

MINUTE ITEM  
This Calendar item No. 02  
was approved as Minute Item  
No. 2 by the State Lands  
Commission by a vote of 3  
to 0 at its 09/11/89  
meeting.

CALENDAR ITEM

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02

09/11/89  
W 24242 PRC 7336  
Gordon

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GENERAL LEASE - RIGHT-OF-WAY USE

APPLICANT: WTG-WEST, Inc.  
Attn: Henry A. Kolesnik  
P. O. Box 21348  
Tulsa, Oklahoma 74121

AREA, TYPE LAND AND LOCATION:  
A 0.540-acre parcel, a 0.101-acre parcel, and a  
0.471-acre parcel, all tide and submerged  
lands, located in the Cosumnes, Mokelumne and  
San Joaquin rivers, respectively, Sacramento  
and San Joaquin counties.

LAND USE: Installation and maintenance, for  
telecommunication purposes, of a two-inch (2")  
diameter fiber optic cable conduit.

TERMS OF PROPOSED LEASE:  
Initial period: 49 years beginning October 1,  
1989.

CONSIDERATION: \$373 per annum; with the State reserving the  
right to fix a different rental on each  
fifth anniversary of the lease.

BASIS FOR CONSIDERATION:  
Pursuant to 2 Cal. Code Regs. 2003.

APPLICANT STATUS:  
Applicant is lessee of upland.

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PREREQUISITE CONDITIONS, FEES AND EXPENSES:

Filing fee and environmental costs have been received.

STATUTORY AND OTHER REFERENCES:

- A. P.R.C.: Div. 6, Parts 1 and 2; Div. 13.
- B. Cal. Code Regs.: Title 2, Div. 3; Title 14, Div. 6.

AB 884: 11/06/89.

OTHER PERTINENT INFORMATION:

1. Applicant proposes to construct a fiber optic telecommunication cable system with associated facilities from Los Angeles to Sacramento via San Francisco for the purpose of providing its subscribers additional capacity and service between the referenced cities and major metropolitan areas outside California. The project is approximately 550 miles in length. Applicant is not currently a public utility, but proposes to pursue the steps necessary to become as such immediately following the Commission's consideration and approval of the project.
2. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (14 Cal. Adm. Code 15025), the staff has caused to be prepared an EIR identified as EIR No. 489, State Clearinghouse No. 89041011. Such EIR was prepared and circulated for public review pursuant to the provisions of the CEQA.
3. The significant and environmental effects listed in Exhibit "C" were identified in the FEIR. These enumerated effects are followed by proposed findings under Section 15091 of the CEQA Guidelines which specify changes, alterations, or permit conditions which will be required for, or incorporated into, the proposed project. A statement follows each proposed mitigation measure explaining why or how such mitigation measure will accomplish its intended goal (see Exhibit "C").

CALENDAR ITEM NO. 02 (CONT'D)

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

APPROVALS OBTAINED:

United States Army Corps of Engineers,  
California Department of Fish and Game,  
California Central Valley Regional Water  
Quality Control Board, California Reclamation  
Board, and the County of San Joaquin.

FURTHER APPROVALS REQUIRED:

None.

EXHIBITS:

- A. Land Description.
- B. Location Map.
- C. Environmental Impact Report Findings.

IT IS RECOMMENDED THAT THE COMMISSION:

1. CERTIFY THAT AN EIR NO. 489, STATE CLEARINGHOUSE NO. 89041011, WAS PREPARED FOR THIS PROJECT PURSUANT TO THE PROVISIONS OF THE CEQA AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.
2. ADOPT THE FINDINGS MADE PURSUANT TO SECTION 15091 OF THE CEQA GUIDELINES AS CONTAINED IN EXHIBIT "C".
3. DETERMINE THAT THE PROJECT AS APPROVED, WILL NOT HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT.
4. AUTHORIZE ISSUANCE TO WTG-WEST, INC. OF A 49-YEAR GENERAL LEASE - RIGHT-OF-WAY USE, BEGINNING OCTOBER 1, 1989; IN CONSIDERATION OF ANNUAL RENT IN THE AMOUNT OF \$373, WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENTAL ON EACH FIFTH ANNIVERSARY OF THE LEASE; FOR INSTALLATION AND MAINTENANCE OF A TWO INCH (2") DIAMETER FIBER OPTIC CABLE CONDUIT ATTACHED TO EXISTING RAILROAD BRIDGE STRUCTURES ON THE LAND DESCRIBED ON EXHIBIT "A" ATTACHED AND BY REFERENCE MADE A PART HEREOF.

