

Staff Report 45

APPLICANT:

Seren Juno Network America, Inc.

PROPOSED ACTION:

Issuance of a General Lease – Right-of-Way Use.

AREA, LAND TYPE, AND LOCATION:

Sovereign tide and submerged land in the Pacific Ocean, near Pismo State Beach, Grover Beach, San Luis Obispo County (as shown in Figure 1).

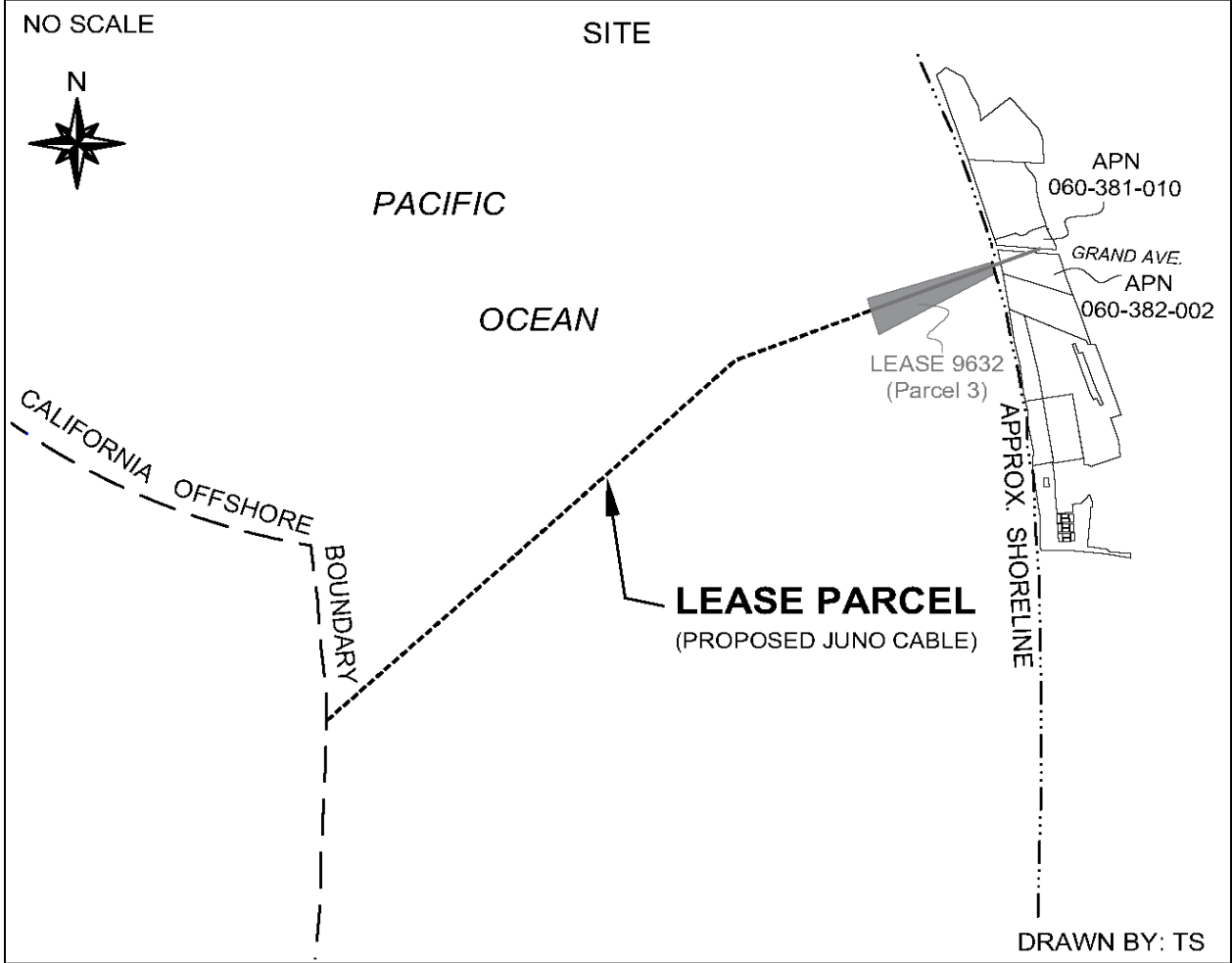
Figure 1. Location



AUTHORIZED USE:

Installation and use of one 2-inch-diameter buried fiber-optic cable (as shown in Figure 2).

Figure 2. Site Map



NOTE: This depiction of the lease premises is based on unverified information provided by the Applicant or other parties and is not a waiver or limitation of any State interest in the subject or any other property.

TERM:

25 years, beginning October 19, 2023.

CONSIDERATION:

\$89,655 per year, with an annual Consumer Price Index adjustment and the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease.

