

Staff Report 49

APPLICANT:

PC Landing Corporation, a wholly owned subsidiary of NTT America, Incorporated

PROPOSED ACTION:

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

AREA, LAND TYPE, AND LOCATION:

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

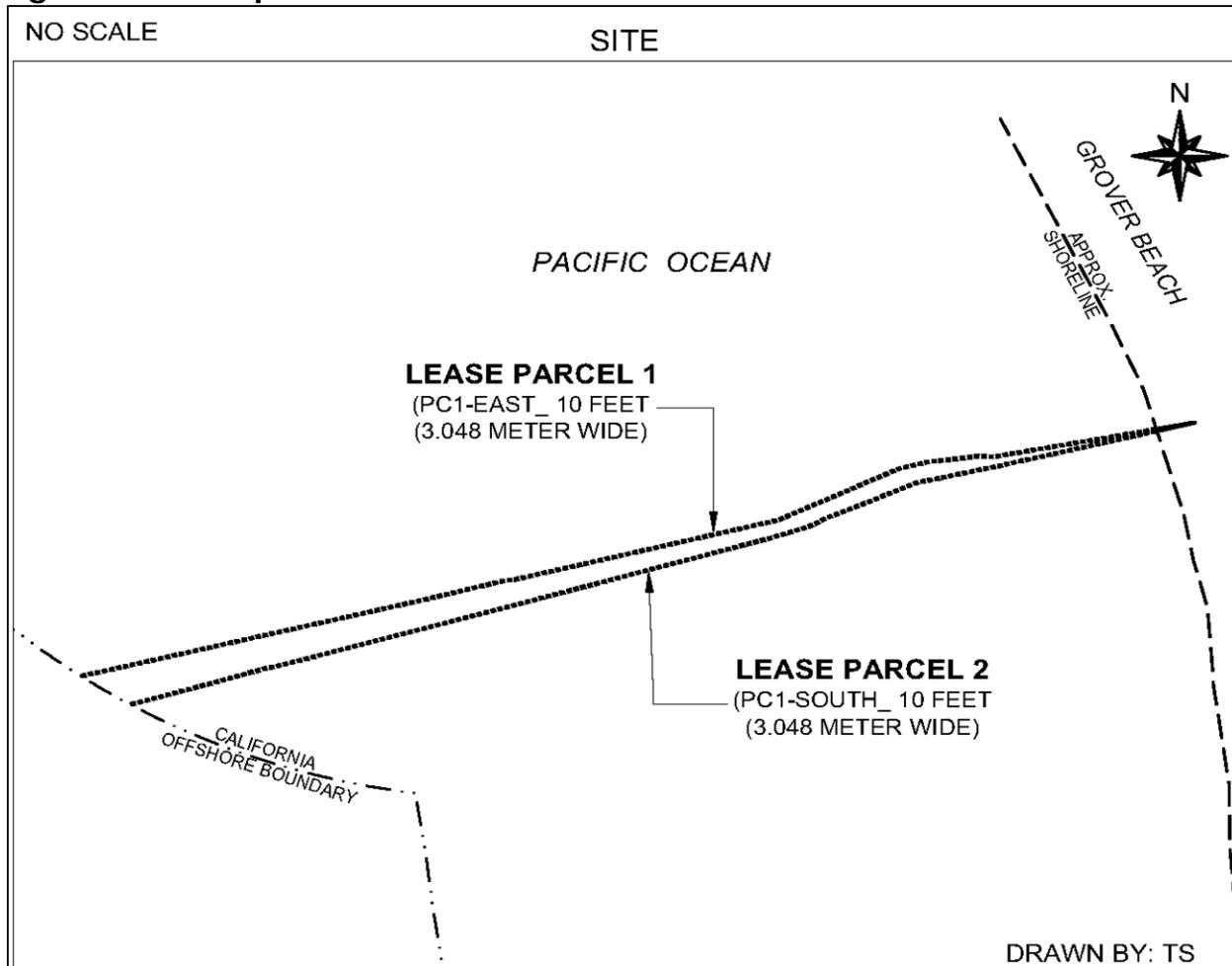
Figure 1. Location



AUTHORIZED USE:

Use of two existing 5.25-inch-diameter steel conduits and two 1.4-inch-diameter fiber optic cables (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:

10 years, beginning April 20, 2025.