**EXHIBIT "A"**

**W 24242**

**LAND DESCRIPTION**

**PARCEL 1**

A parcel of tide and submerged land in the bed of the Consumnes River in Section 28, T5N, R5E, MDM, Sacramento County, California, said parcel lying beneath the Union Pacific Railroad bridge crossing said river.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water marks of the Consumnes River.

**PARCEL 2**

A parcel of tide and submerged land in the bed of the Mokelumne River in Section 28, T5N, R5E, MDM, Sacramento and San Joaquin Counties, California, said parcel lying beneath the Union Pacific Railroad bridge crossing said river.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water marks of the Mokelumne River.

**PARCEL 3**

A parcel of tide and submerged land in the bed of the San Joaquin River in Section 10, T2S, R6E, MDM, San Joaquin County, California, said parcel lying beneath the Union Pacific Railroad bridge crossing said river.

EXCEPTING THEREFROM any portion lying landward of the ordinary high water marks of the San Joaquin River.

**END OF DESCRIPTION**

**PREPARED MAY 12, 1989 BY BIU 1.**

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## Exhibit C

## CEQA FINDINGS

EXPLANATORY NOTES:

These findings are made by the State Lands Commission on the proposed WIG fiber optic cable project (Los Angeles to San Francisco/Sacramento) pursuant to Section 15091, California Code Regulations (CEQA Guidelines).

As each finding is associated with an impact occurring within the jurisdiction of another public agency(ies), the following finding was used in each such case:

Changes or alterations have been incorporated into the project which avoid or substantially lessen the significant environmental effects identified in the final EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency.

Although the State Lands Commission is the CEQA Lead Agency, it has jurisdiction over only a small part of the route. There are no significant environmental impacts associated with that portion of the proposed project within the jurisdiction of the State Lands Commission, and consequently no mitigation measures are enforceable by the Commission. Each of the findings is accompanied by a list of agencies having jurisdiction over specific changes or alterations to the project. These agencies, within their respective spheres of influence, would have the ultimate responsibilities to adopt, implement, and enforce the mitigation measures discussed.

Each finding is followed by information supporting them. Where possible, reference is made to a specific (numbered) mitigation measure presented in the EIR.

Public Resources Code Section 21081.6 requires public agencies making findings which adopt changes in a project to also adopt a reporting and monitoring program. An agency is not obligated to design a monitoring program for those particular mitigation

measures that are the responsibility of another agency (Public Resources Code Section 21081(b)). CEQA provides that each public agency must adopt objectives, criteria, and specific procedures to administer its responsibilities under the Act and the CEQA Guidelines (Public Resources Code Section 21082).

Since there are no mitigation measures identified in the EIR which the State Lands Commission would have authority to adopt, no monitoring program specific to that portion of the proposed project crossing State Lands Commission jurisdiction is required. Staff has notified all appropriate agencies, identifying to each the requirements of Public Resources Code Section 21081.6, and the specific mitigation measures requiring adoption and monitoring programs under this section.

measures that are the responsibility of each public agency (Public Resources Code Section 18010). Each public agency shall follow the procedures to

**GEOLOGY AND SOILS**

**IMPACT:** Compaction and rutting of the soil caused by construction in wet soils and/or during wet periods.

**FINDING:** 2) Changes or alterations have been incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency. (See agency list at the end of this section.)

**FACTS SUPPORTING THE FINDING:**

The proposed cable crosses areas which, although they receive low amounts of precipitation, do not absorb water quickly and allow for the pooling of water. The final EIR recommends the following mitigation measure to minimize compaction and rutting:

**3.7.1.3 Seasonal Restrictions**

- 1) During adverse weather conditions, stop and start orders would be issued to prevent rutting or excessive tracking of soil and deterioration of vegetation in the ROW area.

Effectiveness: This measure will minimize any significant soil compaction or rutting.

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## GEOLOGY AND SOILS

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**IMPACT:** Soil erosion in sparsely vegetated areas:

**FINDING:** 2) Changes or alterations have been incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency. (See agency list at end of this section.)

