

Department of Natural Resources
Engineering Division
1111 Washington Street SE, Third Floor
Post Office Box 47030
Olympia, Washington 98504-7030



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Skagit County Auditor

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Document Title: Communication Site Rental Agreement
Grantor (Lessor): Day Wireless Systems
Grantee (Lessee): Department of Natural Resources
Legal Description: SW3 of SE3 SW3 NW3 of Sec 22, T36N, R5E, WM
Assessor's Property Tax Parcel Account Number(s): P51090 (portion)

**DEPARTMENT OF NATURAL RESOURCES
COMMUNICATION SITE RENTAL AGREEMENT**

Rental Agreement No. _____ Rental Request No. N/A DNR File No. NW5101

1. THIS RENTAL AGREEMENT, hereinafter referred to as "Agreement," made and entered into as of this 21st (day) of Feb., (month) 2003, (year), by and between Day Wireless Systems, 4700 SE International Way, Milwaukie, Oregon 97222, for their heirs, executors, administrators, successors, and assigns, hereinafter called the Landlord, and the State of Washington Department of Natural Resources, hereinafter called the Tenant, acting under a delegation of authority from the Department of General Administration, in accordance with RCW 43.82.010.

WITNESSETH: The parties hereto for the consideration hereinafter mentioned covenant and agree as follows:

2. The Landlord hereby leases to the Tenant the following described premises, viz: **Nonexclusive use of a communication site currently or potentially shared with others.** The site is located on Lyman Hill located in Skagit County, at SW3 of SE3 SW3 SW3 NW3 of Section 22, Township 36 North, Range 5 East, W.M. at 48-35-40N Latitude and 122-09-35 W Longitude.

3. This Agreement shall be effective from January 1, 2003, to December 31, 2007.

4. This Agreement may be terminated by either party hereto by giving written notice not less than **Ninety (90) Days** prior to the effective date of termination.

5. The Tenant will not permit the use of the premises by anyone other than the Tenant and agents or guests of the Tenant.

6. The Landlord shall furnish to the Tenant, during the occupancy of the premises, under the terms of this Agreement, as part of the rental consideration, the following:

Site A (Old DNR building)

- a. Dry secure space in the communication site building for: 1 VHF Quantar Repeater, Tx Freqs: 159.420; 1 VHF Dipole Antenna;
- b. Protection from radio interference. Tenant will transmit at 151.420 megahertz.



Tenant agrees to provide similar protection from radio interference to all Landlord's equipment and equipment of other tenants, provided such equipment was installed on site prior to DNR's first occupancy.

- c. Reliable electrical power at 120 Volts AC. Compatible backup power is available at the site.
- d. Space on the tower at the "Q" tower at the 12 and 20 foot levels for one six-foot microwave dish and one VHF antenna. The transmit antenna will point omni directional, and the receive antenna will point omni directional.
- e. Space on/in the waveguide tray between the 's electronic equipment and 's antennas.
- f. Guaranteed right of access to the site for such inspection, calibration, repair as the deems advisable.

License of Site: The Landlord licenses the Tenant to install, operate and maintain at Tenant's expense and risk, communications transmitting and receiving equipment along with associated other electronic equipment (which may be passive and/or active) and mounting structures at places designated by Landlord. Tenant shall, at all reasonable times have the unrestricted right to enter or leave the premises where Tenant's equipment is located. Tenant agrees to take, at own expense, all measures and precautions necessary to render Tenant's equipment inaccessible to unauthorized persons. Landlord agrees that it will not give unauthorized persons access to Tenant's equipment.

Operation of Equipment: Tenant will install, operate and maintain its equipment in accordance with applicable laws and regulations to as not to cause interference with any other radio or television transmitting or receiving equipment whether located on the site or not. In the event Tenant's equipment causes such interference, at its sole cost and expense, Tenant shall take all steps necessary to correct and eliminate such interference. If said interference cannot be eliminated within forty-eight hours, Landlord has the right to disconnect and remove any equipment not in compliance with this paragraph.

- a. All installations of antennas and other apparatus upon the radio tower located on the above-described premises shall be made by Landlord, and all repair and maintenance of such antennas and other apparatus on said tower shall be performed solely by Landlord.
- b. Equipment and apparatus within the building located on the above-described premises shall be done by Tenant or with Tenant's consent, and Landlord shall have the right to restrict Tenant in regard to the place of installation of equipment, type and amount of equipment installed, and as to the condition of said equipment and apparatus.



