

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:

Washington State Department of Natural Resources Delegated Lease

Grantor (Lessor):

Day Wireless

Grantee (Lessee):

Washington State Department of Natural Resources

Legal Description:

Southwest Quarter of the Southeast Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 22 Township 36 North Range 5 East, W.M. situated in Skagit County, Washington

Assessor's Property Tax Parcel Account Number(s):

Communication Site

51090

NW5101

07-0110

**DEPARTMENT OF NATURAL RESOURCES
COMMUNICATION SITE FACILITY LEASE**

Lease No. 07-0110 DNR File No. NW5101

DELEGATED LEASE

This LEASE is made and entered into between Ducap Electronics, Inc. dba Day Wireless Systems whose address is PO Box 22310 Milwaukie, OR 97269 for its heirs, executors, administrators, successors, and assigns, hereinafter called the Lessor, and the State of Washington, Department of Natural Resources hereinafter called the Lessee, acting under a Delegation of Authority from the Department of General Administration, in accordance with RCW 43.82.010.

WHEREAS, the Department of General Administration is granted authority to lease property under RCW 43.82.010;

WHEREAS, the Director of the Department of General Administration is also granted authority to delegate the leasing function to agencies;

WHEREAS, the Director has so delegated the authority for this Lease;

WHEREAS, the Lessor and Lessee deem it to be in the best public interest to enter into this Lease;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performances contained herein, IT IS MUTUALLY AGREED AS FOLLOWS:

LEASED PREMISES

1. The Lessor grants to the Lessee a lease for space for equipment within a communications building and space on a communications tower at the communication site located on Lyman Mountain in Skagit County, Washington, hereinafter referred to as the "Premises." The legal description is attached as "Exhibit A" and a list of the authorized equipment, the location of the equipment, and Lessee's FCC call sign and license expiration date is illustrated on Exhibit A-1 which by this reference are made a part hereof.

USE

2. The non-exclusive use of the Premises shall be to install, maintain, repair, inspect, calibrate and operate electronic equipment and antenna(s) at Lessee's expense and risk.



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TERM

3. TO HAVE AND TO HOLD the Premises with their appurtenances for the term beginning January 1, 2008 and ending December 31, 2013.

RENTAL RATE

4. The Lessee shall pay rent to the Lessor for the Premises at the following rate: \$1,075.00 per month. Payment shall be made at the end of each month. Properly executed vouchers may be submitted in advance for the term of the lease. Commencing January 2009, and on each anniversary thereafter, rent shall be increased by 4%. In the event Lessee fails to make any payment of rent due hereunder upon the date due, Lessor shall be entitled to collect from Lessee a late charge equal to six percent (6%) of the amount of the delinquent payment.

RENEWAL/CANCELLATION

5. The Lease may, at the option of the Lessee, be renegotiated for additional one-year periods. It is mutually understood and agreed by and between Lessor and Lessee that this Lease may be cancelled and terminated by either party on or after the 12th month of its term provided that written notice of such cancellation and termination shall have been given at least sixty (60) days prior to the effective date thereof by the Lessor to the Lessee; Lessee shall give Lessor written notice of such cancellation and termination at least sixty (60) days prior to the effective date thereof. In either event, rent shall be prorated to the date of termination.

ASSIGNMENT/SUBLEASE

6. The Lessee may assign this Lease with the prior written consent of the Lessor, which consent shall not be unreasonably withheld. Lessee shall not permit the use of the Premises by anyone other than the Lessee, such assignee, and the employees, agents, contractors and servants of the Lessee, or assignee.

SITE REQUIREMENTS AND ACCESS

7. The Lessor shall furnish to the Lessee, during the occupancy of the Premises, under the terms of this Lease, as part of the rental consideration, the following:

- a. Adequate dry secure space in the communication site building suitable for the equipment illustrated on Exhibit A-1.
- b. Reasonable protection from radio interference from equipment installed on the Premises after Lessee's occupancy of said frequencies. Lessee's frequencies are listed on Exhibit A-1.

Lessee agrees to provide similar protection from radio interference to all Lessor's equipment and the equipment of other lessees, provided such equipment was installed on the Premises prior to



Lessee's initial occupancy.

