

MINUTE ITEM

This Calendar Item No. C39 was approved as
Minute Item No. 39 by the California State Lands
Commission by a vote of 3 to 0 at its
11/21/00 meeting.

**CALENDAR ITEM
C39**

A 9
S 6

PRC 8169

11/27/00
WP 8169.9
N. Smith

SUBLEASE

PERMITEE/SUBLESSOR:

Williams Communications, Inc.
110 West 7th Street, Suite 800
Tulsa, Oklahoma 74121

SUBLESSEE:

360networks (USA) inc.
143 Union Boulevard, Suite 300
Lakewood, Colorado 80228

AREA, LAND TYPE, AND LOCATION:

Sovereign lands across the American River near Cal Expo, in the city of
Sacramento, Sacramento County.

AUTHORIZED USE:

PERMIT: The existing permit presently authorizes the installation, operation,
and use of a 10-inch diameter conduit containing ten (10)
innerducts, each containing one fiber optic cable.

TERM:

PERMIT: Continuous use plus one year beginning April 20, 2000.

CONSIDERATION:

No monetary consideration shall be charged for the placement, use and
maintenance of fiber optic cables or other similar transmission devices placed by
those qualifying under the scope of Section 7901 of the Public Utilities Code.

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PROPOSED SUBLEASE:

The proposed sublease will authorize 360networks (USA) inc. to utilize one (1) innerduct containing one (1) fiber optic cable within the right of way at the American River created under PRC No. 8169.9; provide that Williams Communications, Inc. and 360networks (USA) inc. are jointly and severally liable for the performance of all covenants and obligations arising under the Permit; and provide that 360networks (USA) inc. shall abide by all of the terms, conditions and limitations of the Permit.

OTHER PERTINENT INFORMATION:

1. At its April 20, 2000 meeting, the Commission authorized a Permit for Telephone Right of Way to Williams Communications, Inc. The Permit authorized the installation, operation, maintenance and use of a fiber optic cable system attached to the railroad bridge across the American River in City of Sacramento. This project is a portion of Williams nationwide fiber optic network in California.
2. Williams Communications and 360networks (USA) inc. entered into a sublease of Permit PRC 8169.9 dated November 2, 2000. Under the terms of this Sublease, Williams will allow 360networks (USA) inc. the use, of one innerduct containing one fiber optic cable.
3. 360networks (USA) inc. has represented to Permitter that (i) it is a "telephone corporation" within the meaning of Public Utilities Code Section 234, (ii) that the authorized improvements to be located within the right of way ("ROW") applied for herein constitute "telephone line" within the meaning of Section 233 of the Public Utilities Code, (iii) it is authorized to provide intrastate telephone services pursuant to its Certificate of Public Convenience and Necessity ("CPCN"), Decision 98-07-057 issued by the California Public Utilities Commission, (iv) it is authorized to handle interstate and international telecommunication traffic in accordance with 47 USC § 214, and (v) the authorized improvements will be operated by it as a public utility for the purpose of providing telephone service to the public on a non-discriminatory basis.
4. The CPUC prepared and adopted a Mitigated Negative Declaration for Williams Communications for that portion of the network within California. The California State Lands Commission staff has reviewed such document. A Mitigation Monitoring Program was adopted by the CPUC.

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5. 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 the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Location Plat

PERMIT STREAMLINING ACT DEADLINE:

March 29, 2001

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

AS TO THE CONSENT TO SUBLEASE, FIND THAT THE ACTIVITY IS EXEMPT FROM THE REQUIREMENTS OF CEQA PURSUANT TO TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15061 BECAUSE THE ACTIVITY IS NOT A PROJECT AS DEFINED BY PUBLIC RESOURCES CODE SECTION 21065 AND TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15378.

FIND THAT A MITIGATED NEGATIVE DECLARATION AND A MITIGATION MONITORING PROGRAM WERE PREPARED AND ADOPTED FOR THIS PROJECT BY THE CALIFORNIA PUBLIC UTILITIES COMMISSION AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN AND HAS PREVIOUSLY ADOPTED BY ITS ACTION OF DECEMBER 3, 1999, THE APPROPRIATE MITIGATION MONITORING PROGRAM.

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.

FINDING OF NON-INTERFERENCE WITH PUBLIC USE PURSUANT TO PUBLIC UTILITIES CODE SECTION 7901:

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FIND THAT THE AUTHORIZED IMPROVEMENT WILL NOT UNREASONABLY INTERFERE WITH THE PUBLIC USE OF THE xPREMISES OR INTERRUPT THE NAVIGATION OF WATERS IF CARRIED OUT IN ACCORDANCE WITH THE TERMS, CONDITIONS AND CONVENANTS OF THE PERMIT.

AUTHORIZATION:

AUTHORIZE A SUBLEASE FROM WILLIAMS COMMUNICATIONS, INC. TO 360networks (USA) inc. OF A PORTION OF THE PERMIT NO. PRC 8169.9 COVERING THE AMERICAN RIVER CROSSING FOR USE OF ONE INNERDUCT CONTAINING ONE FIBER OPTIC CABLE, MORE PARTICULARLY SHOWN ON EXHIBIT A, EFFECTIVE NOVEMBER 28, 2000, UNTIL TERMINATION OF PERMIT; SUBJECT TO ALL OF THE TERMS, CONDITIONS AND LIMITATIONS OF THE PERMIT.

AUTHORIZE THE EXECUTIVE OFFICER TO EXECUTE ALL DOCUMENTS AND TAKE SUCH MEASURES AS MAY BE NECESSARY OR CONVENIENT TO IMPLEMENT THE COMMISSION'S ACTION.

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EXHIBIT A



Location of American River Crossing

Dees & Stokes Associates, Inc.

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