**CALENDAR ITEM**
# C81

A 80 | 08/14/12
W 40962
S 37 | J. Adams

**CONSIDER AWARDING A STATE GEOTHERMAL RESOURCES LEASE TO HIGHEST RESPONSIBLE BIDDER FOR DEVELOPMENT OF CERTAIN STATE SOVEREIGN LANDS, SALTON SEA GEOTHERMAL FIELD, IMPERIAL COUNTY**

**HIGHEST RESPONSIBLE BIDDER:**

EnergySource, LLC
Attn.: Mr. Vince Signorotti
12250 El Camino Real, Suite 280
San Diego, CA 92130

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

Approximately 40 acres of State sovereign land near the southeast shore of the Salton Sea, as described in Exhibit A and depicted in Exhibit B (attached hereto).

**BACKGROUND:**

Section 6911 of the Public Resources Code allows the California State Lands Commission (Commission) to select State-owned lands for geothermal leasing. Leases are offered by competitive public bid on the basis of a cash bonus, net profit, or other single biddable factor, and awarded to the highest responsible qualified bidder.

The subject 40-acre parcel at the Salton Sea geothermal field qualified for leasing by competitive bidding because two different companies expressed interest in leasing it from the State. Ideally, a parcel of State lands would be offered for competitive leasing to the entire geothermal industry. But this particular parcel represents an unusual situation. The parcel is not large enough to be developed independently. It must be developed cooperatively with adjacent lands as a geothermal unit. All of the lands surrounding the State parcel are controlled by two companies – CalEnergy Operating Corp. (CalEnergy), and EnergySource, LLC (EnergySource), see Exhibit B.

The State acquired the subject parcel from the Imperial Irrigation District in 1956 in exchange for a parcel of sovereign land along the Colorado River. It has historical significance with respect to the Commission's geothermal program, as it was the site of the State's very first geothermal prospecting permit issued more than five decades ago. In fact, over the years, three prospecting permits, one geothermal lease, and two surface leases had been issued for the parcel.

**SALTON SEA FIELD:**

The Salton Sea geothermal field is second only to The Geysers in terms of installed capacity, with ten generating facilities totaling nearly 400 megawatts. The geothermal field contains more than 25 production wells with an average flow-rate of 15,000 tons per day per well of high-temperature brine. About 20 percent (20%) of the brine flashes to steam to drive turbines to produce the electricity. The remaining "spent" brine is re-injected into more than 30 injection wells at an average rate of 11,000 tons per day per well. The Salton Sea field's hypersaline brine contains numerous elements and chemical compounds, and must be treated prior to injection. Research is ongoing to extract marketable mineral products and chemical compounds from the brine. The field is now operated by two companies – CalEnergy and EnergySource.

CalEnergy owns and operates nine generating units that total 350 megawatts. Its plants were constructed between 1982 and 2000, but it has plans to build several new plants that will significantly increase its generating capacity. Most of the power is sold to Southern California Edison, with lesser amounts to the City of Riverside and the Arizona Public Service Company. In 2000, CalEnergy built, but later dismantled, a zinc recovery facility. The plant was a technical success, but became uneconomic when zinc prices fell and electrical prices rose.

CalEnergy holds the State's only two geothermal leases at the Salton Sea field. The leases are on lands owned by the California Department of Fish and Game about one mile south of the 40-acre parcel. Lease PRC 7621.0 was approved by the Commission in 1992 and covers 80 acres. It currently yields about $40,000 per year in royalty. Adjacent to that lease is PRC 8916.0, a 535-acre lease approved by the Commission in 2011, but not yet developed.

EnergySource is a newer entity. It built the Hudson Ranch 49-megawatt generating facility earlier this year about one-quarter mile from the 40-acre parcel. It plans to build a second 49-megawatt plant in the same area. Its power is sold to the Salt River Project in Arizona. EnergySource also sells spent brine to Simbol Materials for the extraction of lithium.