- c. Electrical power at 120 Volts (AC) via a diesel generator. Compatible backup power is available at the site.
- d. Space on the tower as indicated in Exhibit A-1.
- e. Space on/in the waveguide tray between the Lessee's electronic equipment and Lessee's antennas.
- f. Right of road access to the site for the installation, operation, inspection, calibration, maintenance and repair of radio units and other electronic equipment used on the Premises at all reasonable times.

EXPENSES

8. During the term of this Lease, Lessor shall pay all real estate taxes, all property assessments, insurance, and maintenance and repair as described below, together with electricity.

MAINTENANCE AND REPAIR

9. The Lessor shall maintain the Premises, in compliance with all applicable building codes and regulations, in good repair and tenantable condition during the continuance of this Lease, except in case of damage arising from the negligence of the Lessee's employees, agents, contractors and servants. For the purposes of maintaining and repairing the Premises, the Lessor reserves the right at reasonable times to enter and inspect the premises and to make any necessary repairs to the building and communications tower(s).

DISASTER

10. In the event the leased Premises are destroyed or injured by fire, earthquake or other casualty so as to render the Premises unfit for occupancy, and the Lessor neglects and/or refuses to restore said Premises to their former condition, then the Lessee may terminate this Lease and shall be reimbursed for any unearned rent that has been paid. In the event said Premises are partially destroyed by any of the aforesaid means, the rent herein agreed to be paid shall be abated from the time of occurrence of such destruction or injury until the Premises are again restored to their former condition, and any rent paid by the Lessee during the period of abatement shall be credited upon the next installment(s) of rent to be paid. It is understood that the terms "abated" and "abatement" mean a pro rata reduction of area unsuitable for occupancy due to casualty loss in relation to the total rented area.

NO GUARANTEES

11. It is understood that no guarantees, express or implied, representations, promises or statements have been made by the Lessee unless endorsed herein in writing. And it is further



understood that the Lessee, a state agency, is acting in compliance with a delegated authority from the Department of General Administration in accordance with RCW 43.82.010. Any amendment or modification of this Lease must be in writing and signed by both parties.

BINDING AUTHORITY

12. It is further understood that this Lease shall not be binding upon the State of Washington, Department of Natural Resources, unless signed by the Commissioner of Public Lands, or his/her designee.

HAZARDOUS SUBSTANCES

13. Lessor warrants to his/her knowledge 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 the owner or user to any damages, penalty, or liability under an applicable local, state or federal law or regulation.

Lessor shall indemnify and hold harmless the Lessee with respect to any and all damages, costs, attorneys' fees, and penalties arising from the presence of any hazardous or toxic substances on the premises, except for such substances as may be placed on the premises by the Lessee.

HOLDING OVER

14. If Lessee remains in possession of the Premises after the expiration or termination of the Lease term, or any extension thereof, Lessee shall pay all rent provided in this Lease or such other rent as the parties mutually agree in writing and all provisions of this Lease shall apply except those pertaining to term and option to extend.

CAPTIONS

15. The captions and paragraph headings hereof are inserted for convenience purposes only and shall not be deemed to limit or expand the meaning of any paragraph.

NOTICES

16. Wherever in this Lease written notices are to be given or made, they will be sent by certified mail to the address listed below unless a different address shall be designated in writing and delivered to the other party.

LIABILITY

17. As to any other act or omission of either party under this agreement, each party shall be responsible for its own acts or omissions and those of its officers, employees, and agents under this agreement. No party to this agreement shall be responsible to the other for the acts or omissions of entities or individuals not a party to this agreement.



INSURANCE

18. The DNR as a state agency is protected by the State's self-insurance liability program as provided by RCW 4.92.130.

INSTALLATION

19. All installations and maintenance of antennas or other apparatus upon the tower located on the Premises shall be made by either Lessor or a Lessor-approved entity. DNR Radio Operations Technicians may be authorized to perform work upon the tower located on the Premises pending authorization from Lessor's Safety Director. Lessee will consult with Lessor before proceeding with installations and maintenance of antennas or other apparatus upon the tower located on the Premises.

