

**CALENDAR ITEM
C48**

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S 15

10/29/10
WP 8152.1
S. Young

GENERAL LEASE – NON EXCLUSIVE RIGHT OF WAY USE

LEASE/APPLICANT:

PC Landing Corp., a wholly-owned subsidiary of
NTT Communications Corporation
319 Diablo Road, Suite 213
Danville, CA 94526

AREA, LAND TYPE, AND LOCATION:

11 acres, more or less, of sovereign lands in the Pacific Ocean, offshore of the city of Grover Beach, San Luis Obispo County.

AUTHORIZED USE:

Continued use and maintenance of two 5.25-inch diameter steel conduits and two fiber optic cables to carry diverse digital communications traffic including, but not limited to, voice, data, and video.

LEASE TERM:

15 years, beginning April 20, 2010.

CONSIDERATION:

\$242,075 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:

\$1,000,000

OTHER PERTINENT INFORMATION:

1. Applicant owns and has the right to use the uplands adjoining the lease premises.

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2. On April 20, 2000, the Commission authorized the issuance of a General Lease – Non Exclusive Right of Way Use, to PC Landing Corp. for the construction, installation, operation, maintenance and use of two 5.25-inch diameter steel conduits and two fiber optic cables located in the Pacific Ocean offshore of the city of Grover Beach and extending to the State Offshore Boundary. The PC Landing cable system is part of the Pacific Crossing (PC-1) submarine cable system and provides the infrastructure for additional global access to the existing landline communication network. The PC-1 system is designed as a ring configuration consisting of two cable landings in the United States and two in Japan. This ring configuration enables transmission to continue uninterrupted if there is a cable failure by routing transmission through the unaffected parts of the ring.

Subsequently, on July 19, 2002, PC Landing Corp. filed a voluntary petition in the United States Bankruptcy Court seeking relief under Chapter 11 of the Bankruptcy Code. As a result, PC Landing Corp. defaulted on its rental obligations under the Lease. A reorganized parent company, Pacific Crossing Limited, including a reorganized PC Landing Corp., emerged from Chapter 11 bankruptcy as a stand-alone entity continuing the operation of the PC-1 system, in accordance with the reorganization plan approved by the U.S. Bankruptcy Court on November 10, 2005, Case No. 02-12086. This change in controlling interest required the Commission's approval of an assignment of the lease from PC Landing Corp. to the reorganized PC Landing Corp. On December 8, 2005, the Commission approved the assignment of the lease, a Settlement Agreement and various lease amendments that provided that the reorganized PC Landing Corp. make payments for back rental with interest, modification of cable post-burial survey intervals and increases to the surety bond amount to an aggregate total of \$1,000,000.

3. As a result of a Stock Purchase Agreement dated May 22, 2009, NTT Communications Corporation acquired all of the issued and outstanding shares of PC Landing Corp.'s parent company Pacific Crossing Limited. Subsequently, on August 11, 2009, the Commission approved the assignment of Lease No. PRC 8152.1 from the reorganized PC Landing Corp. to PC Landings Corp., a wholly- owned subsidiary of NTT Communications Corporation.
4. Lease No. PRC 8152.1 expired on April 19, 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. PC Landing Corp. is now applying for a new lease for

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the additional 15-year term. In addition, PC Landing Corp. has advised Commission staff that the cable burial inspections required under the terms of the Lease, has been conducted and the results will be provided to the Commission as well as to the California Coastal Commission by the end of the year. In 2003 and 2005, PC Landing Corp. conducted the required cable burial surveys which indicated the cables 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. 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).

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

6. 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).

