A 50-foot temporary buffer will be placed around the poles to allow work activities to take place. Approximately 290 feet of overland travel will be needed from the existing access road to install the new distribution poles.

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 overhead distribution line 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:

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, flash flooding from thunderstorms, and wildland fires. Wildfire risk is likely to increase in the desert, in connection with the increase in extreme weather. Wildfire risk in the desert is tied to fuel (vegetation) availability, which will fluctuate in relationship to precipitation and atmospheric conditions. High winds can damage infrastructure, including distribution lines, providing an ignition source for fire, and propel fires over more

terrain. These projected climate change effects could affect the use of the leased lands for electrical distribution lines.

Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are in an area that may be subject to the effects of climate change. Regular maintenance, as referenced in the lease, may reduce the likelihood of fires and reduce the risk of damage from flash flooding.

CONCLUSION:

For all the reasons stated above, staff believe approval of the proposed lease is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the authorization to issue a 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. Termination of the lease is not a project as defined by the California Environmental Quality Act (CEQA) 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).

4. **Pole Installation:** Staff recommend that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

Existing Electrical Distribution Line: Staff recommends that the Commission find that this activity is exempt from the requirements of 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 issuance of the lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project through the combination of the following exemptions: Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2), and Class 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

STATE'S BEST INTERESTS:

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

AUTHORIZATION:

1. Authorize termination, effective February 28, 2025, of Lease 3463, a General Lease – Right-of-Way Use, issued to Southern California Edison Company.
2. Authorize issuance of a General Lease – ~~Recreational Right-of-Way~~ Use to the Applicant, beginning March 1, 2025, for a term of 20 years, for use and maintenance of an existing 33 kilovolt (kV) overhead electrical distribution line; and installation, use, and maintenance of two additional distribution poles; annual rent in the amount of \$1,640, 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 previously approved by the Commission.
3. Authorize the Executive Officer or designee to replace Exhibits to the lease upon submission, review, and approval of as-builts plans detailing the final location of the new improvements following installation.