

**CALENDAR ITEM
C45**

A 33
S 15

10/29/10
WP 8141.1
S.Young

GENERAL LEASE – NON EXCLUSIVE RIGHT OF WAY USE

APPLICANT:

MFS Globenet, Inc.
2400 North Glenville Drive
Richardson, TX 75082

AREA, LAND TYPE, AND LOCATION:

Sovereign lands located in the Pacific Ocean, offshore of Montaña de Oro State Park, San Luis Obispo County.

AUTHORIZED USE:

Continued use and maintenance of one six-inch diameter steel conduit and one fiber optic cable.

LEASE TERM:

15 years, beginning February 8, 2010.

CONSIDERATION:

\$116,361 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:

No less than \$1,000,000 combined single limit coverage.

Bond:

\$500,000

OTHER PERTINENT INFORMATION:

1. Applicant owns and has the right to use the uplands adjoining the lease premises.
2. On February 8, 2000, the Commission approved the issuance of General Lease – Non Exclusive Right of Way Use, Lease No. PRC 8141.1, to MFS Globenet, Inc. (MFS) for the installation, use and maintenance of a six-

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inch diameter steel conduit and one fiber optic cable, which is a portion of the Japan-U.S. Segment 1 fiber optic cable system in the Pacific Ocean, offshore of Montaña de Oro State Park, San Luis Obispo County.

MFS is a member of a multi-member consortium (the Consortium) that owns the Japan-U.S. Cable Network. The members of the Consortium have entered into a private contractual agreement for the construction and maintenance of the Japan-U.S. Cable Network.

3. Lease No. PRC 8141.1 expired on February 7, 2010. The original lease contained a provision for a right to renew the lease for one additional period of 15 years, subject to such reasonable terms and conditions as the State may impose. MFS Globenet Inc. is now applying for a new lease for the additional space 15-year term.
4. In 2003 and 2005, MFS conducted cable burial surveys which indicated the cable burial status had not appreciably changed between the 2003 and 2005 surveys nor since the cables were installed in 2001. The survey reports indicated there was no evidence of cable interaction with fishing gear or with marine mammals.
5. On October 30, 2007, the Commission approved an amendment to Lease No. PRC 8141.1 to extend the cable burial inspection survey from the 18-24 month interval to a five-year interval. The next cable verification survey is required to be completed, and reports submitted simultaneously to the Commission and the (CCC) by the end of 2010. Similar permit conditions exist with the California Coastal Commission (CCC) Coastal Development Permits (CDPs), for which MFS and other consortium members sought similar extensions as applied to the fiber optic cables.
6. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905(a)(2). Similar permit conditions exist with the California Coastal Commission (CCC) Coastal Development Permits (CDPs), for which MFS and other consortium members sought similar extensions as applied to the fiber optic cables.

Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

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7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Location and Site Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project. Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905(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 sections 6370, et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Non Exclusive Right of Way Use to MFS Globenet, Inc., beginning February 8, 2010, for a term of 15 years, for the continued use and maintenance of one six-inch steel conduit and one fiber optic cable as shown on Exhibit A attached (for reference purposes only) and by this reference made a part hereof; Consideration in the amount of \$116,361 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; Liability insurance for combined single limit coverage of not less than \$1,000,000; Surety bond in the amount of \$500,000.

EXHIBIT A

SITE MAP

No Scale

Offshore Boundary of the State of California

MFS GLOBENET
FIBER OPTIC CABLES
AND BORE HOLES

PRC 8140.9

PRC 8141.1

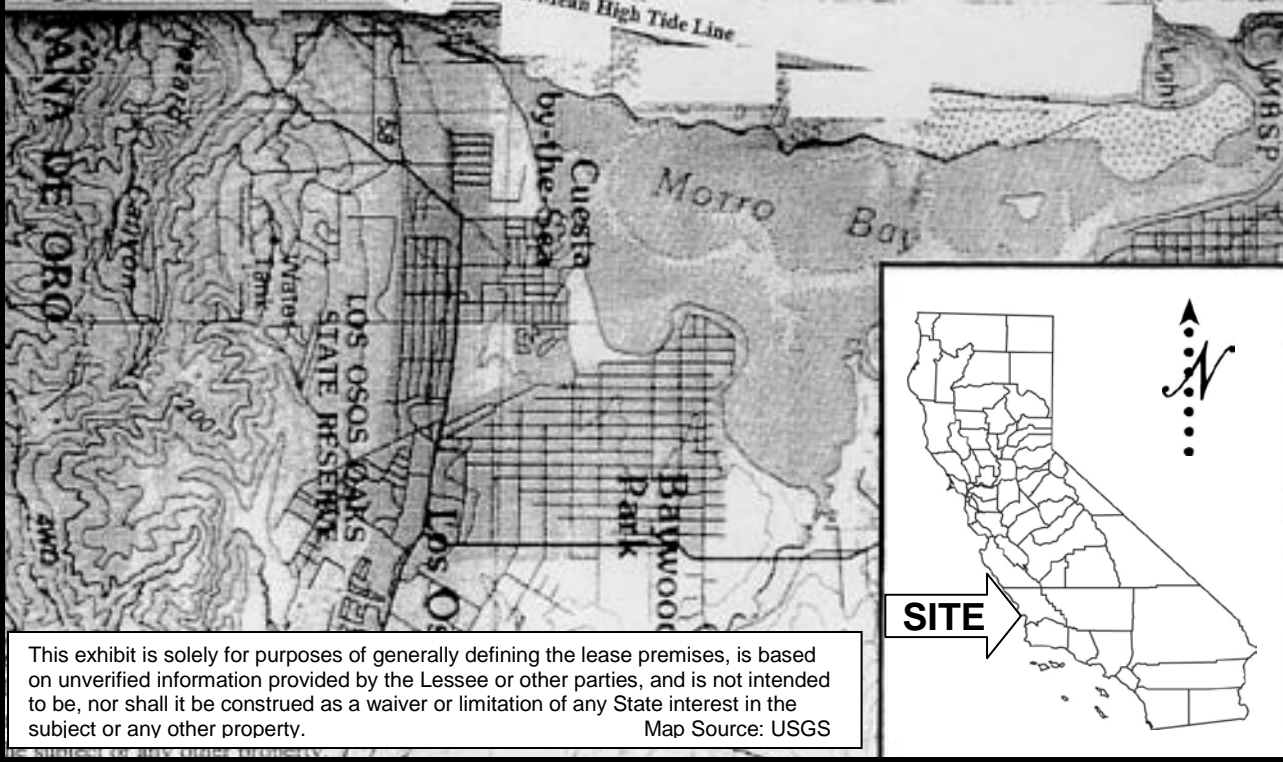
BORE HOLE 4

BORE HOLE 5

PRC 8142.1

Note: Cable installed in PRC 8142.1 is not shown.
The cable is covered under Lease No.
PRC 8204.1 issued to AT&T.

Approx. Mean High Tide Line



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. Map Source: USGS