### FACTS SUPPORTING THE FINDING:

The potential for soil erosion is low due to the low amount of precipitation, the soil types present and the predominantly gentle slopes along the route. Erosion resulting from construction would be minimized by the placement of the route within or along the existing right of ways (ROW's). These ROW areas provide a stabilized bench across slopes, thus reducing potential water erosion problems. The following mitigation measures contained in the final EIR would reduce soil losses and expedite soil stabilization and revegetation.

#### 3.7.1 Construction Guidelines

##### 3.7.1.1 General Measures

- 3) Actual construction activities would immediately follow preparations operations. Rehabilitation and revegetation would immediately follow construction operations, especially in areas of soil that are highly susceptible to wind or water erosion and/or in other special areas.

##### 3.7.1.2 Access and Transportation

- 1) Design and construction of all temporary, reconstructed, and newly constructed roads would ensure proper drainage, minimize soil erosion, and preserve topsoil. The design would include clearing work, rehabilitation and use and maintenance agreements associated with transportation needs.

- GEOLOGY AND SOILS
- 3) All temporary roads would be closed and areas restored without undue delay or maintained as specified in the land use authorizations. Restoration to near original slope and contour, including redistribution of topsoil, would be to the satisfaction of the permit issuing agency official.

3.7.1.4

**3.7.1.4 Clearing and Site Preparation**

- 2) Existing ground cover, such as grasses, leaves, brush and tree trimmings, would be cleared and piled only to the extent necessary.

**3.7.1.7 Rehabilitation and Revegetation**

- 1) As required, disturbed areas or designated sections of the ROW would be recontoured to restore the site to approximately the original contour of the ground.
- 2) Where needed in steep terrain, erosion control structures such as waterbars, diversion channels, and terraces would be constructed to divert water away from the fiber optic cable trench and reduce soil erosion along the ROW and other adjoining areas disturbed during construction. Waterbars would be constructed to: 1) simulate the imaginary contour lines of the slope (ideally with a grade of 0 to 2 percent); 2) drain away from the disturbed area; and 3) begin and end in vegetation or rock whenever possible.
- 3) The re-establishment of vegetative cover as well as watershed stabilization measures would be scheduled during the ongoing working season and prior to the succeeding winter season. If for some unforeseen reason the final clean-up and revegetation is to be delayed until the next construction season, WTC would take temporary measures to achieve short-term stabilization over the winter until final clean-up and revegetation activities could proceed.
- 6) Suitable mulches and other soil stabilizing practices would be used on all regraded and topsoiled areas to protect unvegetated soil from wind and water erosion and to improve water absorption. Rock mulches would be used in steep-sloping rock outcrop areas and low precipitation areas to reduce erosion and promote vegetation growth.

**Effectiveness:** These measures will prevent any significant soil erosion in vegetated areas.

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## WATER RESOURCES

IMPACT: Water quality degradation due to sedimentation and turbidity resulting from construction across watercourses.

**FINDING:** 2) Changes or alterations have been incorporated into other project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency. (See agency list at end of this section.)

### FACTS SUPPORTING THE FINDING:

Sedimentation and water turbidity could occur and impact water quality as the result of soil disturbance associated with trenching across a watercourse. The final EIR recommends the following mitigation measures to prevent sedimentation in watercourses.

#### 3.7.1.1 General Measures

6) Any construction activity in a flowing stream would be prohibited. Flowing streams would be crossed by use of existing facilities such as attachment to existing bridges. Conventional trenching across intermittent and ephemeral streams would be timed for when the streams are dry. All streams and washes would be returned to their natural state. All construction procedures at stream crossings would adhere to California Department of Fish and Game Stream Alteration Agreement Sections 1601 and 1603.

#### 3.7.1.2 Access and Transportation

4) When providing access to the fiber optic cable ROW, all rivers, streams and washes would be crossed at existing roads or bridges. Permanent culverts would meet specifications for a 25-year storm. Where drainages would be crossed by temporary roads, dirt fills or culverts would be placed and removed upon completion of the project. Culverts on temporary roads would meet specifications for a 10-year, 24-hour storm.

WATER RESOURCES

Effectiveness: Significant impacts to water resources will be avoided by not constructing across flowing water courses and by returning dry watercourses to their natural state.

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## PALEONTOLOGY

**IMPACT:** Loss or disturbance of significant paleontological resources.

**FINDING:** 2) Changes or alterations have been incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency. (See agency list at the end of this section.)