SPECIFIC LEASE PROVISIONS:

- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Contractor liability insurance in an amount no less than \$2,000,000 per occurrence.
- Bond or other surety in the amount of \$200,000, to be reviewed every 5 years.
- The proposed fiber-optic cable will not be pulled through the receiving conduit before the Commission authorizes an endorsement of sublease for its occupation of the conduit.
- Within 60 days of completing construction, Lessee shall submit a post-lay cable survey that shows the final cable location, crossings, and burial depth.
- Based on the post-lay cable survey received, Lessor shall then replace Lease Exhibit A (Land Description) and Exhibit B (Site and Location Map) as necessary to accurately reflect the final location of the authorized improvement within the Commission’s jurisdiction. Once approved by Lessor’s Executive Officer or designee and Lessee, the revised Exhibits shall replace the Exhibits incorporated in the Lease at the time of Lease execution. The replaced Exhibits shall be incorporated in the Lease as though fully set forth therein.
- Should staff’s review of the post-lay cable survey identify a change in the improvements that necessitates a change in the annual rent, Lessee agrees to submit an application, within 60 days following notice from Lessor’s staff, to request a lease amendment to reflect such changes.

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:

On June 23, 2020, the Commission authorized the adoption of a Mitigated Negative Declaration (MND), State Clearinghouse No. 2020040309, adoption of a Mitigation Monitoring Program (MMP) and issuance of a General Lease – Right-of-Way Use, Lease 9632, to RTI Infrastructure, Inc. (RTI) for the installation and use of four steel conduits and one fiber-optic cable near Grover Beach, San Luis Obispo County ([Item 50, June 23, 2020](#)). On April 26, 2022, the Commission authorized the adoption of an Addendum to the MND and amendment of Lease 9632 to relocate

the installation site of the fiber-optic cable and two of the previously authorized steel conduits; and for authorization to lay one additional fiber optic cable ([Item 43, April 26, 2022](#)).

One of the six cables analyzed in the MND and Addendum to the MND is now identified as the JUNO Cable System. The Applicant's proposed 2-inch-diameter buried subsea fiber-optic cable (Cable) would be the third cable to be installed and would occupy an existing 6-inch-diameter steel conduit (Conduit). The Conduit was constructed in 2022 as part of the Grover Beach Subsea Fiber Optic Cables Project.

RTI is in the process of transferring ownership of the Conduit, along with one other conduit, to Middle Mile Infrastructure, LLC. Both conduits are currently authorized under Parcel 3 of Lease 9632. RTI submitted an application to the Commission for an amendment of that lease, partial assignment, and endorsement of sublease for the proposed Cable's occupation of the Conduit.

The Cable installation is planned to occur in Spring 2024, however, the Applicant is seeking authorization for a General Lease – Right-of-Way use from the Commission now in order to obtain permission from agencies having jurisdiction over the JUNO Subsea Cable Project (Project). The Applicant will not begin installation until all authorizations are received, including Commission authorization of the RTI application for an amendment, partial assignment, and endorsement of sublease.

The Cable is intended to increase the speed and bandwidth through which telecommunication data can be transmitted between the U.S. and Japan. This cable system would extend from the city of Grover Beach, California, across the Pacific Ocean, and terminate in two locations in Japan.

The Project objectives are to:

- Respond to the need for greater trans-Pacific data transmission by installing a cutting-edge fiber-optic cable with higher bandwidth and direct connections between the two countries.
- Increase telecommunication data transmission speeds.
- Avoid seismically unstable zones.
- Add to the diverse telecommunication pathways across the Pacific for greater reliability.

The proposed lease premises would extend from the Commission's offshore 3-nautical-mile leasing boundary shoreward to the point where the Cable would enter the existing Conduit. The seaward end of the Conduit is at a water depth of approximately 50 feet. The full length of the Cable within the proposed lease premises is expected to be buried to a depth of up to 3.3 feet. The portion of the

Cable occupying the Conduit will be authorized under a lease with the owner of the Conduit, to be considered in a future Commission action.

Installation would involve the use of a cable ship, a dive support vessel, and other smaller support vessels to install the Cable across the Pacific Ocean floor and into the existing Conduit. The cable ship would be used to conduct a pre-lay grapnel run, surface-lay the Cable, and deploy a cable plow or ROV to bury the Cable. At the seaward end of the Conduit, divers would be deployed to feed the Cable into the Conduit so it can be pulled onshore into the Landing Manhole #2 that was installed in 2022, as part of the [Grover Beach Subsea Fiber Optic Cables Project](#). A post-lay inspection and burial would be conducted to inspect for proper Cable burial or installation, and to bury the Cable where the plow could not, subject to seabed conditions. An ocean ground bed (OGB) would be constructed under the Grover Beach parking lot (outside of the Commission's leasing jurisdiction) as part of the Project. The OGB is needed for cathodic protection and to provide a ground for the electricity that powers the Cable's amplifiers to continue to carry the signals to Japan.

