

**State of Alaska, Department of Natural Resources
Division of Mining, Land & Water
Northern Regional Office**

Preliminary Finding and Decision
ADL 420400 – GCI Communication Corporation
Public & Charitable Lease

Proposed Action

GCI Communication Corporation (GCI) has applied to the Department of Natural Resources (DNR), Division of Mining, Land & Water (DMLW), Northern Regional Office (NRO) to lease 1600 square feet of land for the purpose of installing and operating a new communication tower and two telecommunications buildings within the Southern Miluveach Unit on the North Slope. The tower is part of a long term plan to bring terrestrial high speed broadband services to the Village of Nuiqsut located 11 miles west of the Unit and generally improve broadband service on the North Slope. The tower will serve as a link to other towers and expand the communications service area. The proposed tower will be located on the Mustang Pad which is part of the Brooks Range Petroleum Corporation (BRPC) Mustang Development located within Section 2, Township 10 North, Range 7 East, Umiat Meridian.

The proposed project components will be placed on constructed piling foundations and occupy an area on the northeast corner of Mustang Pad. GCI, a public utility in the State of Alaska, as defined by AS 42.05.990(4)(B), has requested a 25-year public and charitable lease as a licensed public utility. The DNR/DMLW/NRO administered lease would consist of the following:

- Two 10-foot by 24-foot buildings (one would be placed immediately following lease issuance, the second would be placed in the 2019/2020 timeframe)
- One 85-foot tall, 9-foot face tapered, 3-sided self-supporting lattice tower
- Piles will be embedded to a 20-foot minimum depth to support the building corners (4 per building) and the 3 corners of the lattice tower
- All project components will be installed on an existing gravel pad

The DMLW proposes to issue a 25-year public and charitable lease to GCI for the construction, operation, and maintenance of the telecommunication tower and buildings. DMLW would issue an Entry Authorization (EA) for access and construction prior to lease issuance.

This document serves as a preliminary State's best interest finding regarding the proposed actions.

Scope of Review and Proposed Finding

The scope of this preliminary finding and decision (PFD) is to determine if it is in the State's best interest to issue a 25-year public and charitable lease to GCI for a telecommunication tower and buildings located on an existing gravel pad. The scope is based upon the statutes, regulations, and other facts contained in case file ADL 420400 and the body of this decision.

Authority

This lease application is being adjudicated pursuant to AS 38.05.035(b)(1), Delegation of the Powers and Duties of the Director; AS 38.05.035(e), Written Finding; AS 38.05.810(e), Public and Charitable Use by a Public Utility; AS 38.05.945, Public Notice; and, 11 AAC 58, Leasing of Lands.

The authority to execute the preliminary and final finding and decisions and the lease contract has been delegated to the Regional Manager of the Northern Regional Office of the DMLW.

Administrative Record

The current case file, ADL 420400, comprises the administrative record for this case, which includes the decision documents.

Location and Legal Description

Geographic: The proposed communication tower lease area is 1600 square feet and is located within the Southern Miluveach Oil and Gas Unit on the North Slope. See Attachment A for the proposed location of the telecommunications site.

Borough/Municipality: North Slope Borough.

Regional/Village Corporation: Arctic Slope Regional Corporation.

Legal Description: Township 10 North, Range 7 East, Section 2, Umiat Meridian.

Title

Acquisition: General Grant GS 1295, Tentatively Approved October 9, 1964; patented March 27, 1974 (Patent No. 50-74-0100).

Restrictions: Standard Reservations

Planning and Classification

The land is classified Resource Management, per CL 618; leasing is allowable for lands classified Resource Management.

Although there is not a DNR land use plan for this area, on March 5, 1970 under ADL 50666 the land was designated "Special Use Land." Per 11 AAC 96.014(b)(1) for all state land in townships within the Umiat Meridian, a permit is required for motorized vehicle use, unless that use is for subsistence purposes or is on a graveled road. This is in addition to the activities requiring a permit under 11 AAC 96.010. The telecommunication tower site is directly off of a graveled oil field road. No permit is required for motorized vehicle use within the site as long as the travel is confined to the gravel infrastructure.