CONSIDERATION:

\$251,745 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:

- Any future use or modification to the improvements will require prior Commission review and approval.
- Written statements on cable burial required at the 5th anniversary of the lease and one year before lease expires, with cable burial verification inspection required upon the occurrence of events that indicate the cable may have become unburied, such as gear snag incidents, earthquakes and other acts of God, or any other significant event that could cause excessive ocean floor deformation or scouring.
- Liability insurance in an amount no less than \$1,000,000 per occurrence.
- Bond or other surety in the amount of \$1,000,000.

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 April 20, 2000, the Commission authorized a General Lease – Right-of-Way Use to PC Landing Corp for the construction, installation, operation, maintenance and use of two 5.25-inch steel conduits and two fiber optic cables ([Item 11, April 20, 2000](#)). On October 29, 2010, the Commission authorized a General Lease – Non-Exclusive Right-of-Way Use to the Applicant for the continued use and maintenance of two 5.25-inch-diameter steel conduits and two 1.4-inch-diameter fiber optic cables to carry diverse digital communications traffic including, but not limited to voice, data and video ([Item 48, October 29, 2010](#)). On February 7, 2017, the Commission authorized a revision of rent to revise the annual rent from \$242,075 per year to \$274,822 per year ([Item 58, February 7, 2017](#)). On August 17, 2017, the Commission authorized an amendment of lease to revise the cable burial inspection survey schedule ([Item 52, August 17, 2017](#)). The lease expired on April 19, 2025.

The Applicant is applying for a new General Lease – Right-of-Way Use for the use of the existing facilities. The cables, part of the Pacific Crossing fiber-optic cable network, is a covered cable in the [Central California Joint Cable/Fisheries Liaison](#)

Committee Agreement. The new lease will require the Applicant to conduct a cable burial verification inspection after events that could affect the cable, such as an earthquake or a severe storm.

The conduits and cables are buried below the ocean floor within State waters and do 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 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 10-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 \$1,000,000 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:

The climate crisis and rising sea levels are impacting coastal California now. As underscored in the [State of California Sea Level Rise Guidance](#) (Ocean Protection Council, 2024), the combination of extreme weather events and the persistent and accelerating rise in sea levels will lead to increased coastal hazards, such as wave runup, storm surges, flooding, and erosion. Shorelines will move inland due to rising seas, exposing more of the natural and human-built environment to coastal hazards. The resulting damage will occur repeatedly and incrementally over years and, in extreme cases, over the span of a few large winter storms.

The existing two 5.25-inch-diameter steel conduits and two fiber optic cables within them remain buried offshore with a maximum burial depth of 52 feet below the Pacific Ocean, near Grover Beach. Due to the depth of burial, the conduits and the fiber optic cable are not expected to be impacted by climate change events.

CONCLUSION:

For all the reasons above, staff believe 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.
2. This action is consistent with the "Leading Climate Activism" and "Meeting Evolving Public Trust Needs" Strategic Focus Areas of the Commission's 2021-2025 Strategic Plan.
3. The proposed lease includes a lease maintenance agreement to cover staff costs to comply with the lease terms.
4. 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 15061 and California Code of Regulations, title 2, section 2905.

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, 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.

AUTHORIZATION:

Authorize issuance of a General Lease – Right-of-Way Use to the Applicant beginning April 20, 2025, for a term of 10 years, for the use of two existing 5.25-inch-diameter steel conduits and two 1.4-inch-diameter fiber optic cables; annual rent in the amount of \$251,745 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; liability insurance in an amount no less than \$1,000,000 per occurrence; and a surety bond or other security in the amount of \$1,000,000.