**COMPETITIVE INTEREST:**

In 2011, Commission staff received applications from both CalEnergy and EnergySource for a negotiated lease covering the 40-acre State parcel. Information provided by the companies revealed that the State parcel is situated at the boundary between their respective private leaseholds, so that either company could add the State parcel to a current or future development project. By letter dated December 12, 2011, both companies were advised that the State parcel must be leased by competitive bid. By letter dated May 2, 2012, the companies were provided a copy of the lease form and given instructions for submitting a sealed bid, wherein a one-time up-front cash bonus would be the biddable factor. The minimum bid was $5,000.00. No other companies were notified of the lease sale because the parcel is too small to be developed by any other company without control of adjacent lands.

**COMPETITIVE LEASE SALE:**

On July 10, 2012, sealed bids from CalEnergy and EnergySource were opened by Commission staff. Representatives from each company participated by telephone. The cash bonus bid submitted by CalEnergy was $5,111.00. The bid submitted by EnergySource was $24,040.00. Commission staff subsequently reviewed all materials supplied with the bids. Both companies provided evidence of being qualified to hold a State geothermal lease and met all other requirements of bidding. However, CalEnergy's bid included a modification to one of the lease terms, which was a deviation from the bid instructions. Based on full review of the bids, EnergySource is clearly the highest responsible bidder. Commission staff therefore recommends awarding the lease to EnergySource.

**KEY LEASE PROVISIONS:**

1. Ten-year primary term, and for so long thereafter as geothermal resources are being or capable of being produced or utilized in commercial quantities from the leased land or a unit in which the leased land participates.

2. Annual rent of $500.00 per acre, or $20,000.00, until the leased land begins yielding a production royalty, at which time rent reduces to $1.00 per acre.

3. Production royalty of either three percent (3%) of the value of electricity generated from geothermal resources attributable to the leased land, if lessee uses resources to generate electricity, or twelve and one-half percent (12.5%) of value of geothermal resources produced from the leased land, if lessee sells resources to a third party. For mineral products

or chemical compounds, two percent (2%) of their value in the first marketable form.

4. No drilling requirement, but the lease expires if the leased land is not producing or dedicated to a producing unit by the end of primary term (10 years).

5. Lessee may commit the leased land to one or more geothermal units, provided the leased land is committed in its entirety.

6. Bond of $50,000 in favor of the State, subject to review every five years.

7. Liability insurance policy naming the State as additional insured, with coverage of at least $2,000,000 per occurrence and a general aggregate limit of at least $5,000,000.

**STATUTORY AND OTHER REFERENCES:**

A. Public Resources Code: Division 6, Parts 1 and 2; and Division 13.
B. California Code of Regulations: Title 2, Division 3; and Title 14.

**OTHER PERTINENT INFORMATION**

1. The Salton Sea Anomaly (SSA) Master Environmental Impact Report (MEIR, SCH #80102409), certified by Imperial County as lead agency in December 1981, addressed the environmental effects of expanding the Geothermal Overlay Zone of Imperial County's General Plan to allow full development of geothermal resources within a designated area of 111,000 acres. Commission staff has reviewed said document. The proposed lease parcel is included in the Geothermal Overlay Zone.

2. Imperial County, by letter dated January 22, 2010, stated in part that the 1981 MEIR "will continue to be the baseline document for review of future geothermal plants in that area due to its extensive environmental analysis of 1,400 MW with only about 340 MWs having been developed to date."

3. The MEIR projected ultimate development of 1,400 MW of generating capacity within the SSA, and the MEIR included mitigation measures for each potentially significant environmental impact identified for such capacity. Generating capacity from geothermal production within the SSA is currently about 400 MW, well below the environmental thresholds discussed in the MEIR. Such would remain the case with the addition of

the State's 40-acre parcel into existing development projects already permitted or ones being planned.

4. When a project is consistent with applicable zoning and an EIR was certified for the zoning action, additional environmental review is limited to project-specific significant effects that are "peculiar to the project" or its site (Public Resources Code section 21083.3; State CEQA Guidelines section 15183).

5. The State's lessee must abide by the regulations, conditions and mitigation set forth in the MEIR, and those set forth in applicable Conditional Use Permits issued by Imperial County prior to the effective date of the lease. No new environmental effects peculiar to the project would result from approval of the proposed State Geothermal Resources Lease that were not analyzed in the MEIR for the Geothermal Overlay Zone. Any drilling or development activity proposed specifically on or into the State's 40-acre parcel from any drill site not permitted by prior environmental documentation shall require the further approval of the Commission and be contingent upon, and subject to, additional environmental review under the provisions of CEQA.