Traditional Use Finding

A Traditional Use Finding, under AS 38.05.830, is not required as the lease location is within the North Slope Borough.

Adjacent Landowners, Native Corporations or Borough

The site is surrounded by state land. It is within the North Slope Borough and Arctic Slope Regional Corporation boundaries, although no borough or corporation lands are directly impacted.

Water Bodies

The proposed telecommunication tower is located within the Arctic Coastal Plain physiographic province and lies within the zone of continuous permafrost. As such, the area contains numerous surface waters, wetlands, streams, ponds, and thaw lakes. The Miluveach River flows approximately 1900 feet to the west and small lakes, ponds, and polygonal troughs surround the proposed project location. The proposed project is not expected to negatively impact the water bodies in the area.

Third Party Interests

The proposed communication tower will be located on a gravel drill pad authorized by lease operations approval (LO/NS) 11-010, under a BRPC oil and gas lease, ADL 390680. BRPC has provided a letter of non-objection (LNO) for the placement and operation of the tower and associated structures. There are no other known third party interests identified in the area.

Access

The proposed location is legally accessible via the existing North Slope gravel road system and is accessed from the Spine Road and the Mustang Road. The Spine Road is authorized under lease operations approvals (LO/NS) to BP Exploration – Alaska, Inc. and ConocoPhillips, Alaska, Inc. related to their subsurface leases. The Mustang Road Director’s Decision and Entry Authorization has been completed under ADL 419880. The final easement for the road will be issued upon completion of the survey and appraisal. The tower would be located on the north side of the Mustang gravel pad at the terminus of the Mustang Road. No tundra travel will be required.

General access to the oil field is controlled by two BP Exploration Alaska, Inc. (BPXA) security check points located in the Prudhoe Bay Unit, near Deadhorse. ConocoPhillips Alaska, Inc. (CPAI) also periodically operates a security check point located at the Prudhoe Bay Unit/Kuparuk River Unit boundary.

Environmental Risk Assessment

The applicant proposes to construct a stand-alone communication tower on an existing gravel pad. There will be no hydrocarbons or hazardous substances stored on site. Electrical power is proposed to be provided from BRPC and will be trenched into the gravel pad from the existing gas-fired electrical generator on site. Temporary and reusable secondary containment drip pans will be required under the engines and tanks of all parked vehicles that are related to the project.

The primary environmental risk is related to failure of the tower structure and possible collapse into existing pad infrastructure or equipment operating on the pad. Placement of the tower at the preferred location on the east side of the Mustang Pad increases the distance from on-pad oil infrastructure. The tower and telecommunications buildings will be located in the northeast corner of the pad bounded by the edges of the pad on the north and east sides, the security shack to the south, and the construction camp to the west. Three bollards are planned at the north and east sides of the tower to protect it from strikes; the other sides of the tower are not accessible by equipment as they are off-pad or next to a building.

Performance Guaranty

To ensure performance of the conditions of the EA and the lease, as well as to cover the potential cost of site cleanup, restoration and any associated costs after termination or expiration of the lease, a performance bond will be required. Calculating the bond amount by using the DMLW performance guaranty matrix yielded a bond in the amount of \$7,254. The DMLW proposes adjusting the performance guaranty to \$5,000 based on performance bonds for similar telecommunication towers near population centers. The performance guaranty is due prior to issuance of the EA and will remain in effect throughout the term of the EA and the lease.

Insurance

To protect the State from liability associated with the use of the site, GCI will be required to provide and maintain a comprehensive general liability insurance policy with the State of Alaska named as an additional insured party. To correspond with the current amount of insurance required by DMLW for similar cases, the insurance requirement for the lease will be no less than \$1,000,000 per occurrence and \$2,000,000 per annual aggregate. The insurance requirement may be adjusted periodically.

Survey

A survey is required for this long-term lease. The applicant shall have a registered land surveyor complete and record an Alaska State Land Survey to delineate the lease boundary, which should encompass and identify all improvements associated with this administrative record. Upon completion of tower and facility construction, a survey, acceptable to the standards of the DMLW Land Survey Unit, will be required for review by the DNR Statewide Platting Officer. The survey must be approved prior to the expiration of the EA and must be performed by a Land Surveyor registered in Alaska and under survey instructions issued by the DMLW Land Survey Unit. The applicant is responsible for the costs of survey. Upon DNR approval of the completed survey, and fulfillment of other applicable conditions, a lease would be issued.

