

STAFF REPORT

56

A 37

04/29/20
Lease 8101.1
A2351
K. Connor

S 19

GENERAL LEASE – OTHER

APPLICANT:

Sprint Spectrum L.P.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

160 square feet, more or less, of filled sovereign lands located on Rincon Island, near Mussel Shoals, Ventura County.

AUTHORIZED USE:

Use and maintenance of an existing telecommunications site and related equipment.

LEASE TERM:

3 years, beginning December 1, 2019.

CONSIDERATION:

\$24,000 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Surety Bond or other Security: \$250,000.
- Submittal of a plan for removal or other disposition of improvements within 2 years of authorization.
- Ability for Lessor to terminate lease if Lessor finds that Lessee's use conflicts with decommissioning activities and is no longer in the State's best interests.

STAFF REPORT NO. 56 (CONT'D)

- Lessee has rights of ingress and egress to maintain the existing telecommunications site, as well as use of utility connections currently connected to the shore via causeway.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

On September 3, 1999, the Commission authorized a General Lease – Right-of-Way Use to Cox PCS Assets, L.L.C., for the construction and operation of a wireless telecommunications site for a 20-year term, beginning December 1, 1999 ([Item C05, September 3, 1999](#)). That lease expired on November 30, 2019. On November 19, 2019, the Applicant, now known as Sprint Spectrum L.P., applied for a new General Lease – Other for the existing wireless telecommunications site and related equipment.

To provide coverage along the northern Ventura County coastline, the Applicant installed a wireless telecommunications site on Rincon Island, which is an artificial island of sovereign filled land in the Pacific Ocean. This location was selected to provide cellular service to motorists and residents between Rincon Point and Faria Beach. The telecommunications site includes one 25-foot-high steel pole with antenna arrays on top and an equipment enclosure adjacent to the steel pole with necessary appurtenant utilities for site maintenance.

Rincon Island is an artificial island constructed in 1959 for the purposes of oil and gas development and production. It is located approximately 3,000 feet offshore in water 55 feet deep and is connected to the shore by a causeway. The island ceased operations as a commercial oil and gas operation after the island's operator, Rincon Island Limited Partnership, became insolvent through bankruptcy ([Item C71 November 29, 2017](#)). The State of California, through the Commission, has assumed responsibility for decommissioning the oil and gas facilities and structures appurtenant to those operations.

Currently, the Commission is actively plugging and abandoning the wells on Rincon Island. The Applicant is aware that the final decommissioning activities and disposition of Rincon Island may include the full removal of the causeway and potentially the island itself. The scope of the Rincon Island decommissioning has yet to be determined, but may involve a final

STAFF REPORT NO. 56 (CONT'D)

disposition that makes operation of a telecommunications site impractical or impossible. Therefore, the proposed lease requires the Applicant to prepare and submit a plan for removal or other disposition of its improvements for Commission review and approval within 2 years of the beginning of the lease. This arrangement will allow the Applicant to continue providing wireless service to a large portion of the coast, while also allowing time to prepare alternative telecommunications site locations onshore if that becomes necessary.

The telecommunications site has existed for many years at this location and is not generally associated with traditional Public Trust uses. However, the telecommunications site does not significantly interfere with Public Trust activities because the site is located on an island that is not readily accessible to the public and therefore will not have an impact on Public Trust activities for the foreseeable term of the lease.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 3-year term and does not grant the lessee exclusive rights to the lease premises. The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. Upon termination of the lease, the lessee may be required to remove all improvements from State land. The lease also requires the payment of annual rent to compensate the people of the State for the use of public land. The lease also requires a significant bond to help ensure the restoration of the lease premises if necessary.

Climate Change:

The lease area consists of sovereign land located in the Pacific Ocean offshore of Ventura County on Rincon Island. Rincon Island is an artificial island located approximately 3,000 feet offshore in 55 feet of water. Climate change impacts, including sea-level rise, more frequent and intense storm events, and increased flooding and erosion, affect open coastal areas in California. Projected sea-level rise scenarios at the tide gauge closest to the lease area (Santa Barbara tide gauge) are listed in Table 1.

STAFF REPORT NO. **56** (CONT'D)

Table 1. Projected Sea-Level Rise for Santa Barbara¹

Year	Projection (feet)
2030	0.7
2040	1.1
2050	1.8
2100	6.6

Source: Table 22, State of California Sea-Level Rise
Guidance: 2018 Update

Note: ¹ Projections are with respect to a baseline of the year 2000.

The existing telecommunications site is located within the depressed interior of the island that is surrounded by a perimeter berm, approximately 30 feet high on the ocean/weather side and slightly lower on the land side. This berm is planted with scattered palm trees and was built to withstand natural processes of the marine environment. Due to the berm's height, it should not be highly vulnerable to sea-level rise; however, over time the berm may become vulnerable to more frequent overtopping or inundation during high tides, king tides, and storms. As a result, the berm (not included in the lease area) may require more frequent maintenance to ensure continued function during and after storm seasons. Pursuant to the proposed lease, the Applicant acknowledges that the lease premises are located in an area that may be subject to the effects of climate change, including sea-level rise.