The new lease will require the Applicant to conduct a Cable burial verification inspection on or before the fifth anniversary of the Cable installation date and after events that could affect the Cable, such as an earthquake or a severe storm. Depending on the results of the initial Cable burial verification inspection, the lease would require the Applicant to either perform additional inspections every fifth anniversary thereafter and 1 year prior to the expiration date of the lease or submit a written statement confirming that no qualifying event has occurred. The Applicant has entered into an agreement with the [Central California Joint Cable/Fisheries Liaison Committee](#) and the Cable is a "covered cable" in the agreement. This nonprofit mutual benefit corporation's goal is to improve the business conditions of subsea cable operators and commercial fishing industries. A lease amendment would be required for any change in use or removal.

The Cable would be buried below the ocean floor within State waters and would not impede surface use or interfere with Public Trust needs and values at this location, at this time, and for the term of the proposed lease. The proposed facilities do not significantly alter the land, and the lease does not alienate the State's sovereign interest, or permanently impact public rights.

The lease is limited to a 25-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove any improvements and restore the lease premises to their original condition. Additionally, the proposed lease requires the lessee to maintain a performance bond in the amount of \$200,000 and to insure the lease premises and

indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved.

CLIMATE CHANGE:

Sea level rise as a function of global climate change is not expected to affect the Project because none of the components would be located in areas subject to either flooding (greater than a 1 percent chance, annually) or increased erosion with anticipated sea level rise. The Cable would be buried approximately 3.3 feet beneath the Pacific Ocean floor. Therefore, the offshore Project components would not be impacted by sea level rise. The existing Conduit was previously installed using the horizontal directional drilling (HDD) method under the beach at a depth of approximately 35 to 50 feet and would not be subject to increased erosion over time. The OGB would also be buried at least 6 feet below the surface of the beach.

CONCLUSION:

For all the reasons above, staff believes the issuance of the lease will not substantially impair the public rights to navigation, fishing, and commerce, or substantially interfere with the Public Trust needs and values at this location, at this time, and for the term of the 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 will not be authorized to install its fiber-optic cable. The Lessee has no right to a new lease or to renewal of any previous lease.
2. This action is consistent with the "Meeting Evolving Public Trust Needs" and "Leveraging Technology" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. Pursuant to the California Environmental Quality Act (CEQA), staff prepared an MND identified as California State Lands Commission MND No. 803, State Clearinghouse No. 2020040309, and an MMP that were adopted by the Commission on June 23, 2020 ([Item 50, June 23, 2020](#)). On April 26, 2022, the Commission adopted an Addendum to the MND ([Item 43, April 26, 2022](#)).

4. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq. At the time the Commission adopted the MND in 2020, staff concluded that such activity would not affect those significant lands and the Commission found the activity to be consistent with its use classification pursuant to Public Resources Code section 6370 et seq.

APPROVALS OBTAINED:

State Historic Preservation Office (SHPO)
NOAA Fisheries
National Oceanic and Atmospheric Administration (NOAA)
U.S. Fish and Wildlife Service (USFWS)

APPROVALS REQUIRED:

Central Coast Regional Water Quality Control Board (Central Coast RWQCB)
California Coastal Commission (CCC)
U.S. Army Corps of Engineers (USACE)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the MND, California State Lands Commission MND No. 803, State Clearinghouse No. 2020040309, and an MMP were adopted by the Commission on June 23, 2020 ([Item 50, June 23, 2020](#)).

Find that an Addendum to the MND was adopted by the Commission on April 26, 2022 ([Item 43, April 26, 2022](#)), pursuant to the provisions of CEQA.

Find that the Commission reviewed and considered the information contained in the previously adopted MND and Addendum; and that in the Commission's independent judgment, the scope of activities to be carried out under the lease to be issued under this authorization has been adequately analyzed; that none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 has resulted in any new or substantially more severe significant impacts; and, therefore, no additional CEQA analysis is required.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

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

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 section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Right-of-Way Use to the Applicant beginning October 19, 2023, for a term of 25 years, for the installation and use of one 2-inch-diameter buried fiber-optic cable, 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 amount of \$89,655 with an annual Consumer Price Index adjustment, and with the State reserving the right to fix a different rent periodically during the lease term, as provided for in the lease; liability insurance in an amount no less than \$1,000,000 per occurrence; contractor liability insurance in an amount no less than \$2,000,000 per occurrence; and a surety bond in the amount of \$200,000.