Appraisal

As per AS 38.05.810(e), a negotiated lease to a licensed public utility will be at the appraised fair market value. A request for a Determination of Minimum Rent under 11 AAC 58.410(b) has been provided to the DNR Review Appraiser. If the available data indicates that annual rent is more than the minimum \$1,000 required by 11 AAC 58.410, a formal appraisal will be required. If it is determined that an appraisal is not needed, DMLW reserves the right to require an appraisal in the future, should conditions arise that warrant an appraisal. If an appraisal is required, the applicant will be responsible for the costs of the appraisal and the annual rental for the term of the EA will be determined prior to issuance of the Final Finding and Decision (FFD).

Reversionary Interest

Per AS 38.05.810(g) the State retains a reversionary interest on a lease granted under (a) or (e). The proposed lease is issued for a specific use and development plan, and use of the area for purposes other than those specified constitutes a breach of the lease agreement and may result in revocation.

Entry Authorization (EA)

An EA will be issued for construction of the communication site. The EA will be issued with the standard terms for construction at the conclusion of the FFD appeal period (20 days) and the Commissioner's reconsideration period (10 days) if no appeals are filed. Qualified appeals of the decision will delay issuance of the EA. The term of the EA will be for 2 years and will be included in the overall 25-year lease term. Anyone interested in reviewing a copy of a standard EA can contact the DMLW and request a copy.

Agency Review

Agency review was conducted May 5 – May 14, 2015. The following agencies were contacted for comments regarding this proposed lease: the U.S. Bureau of Land Management (BLM), the U.S. Army Corp of Engineers (USACE), the U.S. Fish and Wildlife Service (USFWS), the Alaska Department of Environmental Conservation (ADEC), the Alaska Department of Fish and Game (ADFG), the DNR/DMLW Water Section, the DNR Division of Oil and Gas (DOG), the DNR Office of Project Management and Permitting (OPMP), the DNR Office of History and Archeology (OHA), and the DNR State Pipeline Coordinator's Office (SPCO). The North Slope Borough (NSB) was also contacted during the agency review period.

The following comments were received, with DMLW and/or applicant response following each comment:

ADFG comment: "The ADF&G has no objection to the installation of a new communications tower and support buildings by GCI Communication Corp. on the Brooks Range Petroleum Corporation Mustang Pad. No ADF&G fish habitat permit is required for the project as proposed."

DMLW response: Comment noted.

DOG comment: "The Division of Oil and Gas does not object to this activity. We approved the creation and continued drilling and eventual development of the surface at this location under Lease Operations approval LONS 11-010."

DMLW response: Comment noted. The LO/NS authorization will be referenced in all decision documents.

NSB comment: "GCI will need this project permitted thru NSB Planning as well."

DMLW response: The applicant will be informed by review of this PFD that a NSB permit is required.

Public Review

Pursuant to AS 38.05.945(b)(3), public notice describing this proposed action will be posted on the Alaska Online Public Notice System for 30 days.

Pursuant to AS 38.05.945(c)(1), the North Slope Borough will be given notice for 30 days. Per 38.05.946, Hearings, the North Slope Borough may hold a hearing within 30 days after receipt of the notice.

The public is invited to comment on the proposed lease. Comments should be submitted to DNR, DMLW, Northern Regional Office (NRO), at 3700 Airport Way, Fairbanks, Alaska 99709. Melissa Head can be contacted for further information at 907-451-2719 or at melissa.head@alaska.gov. Additional copies of this PFD may be obtained from the NRO. Interested parties have the right to comment during the public notice period and a courtesy copy of this decision will be sent to those agencies who commented and the North Slope Borough (NSB). Additionally, notice will be sent to BRPC. Commenters who are aggrieved by the FFD will have the right to appeal it. Please note that in order to be able to appeal the final finding and decision, a person must provide written comment during the PFD comment period. A copy of the FFD will be sent to any person who comments on the PFD and will include an explanation of the appeal process.