DEFAULT

20. The following shall be events of default: (a) Failure to pay fees or rent that Lessee is responsible for, when due; or (b) failure to comply with any term or condition of this Lease, other than payment of fees or rent in which Lessee is responsible for, within thirty days after written notice specifying the nature of the non-compliance. In the event of default by Lessee, Lessor may terminate this Lease.

LESSOR: Ducap Electronics, Inc. dba Day Wireless Systems
Sites Department
PO Box 22310
Milwaukie, OR 97269

LESSEE: Department of Natural Resources
Engineering Division
P.O. Box 47030
Olympia, WA 98504-7030

AND Department of General Administration
Division of State Services
General Administration Bldg.
Post Office Box 41015
Olympia, Washington 98504-1015



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IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names.

LESSOR

**Ducap Electronics, Inc. dba
Day Wireless Systems**

By: Deron S Baller

Title: Sites Manager

Date: 5/22/2008

LESSEE:

**STATE OF WASHINGTON, DEPARTMENT
OF NATURAL RESOURCES**

By: [Signature]

Title: William J. Frare
Engineering Division Manager

Date: 6-12-2008

APPROVED AS TO FORM:

By: [Signature]
Assistant Attorney General

Date: 6/10/08

FEDERAL TAX ID NO.91-17025322

DNR REGION/PROGRAM
AUTHORIZED REPRESENTATIVE

Title: _____

Date: _____

SKAGIT COUNTY WASHINGTON
REAL ESTATE EXCISE TAX

JUL 21 2008

Amount Paid \$ 0
By [Signature] Skagit Co. Treasurer
Deputy



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CORPORATE JURAT

STATE OF Oregon)
) ss.
County of Clackamas)

On this 22 day of May, A.D., 2008, before me personally appeared Deane Ballen to me known to be the Sites Manager of the corporation that executed the within and foregoing instrument and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed thereto is the corporate seal of said corporation.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



Martha J. Haggerty
Notary Public in and for the State of Oregon
Residing at Clackamas County
My commission expires 3/28/11

AGENCY JURAT

STATE OF WASHINGTON)
) ss.
County of Thurston)

I, the undersigned, a Notary Public, do hereby certify that on this ____ day of _____, 20 ____, personally appeared before me _____ (name/title) of the _____, State of Washington, to me known to be the individual described in and who executed the within instrument, and acknowledged that he/she signed and sealed the same as the free and voluntary act and deed of the Department, for the purposes and uses therein mentioned, and on oath stated that he/she was duly authorized to execute said document.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public in and for the State of Washington,
Residing at _____
My commission expires _____



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STATE OF WASHINGTON,)

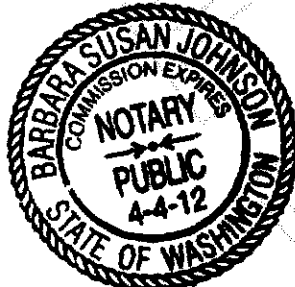
) ss.

County of Thurston.)

On this 12th day of June, 2008, before me, a Notary Public in and for the State of Washington, personally appeared WILLIAM J. FRARE, Department of Natural Resources, Engineering Division Manager, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed this instrument and acknowledged it to be his free and voluntary act and deed for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

Barbara S. Johnson
NOTARY PUBLIC in and for the State of
Washington, residing at Lacey, Washington.
My appointment expires April 4, 2012.



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Exhibit A

Legal Description:

Southwest Quarter of the Southeast Quarter of the Southwest Quarter of the Southwest Quarter of the Northwest Quarter of Section 22 Township 36 North Range 5 East, W.M. situated in Skagit County, Washington

Exhibit A-1

Equipment Description and Location:

(2) Motorola Quantars, Tx: 159.375 and Tx: 159.420, Rx: 151.370 and 151.295 mhz
(1) Spread Spectrum Microwave Radio, 954.350 mhz
(2) Dipole Antennas (at existing location, approximately 80')
(1) 6' Microwave Dish (at existing location, approximately 15')
Use of the Day Wireless Systems Microwave Hop, 1 Channel
(equipment at existing locations in Buildings 1 and 3)

Call Signs and Expirations:

WPOT636, exp. 7/22/09
WRA597, exp. 4/22/14
KNIS349, exp. 3/15/14



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