### FACTS SUPPORTING THE FINDING:

The only areas where known significant paleontological resources are threatened by the project are the McKittrick Brea Tar Pits, the Little Signal Hills, the Elk Hills and the Buena Vista Hills in the San Joaquin Valley. In these areas of known paleontological resources within the ROW, trenching may result in direct destruction of fossils within the excavated portion and the loss of geologic context, which is used to determine the age and significance of the resource. Vehicle traffic may have similar effects on near-surface resources.

The final EIR recommends mitigating impacts by requiring avoidance of the most paleontologically sensitive area and monitoring sensitive areas during trenching as follows:

#### 3.7.2.5 Cultural Resources

##### Paleontology

The Project will avoid the highly sensitive McKittrick Brea Pits, if possible. Trenching will be monitored by a qualified paleontologist in the Little Signal Hills, Elk Hills and Buena Vista Hills area. Significant fossil specimens encountered will be salvaged.

Effectiveness: These measures will minimize loss of the scientific value of paleontological resources and improve knowledge of their distribution.

## CULTURAL RESOURCES

**IMPACT:** Loss or disturbance of sites eligible for the National Register of Historic Places (NRHP).

**FINDINGS: 2)** Changes or alterations have been incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency. (See agency list at the end of this section.)

### FACTS SUPPORTING THE FINDING;

Cultural resources that could be impacted by the proposed project include archaeological and historic sites that are located in areas which would be directly (within the proposed ROW) or indirectly affected by project construction and facilities operation.

Two levels of field investigation were completed to identify cultural resource sites that could be impacted: reconnaissance and complete intensive pedestrian survey. Reconnaissance was a vehicle survey of the entire route to identify areas with archaeological/historical potential. The complete/intensive survey, conducted in April-May, 1989, was conducted of all areas where it was predicted that there would be a high possibility of sites based on literature, topography, hydrology and vegetation community. This included previously recorded sites. Areas not subject to the intensive pedestrian survey were currently disturbed areas and include agricultural areas, urban areas and railroad and roadfill areas.

The records search and intensive pedestrian field survey identified thirty-nine (39) prehistoric archaeological sites and thirteen (13) isolated finds in or adjacent to the proposed right of way. None of these sites will be affected by the proposed project. Fourteen (14) of these sites are noted on the site records as having been destroyed or could not be relocated during field examination of the project ROW. Those that could not be relocated are in areas which have been developed and are likely destroyed. About fifteen (15) sites will not be affected by the Project

because they are in areas where the cable will be installed in existing conduit. In all other areas, the cable will be installed in railroad fill and roadway fill, or the line has been relocated by the applicant to avoid impacting archaeological sites.

Eleven (11) recorded historic sites are known to exist along the centerline or immediately adjacent to the proposed ROW. Six (6) of these exist in the San Jose/San Francisco area where the cable will be installed in existing conduit. These sites will not be affected by the Project. In the ROW near Ft. Tejon State Park, the cable will also be placed in existing pipe. The other four (4) known historic sites potentially affected are avoided by the proposed route location.

The final EIR recommends the following mitigation:

#### 3.7.2.5 Cultural Resources

No mitigation is required in areas where intact pipe or conduit will be used or in areas where an intensive archaeological survey has been completed and no archaeological or historical resources have been discovered since the sites identified by the field surveys will be avoided by the proposed location of the cable. Any sites discovered during construction will be evaluated and avoided or mitigated. Where necessary due to potential impact to these sites, monitoring of construction activities will be conducted.

Effectiveness: These actions, under Section 106 of the National Historic Preservation Act, will ensure that the effects of pipeline construction and operation on cultural resources are fully considered, as required by law. Monitoring sites discovered during construction will reduce impacts in areas such as agricultural fields which were not surveyed in detail. The final EIR/EIS concludes that there will be no significant residual impacts after such mitigation.

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## BIOLOGICAL RESOURCES

**IMPACT:** Loss or disturbance of biological communities of concern due to construction.

**FINDING:** 2) Changes or alterations have been incorporated into the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR. Such changes or alteration are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes can and should be adopted by such other agency. (See agency list at the end of this section.)