6. Findings made by Imperial County in conformance with the State CEQA Guidelines (California Code of Regulations, Title 14, sections 15091 and 15096) are contained on file in the Sacramento office of the Commission.

7. A Statement of Overriding Considerations was adopted by Imperial County in conformance with the State CEQA Guidelines (California Code of Regulations, Title 14, section 15093) and is contained on file in the Sacramento office of the Commission.

8. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. However, the Commission has declared that all lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, Title 2, section 2954 is not applicable.

**EXHIBITS:**

A. Land Description
B. Location Map

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDINGS:**

1. Find that the Salton Sea Anomaly Master Environmental Impact Report (MEIR) (SCH #80102409) certified by Imperial County as lead agency in December 1981, addressed the environmental effects of expanding the Geothermal Overlay Zone of Imperial County's General Plan to allow full development of geothermal resources within a designated area of 111,000 acres, and that the Commission has reviewed and considered the information contained therein.

2. Find that the proposed State Geothermal Resources Lease parcel is included in Imperial County's Geothermal Overlay Zone and that the Lease is consistent with the Geothermal Overlay Zone.

3. Find that there are no project-specific significant effects that are peculiar to the project or its site (Public Resources Code section 21083.3; State CEQA Guidelines section 15183).

**OTHER FINDING:**

1. Find that conditions exist for the selection of certain State sovereign lands for leasing by competitive public bid pursuant to section 6911 of the Public Resources Code in that surrounding lands are controlled by only two companies, both of which desire to lease the State parcel.

2. Find that the award of a State Geothermal Resources Lease to the highest responsible bidder pursuant to section 6911 of the Public Resources Code is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize the award of a State Geothermal Resources Lease to EnergySource, LLC, the highest responsible bidder, per the terms and conditions outlined in this Calendar Item and in substantially

the form on file in the Long Beach office of the Commission.

2. Authorize the Executive Officer or his designee to execute any documents necessary to implement the Commission's actions.

