

MINUTE ITEM
This Calendar Item No C40 was approved as
Minute Item No 40 by the California State Lands
Commission by a vote of 2 to 0 at its
10-30-07 meeting.

CALENDAR ITEM

C40

A 33

10/30/07

PRC 8140.9

PRC 8141.1

PRC 8142.1

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AMENDMENT OF TWO LEASES AND ONE PERMIT

LESSEE/PERMITTEE:

MFS Globenet Inc.
6929 N. Lakewood Avenue
MD 22-315G
Tulsa, OK 74117

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Pacific Ocean, near the city of Los Osos, San Luis Obispo County.

AUTHORIZED USE:

PRC 8140.9, the construction, installation, operation, maintenance of one six-inch steel conduit and one fiber optic cable for use in connection with or to facilitate communication by telephone.

PRC 8141.1, the construction, installation, operation, maintenance of one six-inch steel conduit and one fiber optic cable for digital communications.

PRC 8142.1, the construction, installation, operation, maintenance of one six-inch steel conduit.

LEASE TERM:

PRC 8140.9, continuous use beginning February 8, 2000, unless sooner terminated as provided under the permit.

PRC 8141.1, ten years beginning February 8, 2000, unless sooner terminated as provided under the lease.

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PRC 8142.1, ten years, beginning February 8, 2000, with the right to renew for one additional period of 15 years, subject to such reasonable renewal terms and conditions as the State may impose.

CONSIDERATION:

PRC 8140.9 - the public benefit derived from Permittee's acceptance of franchise obligations pursuant to Section 7901 of the Public Utilities Code.

PRC 8141.1 - \$116,361 per annum with the State reserving the right to fix a different rent periodically during the lease term.

PRC 8142.1 - \$15,093 per annum with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

PROPOSED AMENDMENT:

As to PRC 8140.9 and PRC 8141.1, amend the cable burial inspection survey interval to a five-year interval from the completion of the 2005 survey. All other terms and conditions of the lease shall remain in effect without amendment.

As to PRC 8142.1, amend the lease to delete the cable burial inspection survey provision for the existing conduit. All other terms and conditions of the lease shall remain in effect without amendment.

OTHER PERTINENT INFORMATION:

1. Lessee/Permittee has the right to use the uplands adjoining the lease premises.
2. On February 8, 2000, the Commission approved the issuance to MFS Globenet (Globenet) a Permit for a Telephone Right of Way, Lease No. PRC 8140.9; and a General Lease – Right of Way Use, Lease No. PRC 8141.1 for a fiber optic cable serving the Japan-US cable system and a General Lease – Right of Way Use, Lease No. PRC 8142.1 for installation of one-six inch empty steel conduit. The cables and conduits are all located offshore of Montaña de Oro State Beach in San Luis Obispo County.

Subsequently, on June 27, 2000, the Commission approved an amendment to Lease No. PRC 8142.1 to allow AT&T to place a fiber optic cable, identified as the south end of Segment 9 of the Japan-US Cable Network System, within the existing conduit at Montaña de Oro State

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Beach. The Commission authorized the issuance to AT&T of a separate lease, which requires periodic burial inspections as outlined in that lease, for the new fiber optic cable. The conduit, which contains AT&T's fiber optic cable, was installed using horizontally directional drilling technology. Concerns associated with commercial trawling and potential for marine mammal interaction are related to the location of the cables and not the conduits located in the nearshore area. The periodic cable burial inspection provision for Lease No. PRC 8142.1 is not applicable to the conduit. Globenet is now applying to delete this provision from the Lease.

3. Globenet is also applying to amend the cable burial survey schedule requirements under Lease Nos. PRC 8140.9 and PRC 8141.1 to extend the interval required between periodic burial inspections from the current 18-24 months, to five years. Similar permit conditions exist within the California Coastal Commission (CCC) Coastal Development Permits (CDPs), for which Globenet is seeking similar amendments. Globenet will continue to furnish all survey results concurrently to the CSLC and the CCC.

The 2003 and 2005 Globenet Burial Status Verification Survey Reports indicated that in 2005, 1) the cable burial status had not appreciably changed between the 2003 and 2005 surveys or since 2001 when the cables were installed; and 2) there have been no reports of entangled fishing gear, entangled marine mammals or other external contacts.

The proposed lease amendments would allow Globenet to extend the next date for the routine cable integrity survey to five years after the most recently completed survey. This would set the next survey in year 2010. A separate lease condition provides that Globenet would conduct a survey triggered by any unusual event, such as a tsunami, etc.

4. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), the staff has determined that this activity is exempt from the requirements of the CEQA under the general rule that the CEQA applies only to projects which have the potential for causing a significant effect on the environment. The staff believes, based on the information available to it, that there is no possibility that this project may have a significant effect on the environment.

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Authority: Title 14, California Code of Regulations, Section 15061(b)(3).

5. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq., but such activity will not affect those significant lands.

APPROVALS OBTAINED:

California Coastal Commission

EXHIBIT:

- A. Site and Location Map

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT THESE ACTIVITIES ARE EXEMPT FROM THE REQUIREMENTS OF THE CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THERE IS NO POSSIBILITY THAT THESE ACTIVITIES MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT; TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 (b)(3).

SIGNIFICANT LANDS INVENTORY FINDING:

FIND THAT THESE ACTIVITIES WILL INVOLVE LANDS IDENTIFIED AS POSSESSING SIGNIFICANT ENVIRONMENTAL VALUES PURSUANT TO PUBLIC RESOURCES CODE SECTIONS 6370, ET. SEQ., BUT THAT SUCH ACTIVITIES WILL NOT HAVE DIRECT OR INDIRECT EFFECT ON THOSE RESOURCES FOR WHICH SUCH LANDS ARE IDENTIFIED.

AUTHORIZATION:

AUTHORIZE THE AMENDMENT OF PERMIT NO. PRC 8140.9, A PERMIT FOR A TELEPHONE LINE RIGHT OF WAY AND LEASE NO. PRC 8141.1, A GENERAL LEASE – RIGHT OF WAY USE, OF LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE OCTOBER 30, 2007, TO AMEND THE CABLE BURIAL INSPECTION SURVEY INTERVAL TO A FIVE-YEAR INTERVAL FROM THE COMPLETION DATE OF THE 2005 SURVEY;

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ALL OTHER TERMS AND CONDITIONS OF THE LEASES WILL REMAIN IN EFFECT WITHOUT AMENDMENT.

AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 8142.1, A GENERAL LEASE – RIGHT OF WAY USE, OF LANDS SHOWN ON EXHIBIT A ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE OCTOBER 30, 2007, TO DELETE THE CABLE BURIAL INSPECTION SURVEY PROVISION, ALL OTHER TERMS AND CONDITIONS OF THE LEASE WILL REMAIN IN EFFECT WITHOUT AMENDMENT.