Background and Lease Discussion

GCI submitted a lease application package on April 2, 2015 for the purpose of constructing and operating a telecommunications infrastructure within the Southern Miluveach Unit on the North Slope. The 1600 square foot lease area would house a new communication tower and two telecommunications buildings. The tower is part of a long term plan to bring terrestrial high speed broadband services to the Village of Nuiqsut located 11 miles west of the Unit and generally improve broadband service on the North Slope. The tower will serve as a link to other towers and expand the communications service area expanding the communications service area and creating a more reliable communication network for the public, including industry, on the North Slope. The proposed tower will be located on the Mustang Pad which is part of the BRPC Mustang Development located within Section 2, Township 10 North, Range 7 East, Umiat Meridian.

The proposed project components will be placed on constructed piling foundations and occupy an area on the north side of Mustang Pad and would consist of the following:

- Two 10-foot by 24-foot buildings (one would be placed immediately following lease issuance, the second would be placed in the 2019-2020 timeframe)
- One 85-foot tall, 9-foot face tapered, 3-sided self-supporting lattice tower
- Piles will be embedded to a 20-foot minimum depth to support the building corners (4 per building) and the 3 corners of the lattice tower
- All project components will be installed on an existing gravel pad

The DMLW proposes to issue a 25-year public and charitable lease to GCI for the construction, operation, and maintenance of the telecommunication tower. DMLW would issue an EA for access and construction prior to completion of a survey and appraisal and lease issuance.

The applicant has requested a public and charitable lease under AS 38.05.810(e), Public and Charitable Use by a Public Utility. GCI has a Certificate of Public Convenience and Necessity, No. 496, from the Regulatory Commission of Alaska, and they have demonstrated that the lease site is reasonably required for conduct of business under their license; therefore they qualify for a public and charitable lease under AS 38.05.810(e).

The proposed telecommunication tower will be constructed on the Mustang Pad, authorized under LO/NS 11-010 to BRPC. The lease will note and be made subject to LO/NS 11-010. There will not be any on-site material storage. The square footage of the requested lease allows for the temporary storage of construction supplies and parking of maintenance vehicles.

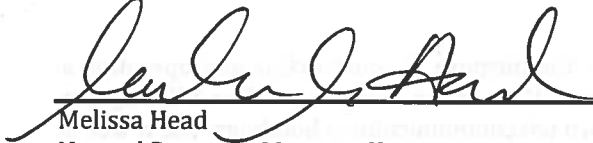
Electrical power is anticipated to be provided via an in-pad trenched cable from the BRPC gas-fired generator located on the pad. BRPC has agreed to provide the power to GCI as described in their LNO. However, the DMLW has determined that in order for BRPC to provide power to GCI through the use of natural gas, a sales agreement must be approved by the DOG. BRPC is required to report the royalty use of the gas for any third party users. Both BRPC and GCI have been informed of this requirement.

DNR proposes to issue a 25-year public and charitable lease to GCI for the construction, operation and maintenance of the communication tower. Anyone interested in reviewing a copy of a standard lease can contact the DMLW and request a copy.

Recommendation

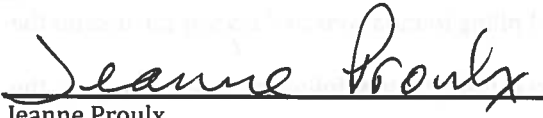
DMLW has completed a review of the information provided by the applicant and an examination of the documents and associated information related to the proposed action. This decision considers ownership of the site and the access route, the need for telecommunication service in the region, agency comments, and project specific needs. The use of this site for a telecommunication tower will enhance telecommunication access for local users, will assist with creating and maintaining public communications infrastructure, and will facilitate education, health services, and economic activity within rural communities.

I find the proposed action may be in the State's best interest and recommend approval to proceed with public notice.


_____ *May 22, 2015*
Date
Melissa Head
Natural Resource Manager II

Preliminary Decision

It is the determination of the Division of Mining, Land & Water that it may be in the State's best interest to issue a 25-year public and charitable lease to GCI. This application shall now proceed to public notice.


_____ *May 22 / 15*
Date
Jeanne Proulx
Northern Regional Manager

Attachments

Attachment A - Location Map

Attachment A - Location Map