# EXHIBIT A

W 40962

## LAND DESCRIPTION

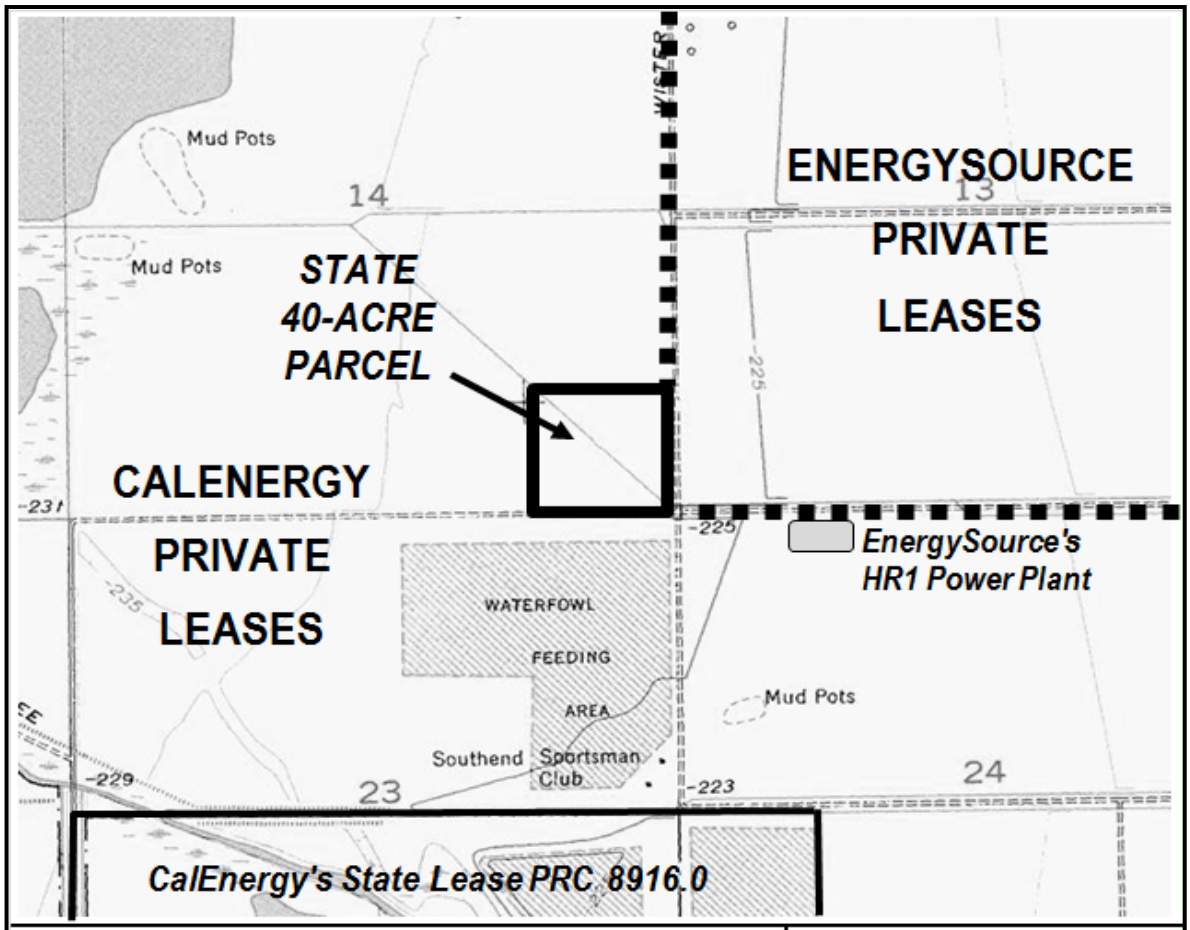
A parcel of State sovereign land in Imperial County, California, acquired from the Imperial Irrigation District under sovereign land exchange SLL 10, dated December 6, 1956, and located adjacent to the Salton Sea near the town of Niland, more particularly described as follows:

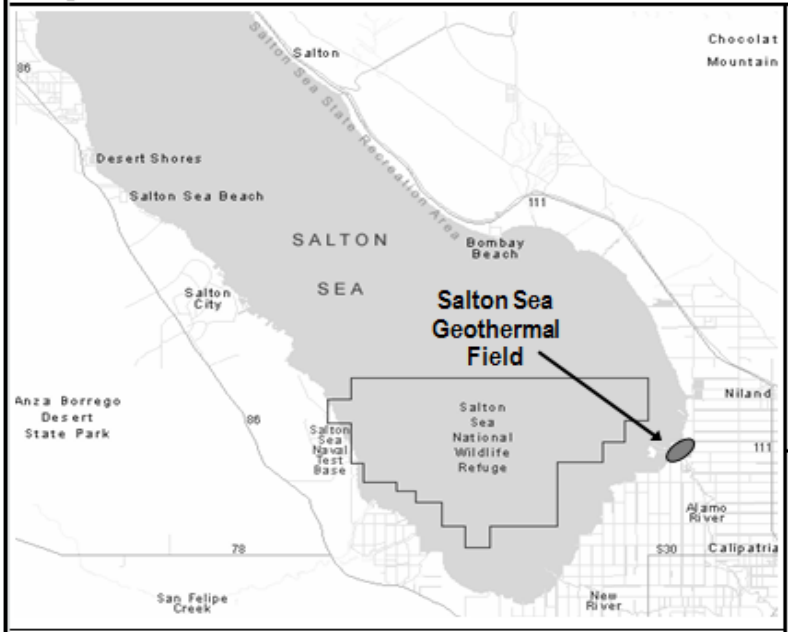
The Southeast Quarter of the Southeast Quarter of Section 14, Township 11 South, Range 13 East, San Bernardino Base and Meridian, containing 40.00 acres, more or less.

**END OF DESCRIPTION**

# EXHIBIT B

W 40962



This exhibit is solely for generally defining the location 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.

**LOCATION MAP**

***Award of State Geothermal Resources Lease***

**Salton Sea Geothermal Field**

**IMPERIAL COUNTY**

JWA, 2012