

**CALENDAR ITEM
C64**

A 34
S 18

05/24/12
WP 4627.2
C. Hudson

GENERAL LEASE - RIGHT-OF-WAY USE

APPLICANT:

Project Darwin, LLC, a Nevada Limited Liability Company
P.O. Box 3010
Tonopah, NV 89049

AREA, LAND TYPE, AND LOCATION:

12.97 acres, more or less, of State school land in a portion of Section 16,
Township 19 South, Range 41 East, MDM, near the town of Darwin, Inyo County.

AUTHORIZED USE:

Operation, use, and maintenance of an existing four-inch diameter buried water pipeline, a two-wire overhead telephone line, a 4,800-volt three-phase overhead electric power line, and two wood poles.

LEASE TERM:

10 years, beginning May 9, 2012.

CONSIDERATION:

\$563 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance: Liability insurance with combined single limit coverage of not less than \$2,000,000

Bond: \$6,000.

OTHER PERTINENT INFORMATION:

1. Applicant owns upland adjoining the lease premises.
2. The buried water pipeline, overhead telephone line, and overhead electric power line provides water and utilities from the adjacent parcel owned by

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the Applicant to an existing mineral processing site, which is also located on land owned by the Applicant.

3. On September 23, 1992, the Commission authorized a 10-year General Lease – Right-of-Way Use with Blue Range Mining Company, LP. On August 21, 1996, the Commission authorized an assignment of the lease to Project Darwin, Inc. That lease expired on May 8, 2002.
3. Charles C. Chisholm, owner and president of Project Darwin, Inc., applied for a new General Lease – Right-of-Way Use in 2002. The application was scheduled for approval by the Commission at its August 19, 2003, meeting. However, the item was removed from the agenda after the Lessee advised staff that the facilities were no longer in use and there were no immediate plans for future operation. Project Darwin was advised that the Commission would require that a quitclaim deed be executed and the facilities removed.
5. In 2005, representatives of Project Darwin contacted Commission staff and submitted a plan for removal of the facilities. However, Project Darwin did not submit an application for termination of the lease.
6. In 2007, Project Darwin representatives informed staff that they now plan to continue using the facilities on the Lease Premises. However, despite repeated attempts by staff, no application for a new lease was forthcoming. Staff recently re-contacted Project Darwin with the result that Project Darwin, LLC is now applying for a new General Lease – Right-of-Way Use.
7. This lease has been in holdover since May 9, 2002, during the holdover period, the Applicant continued to pay annual rent. Staff is therefore recommending authorization of a new General Lease – Right-of-Way Use commencing on May 9, 2012.
8. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15061), the staff has determined 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 15300 and California Code of Regulations, Title 2, section 2905.

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9. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370, et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize Issuance of a General Lease – Right-of-Way Use to Project Darwin, LLC, beginning May 9, 2012, for a term of 10 years, for the operation, use, and maintenance of an existing four-inch diameter buried water pipeline, an overhead two-wire telephone line, a 4,800 –volt three-phase electric power line, and two wood poles as described on Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$563, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; and liability insurance for combined single limit coverage of \$2,000,000; and a surety bond in the amount of \$6,000.

EXHIBIT A

PRC 4627.2

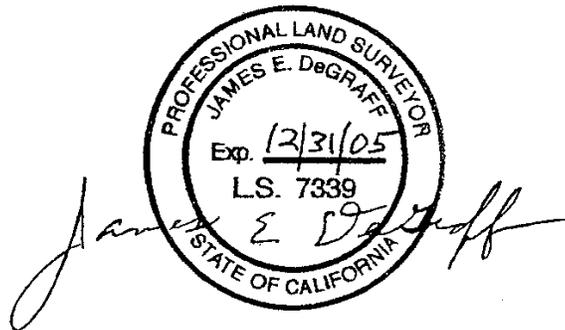
LAND DESCRIPTION

A parcel of state owned school land situate in Section 16, T19S, R41E, MDM, Inyo County, State of California, according to the U.S. Government Survey approved December 28, 1943, described as follows:

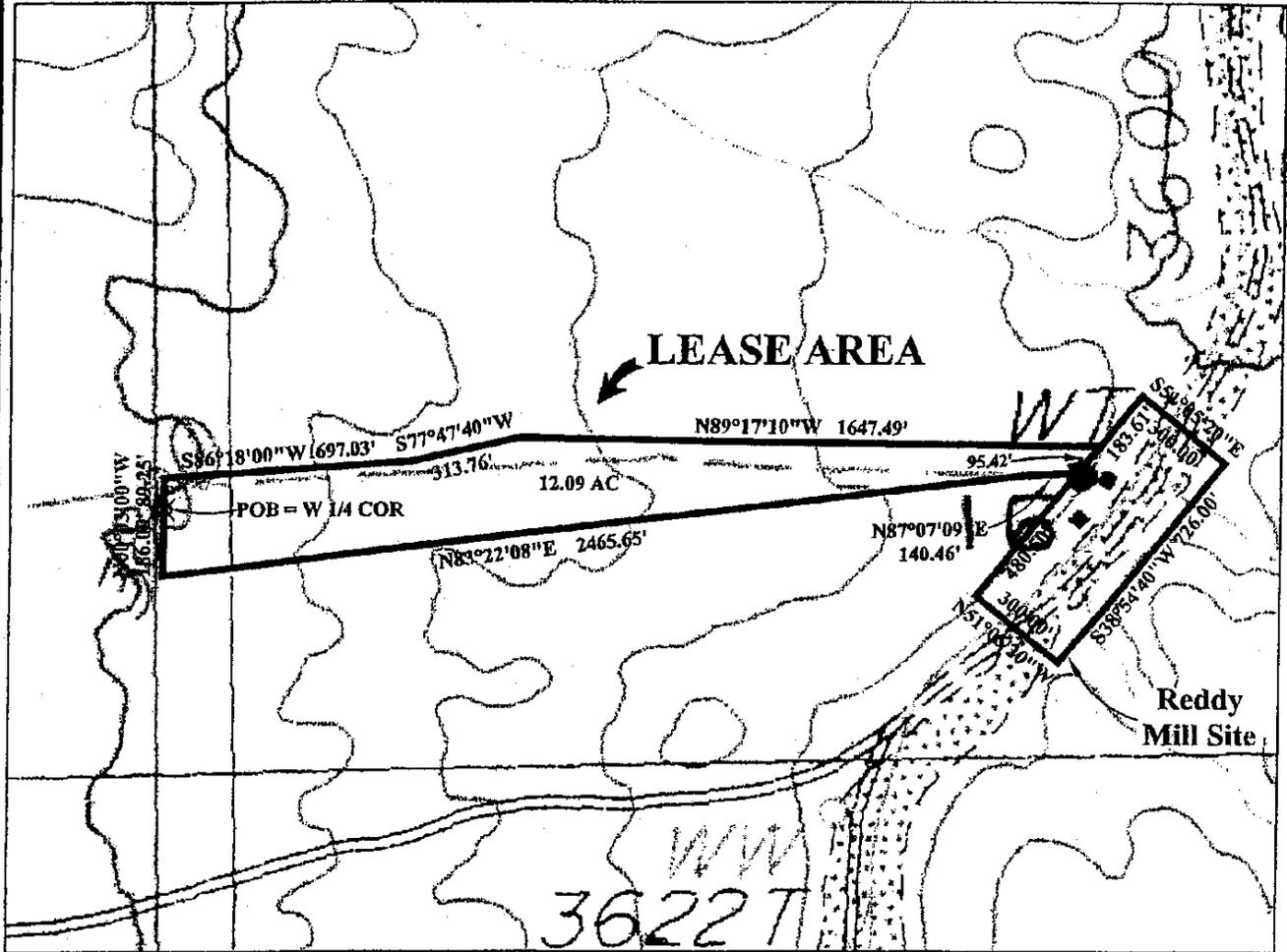
BEGINNING at the West ¼ corner of said Section 16; thence along the west line of said section S 00° 03' 00" E 186.00 feet to a point on a line parallel with and 25.00 feet southerly, measured at right angles from an existing power pole line; thence along said parallel line N 83° 22' 08" E 2465.65 feet to a line parallel with and 25.00 feet southerly, measured at right angles from an existing telephone pole line; thence along said parallel line N 87° 07' 09" E 140.46 feet to the northwesterly boundary line of Reddy Mill Site; thence along said boundary line N 38° 54' 40" E 95.42 feet to a point on a line parallel with and 25.00 feet northerly, measured at right angles from an existing four (4) inch water line; thence along said parallel line the following three (3) courses: (1) N 89° 17' 10" W 1647.49 feet, (2) S 77° 47' 40" W 313.76 feet and (3) S 86° 18' 00" W, 697.03 feet to said west line of said section; thence along said west line S 00° 03' 00" E 89.25 feet to the point of beginning.

END OF DESCRIPTION

PREPARED 4/07/03 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



SITE



SCALE
1" = 500'

**PROJECT DARWIN, LLC - APN 35-190-02A
SECTION 16, T19S, R41E, MDM**

LOCATION



NO SCALE

Map Source: USGS 7.5' Quadrangle DARWIN

Exhibit B

PRC 4627.2
GENERAL LEASE -
RIGHT-OF-WAY USE
DARWIN AREA
INYO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.