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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:

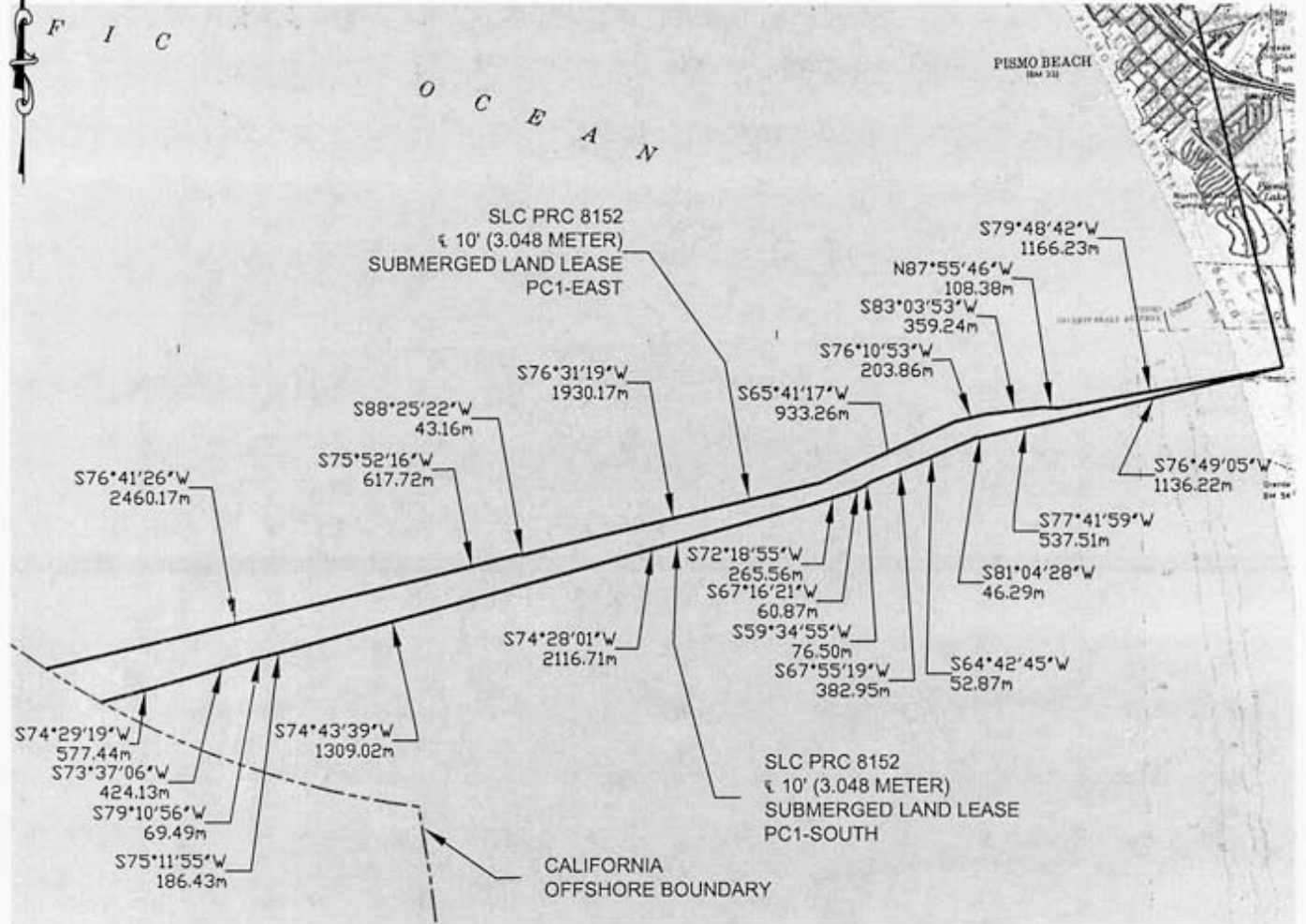
Authorize issuance of a General Lease – Non-Exclusive Right of Way Use, Lease No. PRC 8152.1, to PC Landing Corp., a wholly-owned subsidiary of NTT Communications Corporation, beginning April 20, 2010, for a term of 15 years, for the continued use and maintenance of two 5.25-inch diameter steel conduits and two fiber optic cables as shown on Exhibit A attached (for reference purposes only) and by this reference made a part hereof; Consideration in the amount of \$242,075 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 \$1,000,000.

NO SCALE

SITE

F I C

O C E A N



TWO STEEL CONDUITS AND TWO FIBER OPTIC CABLES OFFSHORE FROM GROVER BEACH

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit A

WP 8152.1
 PC LANDING CORP.
 GENERAL LEASE
 RIGHT OF WAY USE
 SAN LUIS OBISPO CO.



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.