Condition of the Site: With the exception of the Landlord's responsibilities regarding hazardous substances in the tenth clause, Tenant takes the site as it is found and Landlord shall have no responsibility for its condition or damage suffered by the Tenant or any other person due to such conditions. Upon expiration or termination of this license, Tenant will remove all property from the site, which was placed there by Tenant, and will restore the site to its original condition.

Liability: Except for its own acts, Landlord shall not be liable to Tenant or to any other person for any loss or damage, regardless of cause. Specifically, but without limiting the generality of the foregoing, Landlord shall have no liability for any loss or damage due to personal injury, property damage, libel or slander, or imperfect or unsatisfactory communications experienced by the Tenant for any reason whatsoever. To the extent permitted by law, Tenant will indemnify and hold Landlord harmless from any loss, damage, or liability, consequential or otherwise, occasioned by, growing out of, or arising or resulting in connection with, this license or any act or failure to act by Tenant, its agents or employees.

Personal License: This license is personal to Tenant and no assignment or sublicense, in whole or part, shall be valid without the written consent of Landlord. Landlord may assign its rights under this license to any other party.

7. The Landlord shall, unless herein specified to the contrary, maintain the premises, in compliance with all applicable building codes and regulations, in good repair and tenantable condition during the continuance of this Agreement, except in case of damage arising from the act of the negligence of the Tenant's agents or employees. For the purpose of so maintaining the premises, the Landlord reserves the right at reasonable times to enter and inspect the premises and to make any necessary repairs to the building.

8. The Tenant shall pay the Landlord for the premises rent at the following rate:

2 VHF Quantar Repeaters at \$150 per unit (\$300) Tx Freqs: 159.375 and 159.420
2 VHF Dipole Antennas at \$500 per ant. (\$100)
2 Microwave Link MDS960D at \$75 per link (\$150)
1 6ft Microwave Dish at \$500/foot (\$300)

Total payment of \$850.00 per month, with a 4% increase of lease payment each year (2003 - \$850.00, 2004 - \$884.00, 2005 - \$919.36, 2006 - \$956.13, 2007 - \$994.37). Payment shall be made at the end of each month upon submission of properly executed voucher.

9. It is understood that no guarantees, express or implied, representations, promises or statements have been made by the Tenant unless endorsed hereon in writing. It is further understood that this Agreement shall not be valid and binding upon the State of



Washington, Department of Natural Resources, unless signed by the Commissioner of Public Lands or his or her designee.

10. Landlord warrants that no hazardous substance, toxic waste, or other toxic substance has been produced, disposed of, or is or has been kept on the premises hereby leased which if found on the property would subject Tenant to any damages, penalty, or liability under any applicable local, state or federal law or regulation. Landlord shall indemnify, defend, and hold harmless the Tenant and its agents, employees, officers and directors for any and all liability, damages (including but not limited to natural resources damages), expenses, causes of action, settlement, costs (including testing, auditing, surveying and investigation costs, fees (including attorneys' fees, court costs and litigation costs), penalties (civil and criminal), and response, cleanup or remediation imposed as a result of use, storage, disposal, transportation or generation of hazardous substances on or about the property, except for such substances as may be placed on the premises by the Tenant.

Landlord:
DAY WIRELESS SYSTEMS

By: Andrew L. Cay

Title: Sites Manager

Date: 2-21-03

FEDERAL TAX ID NO. 91-1702522

Tenant:
STATE OF WASHINGTON
DEPARTMENT OF NATURAL
RESOURCES

By: James A. Hurst

James A. Hurst
Manager, Engineering Division

Date: 3/17/03

~~DNR REGION/PROGRAM
AUTHORIZED REPRESENTATIVE~~

~~Dave Malsed~~

~~Title: Region Business Manager
Northwest Region~~

~~Date: _____~~

APPROVED AS TO FORM:

Michael Rollinger

Michael Rollinger, Assistant Attorney General

Date: 3/11/03



THIS NOTARY CERTIFICATE TO BE USED FOR ACKNOWLEDGMENT OF AN INDIVIDUAL: See RCW 42.44.100

STATE OF WASHINGTON,)
County of CLACKAMAS) ss.

I certify that I know or have satisfactory evidence that GORDON DAY

is the person who appeared before me, and said person acknowledged that (he/she) signed this instrument and acknowledged it to be (his/her) free and voluntary act for the uses and purposes mentioned in the instrument.

Dated: 2-21-03

Martha J. Haggerty
(Signature)

(Seal or stamp)



My appointment expires 3/28/03



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Skagit County Auditor