Conclusion:

For all the reasons above, staff believes the issuance of this lease will not substantially interfere with Public Trust needs at this location, at this time, and for the foreseeable term of the proposed lease; and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. If the Commission denies the application, the Applicant may be required to remove the wireless telecommunications site and related equipment and restore the premises to their original condition. Upon expiration or prior termination of the lease, the lessee also has no right to a new lease or to renewal of any previous lease. The proposed lease further includes a provision allowing the Commission to terminate the lease if the Commission finds that the Applicant's use of the premises

STAFF REPORT NO. **56** (CONT'D)

interferes with decommissioning activities and is no longer in the best interests of the State.

2. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
3. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (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.

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).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Other to the Applicant beginning December 1, 2019, for a term of 3 years, for the use and maintenance of an existing wireless telecommunications site and related equipment, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the

STAFF REPORT NO. **56** (CONT'D)

amount of \$24,000, with an annual Consumer Price Index adjustment; liability insurance in an amount no less than \$1,000,000; and surety bond or other security in the amount of \$250,000.

EXHIBIT A

LEASE 8101.1

LAND DESCRIPTION

A parcel of filled submerged land in the Pacific Ocean on Rincon Island, located in Ventura County, State of California and more particularly described as follows:

COMMENCING at a California Department of Transportation (Caltrans standard brass cap monument stamped "VEN 5655" located at the southwesterly return of Mussel Shoals exit of the south bound 101 Freeway, per Caltrans Book SR 74-003, Page 4 and as shown on that Record of Survey of Lot 56 of the Mussel Shoal Tract No. 1 dated June, 1991 and filed in Book 48 of Records of Surveys, at Page 36 & 37 from which a California Department of Transportation (Caltrans standard brass cap monument stamped "VEN 5645" having the CCS27, Zone V coordinates of North(Y)=315383.00, East(X)=1564509.78 bears North 52°58'42" West 1211.71 feet as per said map; thence South 22°54'45" West 3342.00 feet to the POINT OF BEGINNING; thence South 22°28'00" West 40.00 feet; thence South 67°32'00" West 40.00 feet; thence North 22°28'00" West 40.00 feet; thence North 67°32'00" East 40.00 feet to the POINT OF BEGINNING.

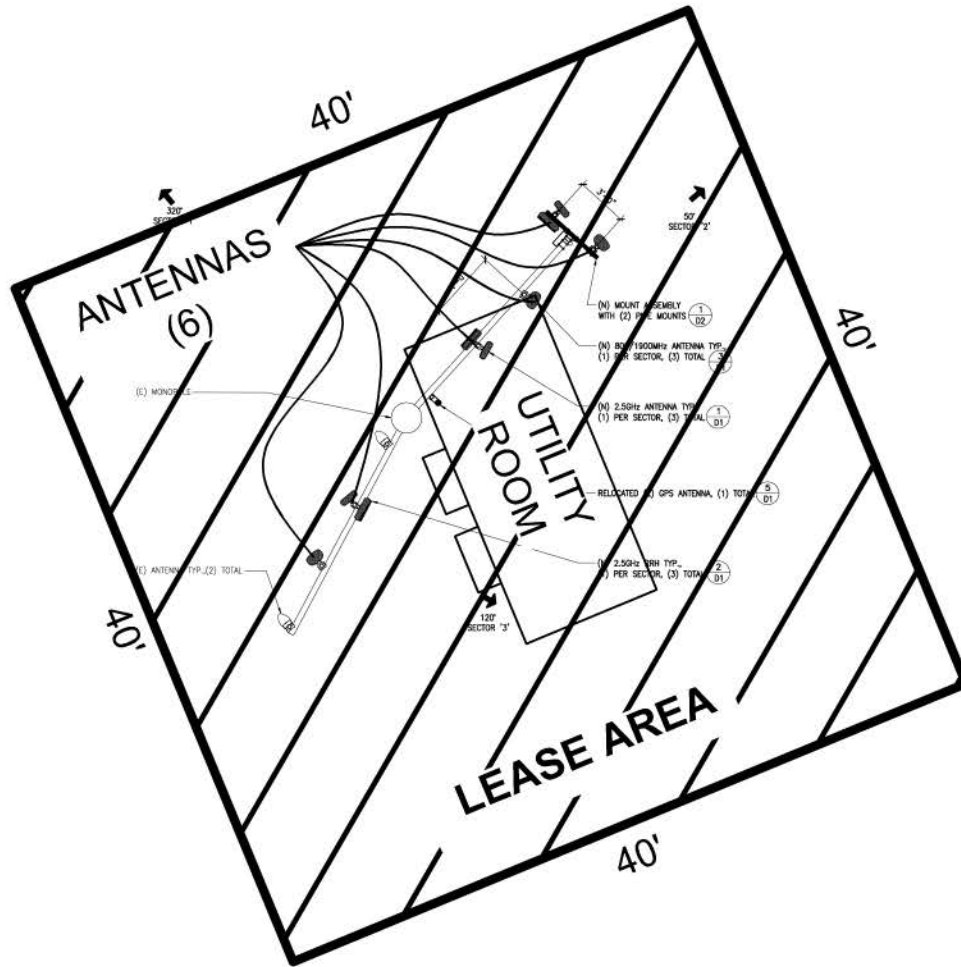
END OF DESCRIPTION

PREPARED 1/13/2020 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

SITE



RINCON ISLAND, NEAR MUSSEL SHOALS

NO SCALE

LOCATION



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.

EXHIBIT B

LEASE 8101.1
SPRINT SPECTRUM L.P.
GENERAL LEASE -
OTHER USE
VENTURA COUNTY



MJF 4/09/2020