### FACTS SUPPORTING THE FINDING:

Clearing and grading of the right-of-way will cause short-term loss and disturbance to existing natural communities. The final EIR found construction could result in significant adverse impacts to a sensitive Saltbush Scrub vegetation community in the San Joaquin Valley, and riparian habitats associated with watercourses crossed by the route. Other vegetation impacts are related to permanent displacement of disturbed non-sensitive vegetation by the regeneration stations and cable placement in undisturbed non-sensitive grasslands crossed by the route. In general, direct impacts to wildlife were found to be insignificant because many animal species would be expected to quickly repopulate the construction corridor following restoration. To facilitate the recovery process, the final EIR recommends the mitigation measures presented below. These measures would mitigate impacts related to: construction in biologically sensitive areas, temporary disturbance to a sensitive vegetative community, permanent displacement of non-sensitive vegetation, clearing of non-sensitive grassland, and construction in riparian areas. Specifically, the final EIR states:

#### 3.7.2.2 Biological Resources

- 1) The project will designate a Project Biologist who will identify and flag sensitive biological resources and will be on site in all biologically sensitive areas to ensure avoidance of impacts to these resources by all construction activities. The

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and ensure that Project Biologist will also be responsible for ensuring that mitigation measures are correctly implemented. The Project Biologist will be selected and compensated by WFG. The Project Biologist must be approved by the staffs of the California State Lands Commission (SLC) and the California Department of Fish and Game (CDFG) prior to field deployment. The Project Biologist will have authority to stop construction in the event compliance measures are not adhered to properly.

**Effectiveness:** The Project Biologist will have the authority to ensure that all mitigation measures to protect biological resources will be implemented in the field. This measure will ensure that construction related impacts to known biological resources and to biological resources identified during construction will be insignificant.

- 2) Forty-four (44) acres of Saltbush Scrub vegetative community temporarily disturbed by construction in the San Joaquin Valley between Wheeler Ridge (Milepost 90) and Coalinga (Milepost 215) will be compensated for at a 1.1:1 ratio or 49 acres total. One gallon saltbush (*Atriplex polycarpa* or other species to match species in the area where removal occurs) will be planted in the fall following construction. Protection, such as a wire cage, will be provided for two years following planting in order to ameliorate excessive predation by rodents and lagomorphs.
- 3) 0.5 acres of grassland permanently disturbed by construction of the regeneration facilities will be compensated for at a 1.1:1 ratio or 0.55 acres total.

**Effectiveness:** During construction in Saltbush Scrub areas, ROW clearing will be limited to trimming and crushing whenever possible. The ROW will be located adjacent to existing disturbed areas (e.g., roads and railroads) wherever possible. These measures will reduce the amount of Saltbush Scrub vegetation removed, and will enhance recovery by not disturbing root systems. Saltbush Scrub vegetation will resprout after construction and expedite habitat recovery on the ROW, thus reducing temporary loss of habitat to an insignificant level.

The California Department of Fish and Game has recommended these replacement values to compensate for the short-term loss of Saltbush Scrub vegetation and to compensate for the permanent displacement of non-sensitive grassland. This habitat compensation further minimizes the significance of any vegetative losses.

- 5) Topsoil would be retained along route segments during construction and would subsequently be reestablished following line placement to aid in revegetation. Disturbed areas would be revegetated using local seed sources and species compatible with these location. Seeding would be initiated when seasonal or weather conditions are most favorable and would be done by drilling, broadcasting, hydroseeding or hydromulching.

Only grass species adapted to local soil and climatic conditions would be used in reseeding applicable areas. Generally, these would be a non-native species mix compatible with the resources disturbed. However, a native perennial grass species such as Stipa will be considered for two areas of native grassland that will be disturbed by the placement of new pipe (Mileposts 48.1-48.2, 73.3.-73.7). The Project Biologist will assess the various affected areas and prepare revegetation prescriptions for each regeneration station site and applicable route segment. These prescriptions will be submitted to the appropriate resource agency for review and approval before implementation.

Effectiveness: Revegetation will restore these areas to preconstruction conditions. These areas are not sensitive habitat locations and impacts will be insignificant after revegetation is complete.

- 7) Trees in the oak savanna woodlands along Warthan Creek and Lewis Creek (Mileposts 227.1-240.1) will be avoided by all construction activities. The Project Biologist will monitor these activities.
- 8) Construction activities, including cable placement, must be restricted to the existing dirt road in the Gabilan Creek area (Milepost 317-320) to avoid riparian habitat. The Project Biologist will monitor all construction activities to ensure compliance with this mitigation measure.
- 9) Construction activities in the Warthan/Lewis Creek area (Mileposts 227.1-240.1) and the Gabilan Creek area (Milepost 317-320) will not be conducted in the following timeframes: