

**STAFF REPORT
C58**

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02/04/19
PRC 8079.9
D. Simpkin

AMENDMENT OF LEASE

LESSEE:

City of Los Angeles Department of Water and Power

AREA, LAND TYPE, AND LOCATION:

Sovereign land on the dry lakebed of Owens Lake, Inyo County.

EXISTING LEASE:

On June 14, 1999, the Commission authorized the issuance of Lease No. PRC 8079.9, a General Lease – Public Agency Use (Lease), to the City of Los Angeles Department of Water and Power (City) for a period of 20 years, for the Owens Lake South Sand Sheet Air Quality and Sand Fence Effectiveness Monitoring System on Owens Lake (Lake) in Inyo County ([Item C06, June 14, 1999](#)). Since that time, the Commission has authorized 21 amendments to the lease for the construction, operation, and maintenance of additional components of dust control. Exhibit B provides a summary of these amendments.

Most recently, on June 21, 2018, the Commission authorized the 21st amendment to the Lease approving a time extension to the City to develop a Tribal Consultation Policy, including adoption of the Policy and the appointment of an official Tribal Liaison, no later than December 23, 2018 ([Item C58, June 21, 2018](#)).

PROPOSED AMENDMENT:

The following sections of the lease are proposed to be amended:

Section 1, Land Use or Purpose and Authorized Improvements, of the Lease would be amended to authorize the following:

- Installation, use, and maintenance of barn owl boxes in Dust Control Areas (DCAs) T5, T6, T7, and T8
- Extended use and maintenance of sand fences
- The redesignation of 353 acres of Managed Vegetation dust control measures to Shallow Flood dust control measures located in DCAs T37-2, T1A-2_a, T30-1, and T36-1_b

STAFF REPORT NO. **C58** (CONT'D)

- Continued use and maintenance of two previously unauthorized access roads in DCA T37-2a (T37-2-L1)
- Installation of a flood control system in DCA T2-1b (C2-L1)
- Continued use and maintenance of 0.81 acre of previously unauthorized gravel cover in DCA T2-1b (C2-L1) and 1.46 acres of previously unauthorized gravel cover in DCA T2-1c (Duck Pond L1)

Section 2, Special Provisions, of the Lease would be amended to include the following:

- The Lessee's Tribal Liaison shall provide notice (letter, electronic mail or phone call) to all affiliated California Native American Tribes geographically and culturally affiliated with the area - including the Big Pine Paiute, Bishop Paiute, Fort Independence Paiute, Lone Pine Paiute-Shoshone Reservation and Timbisha Shoshone concerning all work activities under this amendment. Notice shall be given no less than 14 days prior to work and Lessor's Tribal Liaison will be copied on all correspondence.
- A tribal monitor shall be required during all construction activities, unless all affiliated Native American Tribes decline participation.
- All tribal monitors shall be provided fair compensation for monitoring activities.
- Lessee shall make a deposit into the Kapiloff Land Bank Fund in the amount of \$135,000 to be used to construct a wildlife-friendly livestock fence, including gates and turnstiles around the perimeter of the Cartago Wildlife Area (Wildlife Area), owned and maintained by the California Department of Fish and Wildlife (CDFW). Lessee shall not be responsible for any expenses related to the construction of the fence that exceed the \$135,000 deposit into Kapiloff.
- Lessee acknowledges that unauthorized work or structures on state lands is a violation of the lease and state law and can result in, among other actions, civil penalties.

All other terms and conditions of the lease shall remain in effect without amendment.

BACKGROUND:

Historical Overview

Owens Lake is located in southwest Inyo County, approximately 200 miles north of Los Angeles. The Lake was a natural and navigable waterway at the time of California's statehood and is thus sovereign land of the State. Wildlife, waterfowl, and the nearby communities including the area's original Native American residents depended on and benefited from the Lake, which covered

STAFF REPORT NO. **C58** (CONT'D)

approximately 110 square miles and was up to 50 feet deep in places. Tribes have occupied the area for thousands of years, moving as the historical shoreline fluctuated over time, using and stewarding the natural resources provided by the Lake, known to them as Patsiata. Early settlers diverted water from the Owens River to grow crops and irrigate pasture for livestock, and steamboats carried cargo across the Lake. In 1908, the City commenced construction of an aqueduct to divert water from the Owens River north of the Lake.

After completion of the Los Angeles Aqueduct in 1913, the Lake's water level rapidly declined. By 1930, the Lake was virtually dry with only a small brine pool remaining. The diversion of water led to dust storms carrying away as much as 4 million tons of dust from the lakebed each year, causing respiratory problems for residents in the Owens Valley. The U.S. Environmental Protection Agency designated the southern part of the Owens Valley as a Serious Non-Attainment Area for PM₁₀. PM₁₀ is an abbreviated reference for suspended particulate matter (dust) less than or equal to 10 microns in mean aerodynamic diameter (approximately 1/10 the diameter of a human hair). The Great Basin Unified Air Pollution Control District (District) subsequently designated the Non-Attainment area as the "Owens Valley PM₁₀ Planning Area." The District determined that dust emissions from the dry lakebed of the Lake are responsible for causing the air in the Owens Valley PM₁₀ Planning Area to exceed the PM₁₀ national ambient air quality standards and that water diversions by the City caused the Lake to become dry and the lakebed to be in a condition that produces dust. The District has the authority to issue regulatory orders to the City to control dust emissions.

The Commission's lease with the City has authorized the City to conduct dust control measures on the Lake over the years to comply with regulatory orders by the District. These dust control activities have occurred over multiple phases. The proposed amendment will authorize minor changes to two existing phases of the City's Owens Lake Dust Control Program: Phase 7a and Phase 9/10, and will add a new pilot program in areas constructed for Phase I.

On September 20, 2013, the Commission authorized the City to implement Owens Lake Dust Control Program Phase 7a (Phase 7a) ([Item C82, September 20, 2013](#)). Phase 7a included the use of Managed Vegetation in DCAs T37-2, T1A-2_a, T30-1, and T36-1_b. Subsequent to this approval, the City, together with its contractor, identified several areas as "challenging" with respect to successful establishment of Managed Vegetation. As a result, these areas remain non-compliant with the District's prior dust abatement order. To meet dust control compliance levels, the City is now applying to redesignate and reengineer the Managed Vegetation DCAs to Shallow Flooding.

STAFF REPORT NO. C58 (CONT'D)

On August 19, 2015, the Commission authorized Phase 9/10 of the Owens Lake Dust Mitigation Program which allowed the City to construct 3.6 square miles of dust control in 17 Dust Control Areas (DCAs), including Shallow Flooding, Managed Vegetation, and Gravel Cover ([Item C61, August 19, 2015](#)). The Commission also authorized the construction of drainage management unit pump stations, lateral control valve facilities, pipe outfalls, berms and access roads, rip-rap to improve existing berms, and new sub-mains to convey water from T2-1 to Duck Pond-L1 and C2-L1.

The Commission’s August 19, 2015 authorization allowed the City to place 2.85 square miles gravel cover as part of Phase 9/10. On December 14, 2017, Commission staff conducted a site visit of DCA T37-2d (T37-2-L1), within the City’s Phase 9/10 project and found a large portion of the DCA covered in unauthorized gravel. The Commission’s August 19, 2015 authorization designated Shallow Flooding for DCA T37-2d. On December 15, 2017, the City submitted an application which included the unauthorized gravel in DCA T37-2d and additional unauthorized gravel in DCAs T2-1b (C2-L1) and T2-1c (Duck Pond L1). The removal of gravel in DCA T37-2d will be brought before the Commission for consideration at a later date.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6106, 6216, 6301, 650.1.1, 6503, 8600 et seq; Public Contract Code section 10340(b)(3)(A); State Contracting Manual Volume 1, Chapter 3; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State’s Best Interests Analysis:

Summary of Proposed Changes to Previously Authorized Activities

EIR/Phase	DCA	Original Authorization	Proposed Amendment
7a	T37-2, T1A-2_a, T30-1, T36-1_b	BACM Hybrid or Managed Vegetation	Shallow Flood
9/10		Temporary black sand fences	Long-term, higher, playa-colored sand fences with corvid deterrent
9/10	T2-1b, T2-1c	Shallow Flood	Gravel Cover
9/10	T37-2a	Not specifically included but replacing roads not	2 walking paths/ roads

STAFF REPORT NO. **C58** (CONT'D)

		constructed as part of the original 9/10 plan	
9/10	T2-1b	Not included but necessary to protect larger dust control infrastructure	Flood control system (drainage ditch with berms and riprap-lined slopes)

Each of these proposed changes is discussed below, accompanied by a brief explanation of Commission staff's recommended Public Trust determinations.

Gravel Cover

The Commission has consistently determined that placement of gravel cover on the Lake does not protect or promote Public Trust uses or values. Nevertheless, including Phase 9/10, the Commission has approved a total of 7.6 square miles of gravel cover at the Lake. The Commission first approved the large-scale application of gravel cover, 2.03 square miles, with the Phase 8 project. To offset for the loss of potential enhancement of Public Trust values on the 2.03 square miles of Owens Lake, the City was required to make a deposit of \$500,000 into the Kapiloff Land Bank Fund. As part of the Phase 9/10 project, the City was required to deposit \$700,000 into the Kapiloff Land Bank Fund. These funds may be used for any lawful purpose related to Owens Lake or adjacent real property, pursuant to the Kapiloff Land Bank Act, Public Resources Code section 8600 et seq.

During construction of the Phase 9/10 project, the City placed approximately 0.81 acre of unauthorized gravel in DCA T2-1b (C2-L1) and 1.46 acres of unauthorized gravel in DCA T2-1c (Duck Pond L1). The Commission's prior authorization designated these areas as Shallow Flooding, but according to the City, due to field conditions and engineering constraints, gravel cover was placed instead. The City is now applying to amend the lease to allow for the continued use of the unauthorized gravel.

The placement of gravel does not protect or promote Public Trust uses or values. However, to offset the loss of potential habitat values caused by the unauthorized placement of gravel, staff recommends the City be required to pay for the construction of a fence around the Wildlife Area, which is owned and maintained by CDFW. The new wildlife-friendly livestock fence will replace and expand the footprint of a derelict existing fence, which will also be removed. The new fence will include gates and turnstiles and protect the Wildlife Area from damage to habitat that occurs

STAFF REPORT NO. **C58** (CONT'D)

when cattle intrude upon the Wildlife Area and will result in the protection of environmental resources.

The 218-acre Wildlife Area, located in the southwest corner of Owens Lake, includes freshwater wetlands and springs that provide habitat for waterfowl, wading birds and shorebirds including western snowy plovers, white-faced ibis, and rails. The City and the Commission maintain lands adjacent to the Wildlife Area and the Commission leases lands for cattle grazing to the north and east. CDFW staff has identified *sidalcea covellei*, a state endangered rare plant, growing within the Wildlife Area. CDFW staff has also identified *Lepidium latifolium* (pepper weed), an invasive species often carried by cattle. By providing fencing around the Wildlife Area, *s. covellei* would be protected from wandering cattle and the transport of pepper weed would be reduced, thus enhancing the Wildlife Area's habitat values. In addition to enhancing habitat for birds and endangered plant species, this fence will also improve the Commission's land. The new fence will allow the Commission to continue to issue grazing leases on its property without concerns that such leases are harming the environment on neighboring parcels or creating liability for the state. This will allow the Commission to continue to manage its land in a responsible manner.

T2-1b (C2-L1) Flood Control System

In January and February 2017, the City installed an unauthorized temporary drainage ditch to divert water flows from Cartago Creek to prevent those flows from damaging DCA T2-1b, which was under construction at the time. The City is now requesting to construct a permanent drainage system along approximately 1,600 linear feet, including the placement of rip-rap to prevent erosion and the inundation of storm water into the DCA. This improvement would protect against damage to the City's existing dust control design.

T37-2a DCA (T37-2-L1) O&M Access Roads

Shallow Flood DCA T37-2a includes two previously unauthorized access roads which provide access to electrical handholes which aid the City's operations and maintenance in maintaining the DCA. The City is now requesting to amend the lease to include continued use and maintenance of the two roads. The access roads, which are at berm level and similar to other access roads on Owens Lake, will improve dust control maintenance operations, and will not substantially degrade visual, ecological, or other Public Trust values.

STAFF REPORT NO. C58 (CONT'D)

Extended Use of Sand Fences

The Phase 9/10 Environmental Impact Report (EIR) includes an analysis for the temporary use of sand fences during Phase 9/10 construction to limit the movement of sand from construction zones to adjacent areas of the Lake. The sand fences, as described in the EIR, would be black in color and removed upon completion of Phase 9/10. In its Phase 9/10 project authorization on August 19, 2015, the Commission allowed for the use of temporary sand fences during and just after construction.

The City is now requesting authorization to use sand fences for an extended period beyond Phase 9/10 construction completion (December 31, 2017). Sand fences will be used for an extended period to prevent sand inundation into gravel cover and newly planted Managed Vegetation DCAs; this is important because the intrusion of sand into managed areas can reduce compliance effectiveness and result in air quality impacts. To ensure visual impacts are negligible, the black fencing that was used during construction will be replaced with playa colored fencing. Sand fences will maintain a 2-inch gap above the ground to allow movement of small animals, 5-foot wide gaps between each 100-foot set of fence panels to allow access pathways for larger animals, and deterrent features to minimize corvid and raptor perching.

Phase 7a Redesignation of Managed Vegetation Areas

Subsequent to the Commission's September 20, 2013 authorization of Phase 7a, which included the use of Managed Vegetation in DCAs T37-2, T1A-2_a, T30-1, and T36-1, the District determined the City's Managed Vegetation BACM had not met the December 31, 2017 compliance deadline. To address the non-compliance of these DCAs, the City is applying to redesignate the Managed Vegetation DCAs to Shallow Flooding, for which the District provided contingent approval on November 13, 2018. Under the District's contingent approval, the City must meet compliance in these DCAs by February 12, 2019. No infrastructure changes are proposed; rather, irrigation will be increased to allow for compliance with Sprinkler Shallow Flooding surface wetness levels. The redesignation to Shallow Flooding only involves a change of authorized use. The authorization to maintain Managed Vegetation will remain. Therefore, the City will still maintain the ability to revert back to Managed Vegetation without Commission authorization at a later date.

Barn Owl Boxes

On November 26, 2001, the Commission authorized the City to implement Phase I of the Owens Lake South Zone Dust Control Project ([Item C18, November 26, 2001](#)). Phase I included the establishment of 6.4 square

STAFF REPORT NO. C58 (CONT'D)

miles of Managed Vegetation. Driplines are used to irrigate DCAs T5, T6, T7 and T8. At this time, the City is requesting authorization to implement a Barn Owl Box Pilot Project, as a large population of Botta's pocket gophers has damaged and chewed through the subsurface irrigation system. Damage to the irrigation system causes both pooling at the ground surface as well as pressure loss in the system. Over time, the damage may lead to a reduced vegetation cover, causing the areas to fail to meet Managed Vegetation compliance. The City proposes to install up to 12 owl boxes mounted on poles ranging from 8 to 10 feet high in high-density gopher areas. The City hopes to attract migrant or wintering barn owls to help control the gopher population.

Native American Coordination

In addition, staff engaged in coordination with representatives of the California Native American Tribes culturally affiliated with the Lake to ensure that tribal cultural values and resources would not be negatively impacted by the proposed modified activities.

Public Trust Analysis Conclusion:

The discretionary action to be taken by the Commission is ultimately a policy decision taking into account all relevant factors, including consistency with the Public Trust, in determining whether the project is in the best interests of the State. Each time the Commission takes action to approve or reject a project on sovereign land, it is exercising its authority and responsibility as trustee of the State's Public Trust lands as authorized by law. Application of the Public Trust Doctrine may require a balancing of competing uses and needs.

Any additional requests for the placement of gravel cover is subject to further evaluation by the Commission on a case-by-case basis. Authorization for the placement of gravel in any instance should not be construed as a precedent for the proposed placement of gravel in the future.

Staff believes the proposed amendment will not significantly impair Public Trust resources and values, including wildlife habitat, public access, recreation, and aesthetic enjoyment on this portion of the Lake at this time. The benefits to the State resulting from the required lease provisions to facilitate fencing the Wildlife Area—would offset the loss of previously expected enhancement of Public Trust resources and values from the unauthorized placement of gravel cover. As a result, staff believes the issuance of this lease amendment will not substantially interfere with the common law Public Trust Doctrine and is in the best interests of the State.

STAFF REPORT NO. **C58** (CONT'D)

ADDENDUM TO THE PHASE 7a AND PHASE 9/10 ENVIRONMENTAL IMPACT REPORTS:

The proposed amendment, because it requires the Commission's discretionary approval, also requires CEQA compliance. Commission staff reviewed the proposed lease amendment pursuant to CEQA section 21166 and the State CEQA Guidelines sections 15162 through 15164. CEQA section 21166 prohibits a lead or responsible agency from preparing a subsequent or supplemental CEQA document unless one of three events occurs. The corresponding implementing regulation, section 15162 of the State CEQA Guidelines, indicates that when an EIR has been certified for a project, no subsequent document shall be prepared unless the agency exercising its discretion determines certain specific circumstances are present. These circumstances only occur when there is the involvement of a new significant impact or a substantial increase in a previously identified impact. If the proposed changes do not involve a new or substantially increased significant impact resulting from a change in the project or a change in the circumstances under which a project will occur, but instead reflect minor changes or additions, CEQA Guidelines section 15164 directs lead or responsible agencies to prepare an addendum to the CEQA document. Pursuant to CEQA Guidelines section 15164, subdivision (e), which states that lead or responsible agencies shall provide an explanation of their decision not to prepare additional environmental analysis in a subsequent document, Commission staff evaluated the changes and provides such explanation, for each of the proposed changes, in Exhibit C.

Based on substantial evidence gathered through examination of the City's previously certified EIRs and an analysis of the anticipated environmental consequences of the requested lease amendment (as described above and in Exhibit C), consultation with CDFW, the District, and Tribal representatives, Commission staff determined that:

- Approval of the lease amendment would fall under the scope of the prior EIRs, relied on by the Commission as a responsible agency, on September 20, 2013 (Phase 7a) and August 19, 2015 (Phase 9/10); and
- While the proposed lease amendment reflects some changes and additions that are necessary to successfully implement dust mitigation as compared to the originally certified EIRs, none of the events identified in CEQA section 21166 or CEQA Guidelines section 15162 has occurred or will occur due to the proposed amendment.

OTHER PERTINENT INFORMATION:

1. The proposed action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in

STAFF REPORT NO. **C58** (CONT'D)

the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

2. **Activities Related to Owens Lake Dust Mitigation Program Phase 9/10:** An EIR, State Clearinghouse (SCH) No. 2014071057, was prepared for the project by the Los Angeles Department of Water and Power and certified on June 2, 2015. Commission staff has reviewed this document prepared pursuant to the provisions of the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21081.6). Commission staff prepared an Addendum to the EIR (attached as Exhibit C) and posted the Addendum on the Commission's website.

3. **Activities Related to Owens Lake Phase 7a Dust Control Measures Project:** An EIR, SCH No. 2011051068, was prepared for the project by the Los Angeles Department of Water and Power and certified on May 24, 2013. Commission staff has reviewed this document prepared pursuant to the provisions of CEQA (Pub. Resources Code, § 21081.6). Commission staff prepared an Addendum to the EIR (attached as Exhibit C) and posted the Addendum on the Commission's website.

4. **Installation of Barn Owl Boxes:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

5. **Installation of Fence:** Staff recommends that the Commission find that this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

6. **Deposition of Kapiloff Land Bank Funds.** Staff recommends that the Commission find that these activities are exempt from the 15060(c)(3) because these activities are not projects as defined by Public Resources Code section 21065 and 14 Cal Code Regs. 15378

STAFF REPORT NO. **C58** (CONT'D)

7. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are significant by nature of their public ownership (as opposed to environmentally significant). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, title 2, section 2954 is not applicable.

APPROVALS OBTAINED:

California Department of Fish and Wildlife

EXHIBITS:

- A. Site and Location Map
- B. Summary of Lease Amendments
- C. Addendum to EIRs, SCH Nos. 2014071057 and 2011051068

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Activities Related to Owens Lake Dust Mitigation Program Phase 9/10: Find that an EIR, SCH No. 2014071057, and a Mitigation Monitoring Program were prepared by the Los Angeles Department of Water and Power and approved on June 2, 2015, for the project and that the Commission has reviewed and considered the information contained therein together with the Addendum as set forth in Exhibit C.

Activities Related to Owens Lake Phase 7a Dust Control Measures Project: Find that an EIR, SCH No. 2011051068, and a Mitigation Monitoring Program were prepared by the Los Angeles Department of Water and Power and approved on May 24, 2013, for the project and that the Commission has reviewed and considered the information contained therein together with the Addendum as set forth in Exhibit C.

Find that in its independent judgment, none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis is required.

STAFF REPORT NO. **C58** (CONT'D)

Installation of Barn Owl Boxes: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 3, New Construction or Conversion of Small Structures; California Code of Regulations, title 14, section 15303.

Installation of Fence: Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 2, Replacement or Reconstruction; California Code of Regulations, title 14, section 15302.

8. **Deposition of Kapiloff Land Bank Funds.** Find that these activities are exempt from the 15060(c)(3) because these activities are not projects as defined by Public Resources Code section 21065 and 14 Cal Code Regs. 15378

PUBLIC TRUST AND STATE'S BEST INTERESTS:

1. Find that the construction of a fence around the perimeter of the Wildlife Area, owned and maintained by the CDFW, will offset the loss of Public Trust uses and values from the City's unauthorized placement of 2.27 acres of gravel cover.
2. Find that the proposed lease amendment will not substantially interfere with the Public Trust needs and values at this location, at this time; and is in the best interests of the State.

AUTHORIZATION:

1. Authorize the amendment of Lease No. PRC 8079.9, a General Lease – Public Agency Use, for the installation, operation, and maintenance of barn owl boxes in DCAs T5, T6, T7, and T8; extended use and maintenance of sand fences; the redesignation of 353 acres of Managed Vegetation dust control measures to Shallow Flood dust control measures in DCAs T37-2, T1A-2_a, T30-1, and T36-1_b; continued use and maintenance of two unauthorized access roads in DCA T37-2a (T37-2-L1); continued use and maintenance of 0.81 acre of unauthorized gravel cover in DCA T2-1b (C2-L1) and 1.46 acres of unauthorized gravel cover in DCA T2-1c (Duck Pond L1) provided that the City shall deposit \$135,000 into the Kapiloff Land Bank Fund for the construction of a fence around the perimeter of the Cartago Wildlife Area, owned and maintained by the California Department of Fish and Wildlife; and continued use and maintenance of an unauthorized flood control system in DCA T2-1b (C2-L1); as shown on Exhibit A (for reference

STAFF REPORT NO. **C58** (CONT'D)

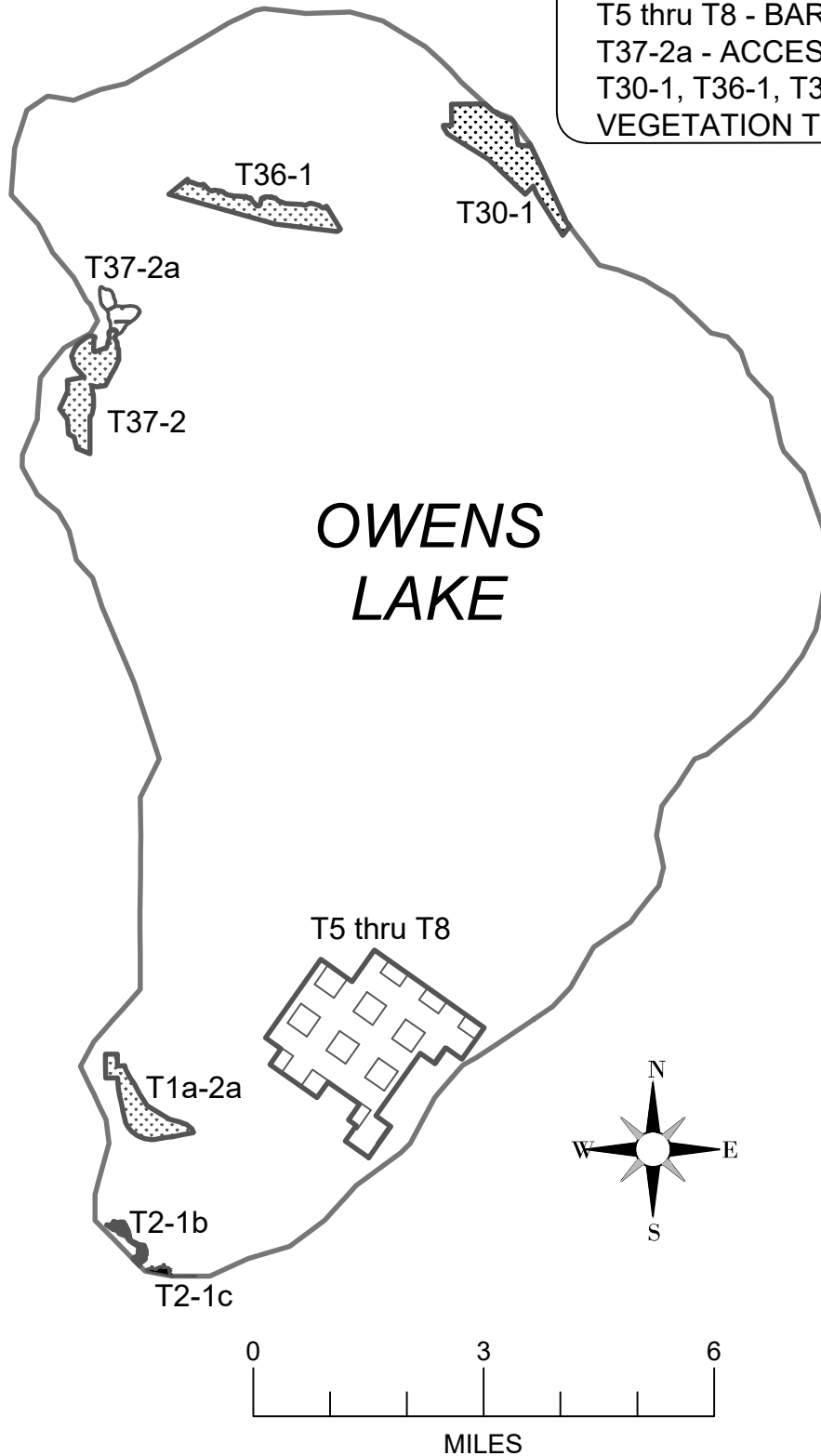
purposes only); all other terms and conditions of the lease will remain in effect without amendment.

2. Authorize, as trustee of the Kapiloff Land Bank Fund, the deposition of \$135,000 into the Kapiloff Land Bank Fund, to compensate the California Department of Fish and Wildlife for the construction of a fence around the perimeter of the Cartago Wildlife Area, owned and maintained by the California Department of Fish and Wildlife.

NO SCALE

SITE

- T2-1b - FLOOD CONTROL SYSTEM (C2-L1)
- T2-1b - GRAVEL (1.46 ACRES)
- T2-1c - GRAVEL (0.81 ACRES)
- T5 thru T8 - BARN OWL BOXES (12)
- T37-2a - ACCESS ROADS (2)
- T30-1, T36-1, T37-2, T1a-2a - MANAGED VEGETATION TRANSITION AREAS



OWENS LAKE

Exhibit A

PRC 8079.9

LADWP

GENERAL LEASE-
PUBLIC AGENCY USE
INYO COUNTY



This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B: Summary of Lease Amendments

Below is a summary of the amendments to Lease No. PRC 8079.9 which the Commission has approved to date.

Original Lease. Allowed the City to comply with dust mitigation requirements by installing a South Sand Sheet Air Quality and Sand Fence Effectiveness Monitoring System on the leased premises ("Premises"). (Approved: 6/14/1999; Available at: http://archives.slc.ca.gov/Meeting_Summaries/1999_Documents/06-14-99/Items/061499C06.pdf)

First Amendment. Allowed the City to construct and operate a Shallow Flooding project on 13.5 square miles in the North Sand Sheet area of the Premises. (Approved: 6/27/2000; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2000_Documents/06-27-00/Items/062700C15.pdf)

Second Amendment. Permitted the implementation of the South Zone Dust Control Project on the Premises through the following dust mitigation measures ("DCMs"): (1) 6.4 square miles Managed Vegetation; (2) 1.7 square miles Shallow Flooding; and (3) approximately 40 acres Gravel Cover. (Approved: 11/26/ 2001; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2001_Documents/11-26-01/Items/112601C18.pdf)

Third Amendment. Authorized 154 acres of additional Shallow Flooding for the South Zone Dust Control Project. (Approved: 6/18/2002; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2002_Documents/06-18-02/Items/060802C05.pdf)

Fourth Amendment. Allowed additional Shallow Flooding on the Premises for Phases IV and V of the Owens Lake Dust Control Project. (Approved: 6/26/2006; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2006_Documents/06-26-06/Items/062606C24.pdf)

Fifth Amendment. Allowed additional Shallow Flooding for Phase VII of the Owens Lake Dust Control Project. This included the construction of earthen roads and berms, several miles of pipeline, and other equipment installations. (Approved 8/22/2008; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2008_Documents/08-22-08/ITEMS_AND_EXHIBITS/C05.pdf)

Sixth Amendment. Allowed two earthen berms, two access roads, and two barrier gates on the Premises for Phase VII of the Owens Lake Dust Mitigation Project. (Approved 6/1/2009; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2009_Documents/06-01-09/ITEMS_AND_EXHIBITS/C23.pdf)

Seventh Amendment. Authorized drip irrigation components for Phase VII of the Owens Lake Dust Control Project. (Approved 10/22/2009; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2009_Documents/10-22-09/ITEMS_AND_EXHIBITS/C17.pdf)

Eighth Amendment. Authorized sand fencing and irrigation facilities on area T1A-01 of the Premises. (Approved 12/17/2009; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2009_Documents/12-17-09/ITEMS_AND_EXHIBITS/41.pdf; Note: Recommendation modified; for actual approval, see: http://archives.slc.ca.gov/Meeting_Summaries/2009_Documents/12-17-09/Minutes.pdf)

Ninth Amendment. Allowed: (1) the two new access roads; and (2) soil tillage of 3.12 square miles of land: (Approved: 6/28/2010; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2010_Documents/06-28-10/ITEMS_AND_EXHIBITS/C33.pdf)

Tenth Amendment. Allowed 2.03 square miles of Gravel Cover on 2.03 square miles and roadway expansion. (Approved: 12/10/2010; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2010_Documents/12-10-10/Items_and_Exhibits/50.pdf)

Eleventh Amendment. Allowed the placement of above-grade sprinklers in the Channel Area and area T1A-1. (Approved: 1/26/2012; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2012_Documents/01-26-12/Items_and_Exhibits/C43.pdf)

Twelfth Amendment. Extended the deadline for performing the soil tillage permitted under the Ninth Amendment. (Approved: 6/21/2013; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2013_Documents/06-21-13/Items_and_Exhibits/C61.pdf)

Thirteenth Amendment. Permitted DCMs on 3.1 square miles of the Premises and transitioned DCMs on 3.4 square miles of the Premises. (Approved: 9/20/2013; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2013_Documents/09-20-13/Items_and_Exhibits/C82.pdf)

Fourteenth Amendment. Allowed the City to create a stockpile area on the Premises to store aggregate road base material. (Approved: 4/23/2014; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2014_Documents/04-23-14/Items_and_exhibits/C55.pdf)

Fifteenth Amendment. Allowed the City conserve water by converting 4.12 square miles from Shallow Flooding to tillage with best available control measure backup. (Approved: 9/2/2014; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2014_Documents/09-02-14/Items_and_exhibits/02.pdf)

Sixteenth Amendment. Approved Phase 9/10 project, excluding T18S, allowing 3.6 square miles of new dust control in 17 Dust Control Areas. (Approved 8/19/2015; Available at:

http://archives.slc.ca.gov/Meeting_Summaries/2015_Documents/08-19-15/Items_and_exhibits/C61.pdf)

Seventeenth Amendment. Approved the transition of T18S from 1.82 square miles of shallow flooding to approximately 1.02 square miles of shallow flooding and 0.81 square miles of gravel cover. (Approved 6/28/2016; Available at:

http://archives.slc.ca.gov/Meeting_Summaries/2016_Documents/06-28-16/Items_and_Exhibits/95.pdf)

Eighteenth Amendment. Approved the implementation of the 2016 Owens Lake Dynamic Water Management Plan (Approved 6/9/2016; Available at:

http://archives.slc.ca.gov/Meeting_Summaries/2016_Documents/08-09-16/Items_and_Exhibits/C42.pdf)

Nineteenth Amendment. Approved placement of gravel cover for dust control for the 0.41-acre parcel west of Mainline, between existing DCAs T21 and T21-L3. (Approved 6/22/17; Available at:

http://archives.slc.ca.gov/Meeting_Summaries/2017_Documents/06-22-17/Items_and_exhibits/C58.pdf)

Twentieth Amendment. Approved staff's emergency authorization of emergency measures taken between April 2017 and June 2017 and authorized the Executive Officer to amend the lease to allow for the placement of 0.45 acre of gravel cover in Dust Control Area (DCA) T37-2-L-1/T37-2a. (Approved 11/29/17); Available at:

http://archives.slc.ca.gov/Meeting_Summaries/2017_Documents/11-29-17/Items_and_Exhibits/C54.pdf)

Twenty-first Amendment. Approved the deadline to develop a Tribal Consultation Policy, including adoption of the Policy and the appointment of an official Tribal Liaison, from June 22, 2018 to December 23, 2018. (Approved 6/21/18; Available at:

http://archives.slc.ca.gov/Meeting_Summaries/2018_Documents/06-21-18/Items_and_Exhibits/C58.pdf)

State Clearinghouse Nos. 2011051068 and 2014071057

ADDENDUM TO ENVIRONMENTAL IMPACT REPORTS

**OWENS LAKE PHASE 7a DUST CONTROL MEASURES
PROJECT (2011051068)
AND DUST MITIGATION PROGRAM – PHASE 9/10
PROJECT (2014071057)**



Established in 1938

December 2018



Prepared by:

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MISSION STATEMENT

The California State Lands Commission provides the people of California with effective stewardship of the lands, waterways, and resources entrusted to its care through preservation, restoration, enhancement, responsible economic development, and the promotion of public access.

CEQA DOCUMENT WEBSITE

www.slc.ca.gov/Info/CEQA.html

Geographic Location (State Lands Commission Lease):

Latitude: N 36°26'12.80"
Longitude: W 117°57'35.50"

Cover Photo: Owens Lake, Inyo County California

1.1 SUMMARY AND PROJECT OBJECTIVES

On June 14, 1999, the California State Lands Commission (Commission) authorized the issuance of Lease No. PRC 8079.9, a 20-year General Lease – Public Agency Use (Lease), to the City of Los Angeles Department of Water and Power (City or LADWP) for the Owens Lake South Sand Sheet Air Quality and Sand Fence Effectiveness Monitoring System on Owens Lake, which is located in southwest Inyo County, approximately 200 miles north of Los Angeles (Figure 1). Since that time, the Commission has authorized 21 amendments to the Lease for the construction, operation, and maintenance of additional components of dust control, including the use of Best Available Control Methods (BACM) to mitigate dust emissions on Owens Lake. Approved types of BACM include Shallow Flooding, Managed Vegetation, and Gravel Cover.

On May 24, 2013, the City, as lead agency under the California Environmental Quality Act (CEQA), approved the Owens Lake Phase 7a Dust Control Measures Project (Phase 7a Project) and certified the Environmental Impact Report (EIR) (State Clearinghouse No. 2011051068).

On June 2, 2015, the City, as lead agency under CEQA, certified an EIR for the Owens Lake Dust Mitigation Program (OLDMP) — Phase 9/10 Project (State Clearinghouse No. 2014071057).

The Addendum addresses changes in the Owens Lake Dust Mitigation Program Phase 7a and 9/10 Projects being proposed by the City since approval of their associated EIRs and authorization by the Commission as a responsible agency under CEQA. Proposed changes to the Projects described in this Addendum include extended use and maintenance of sand fences, authorization for the continued use and maintenance of two currently unauthorized access roads in Dust Control Area (DCA) T37-2a (T37-2L1), installation and maintenance of a flood control system in DCA T2-1b (C2-L1), and authorization for the continued use and maintenance of 0.81 acres of currently unauthorized gravel cover in DCA T2-1b (C2-L1) and 1.46 acres of currently unauthorized gravel cover in DCA T2-1c (Duck Pond L1).

1.2 ADDENDUM PURPOSE

The proposed changes to the previously authorized Projects and their associated Mitigation Monitoring and Reporting Programs require Commission approval and therefore CEQA compliance. Pursuant to the State CEQA Guidelines section 15164, the lead agency or a responsible agency for a project shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions requiring preparation of a subsequent EIR (as described in State CEQA

Guidelines, § 15162) are present. Pursuant to State CEQA Guidelines section 15162, a subsequent EIR is not required unless:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

To implement the proposed modifications to the previously approved Projects, the City has submitted an application to the Commission for the following:

- Extended use and maintenance of sand fences;
- Continued use and maintenance of two previously unauthorized access roads in DCA T37-2a (T37-2L1);
- Installation and maintenance of a flood control system in DCA T2-1b (C2-L1);
- Continued use and maintenance of 0.81 acres of unauthorized gravel cover in DCA T2-1b (C2-L1) and 1.46 acres of gravel cover in DCA T2-1c (Duck Pond L1); and

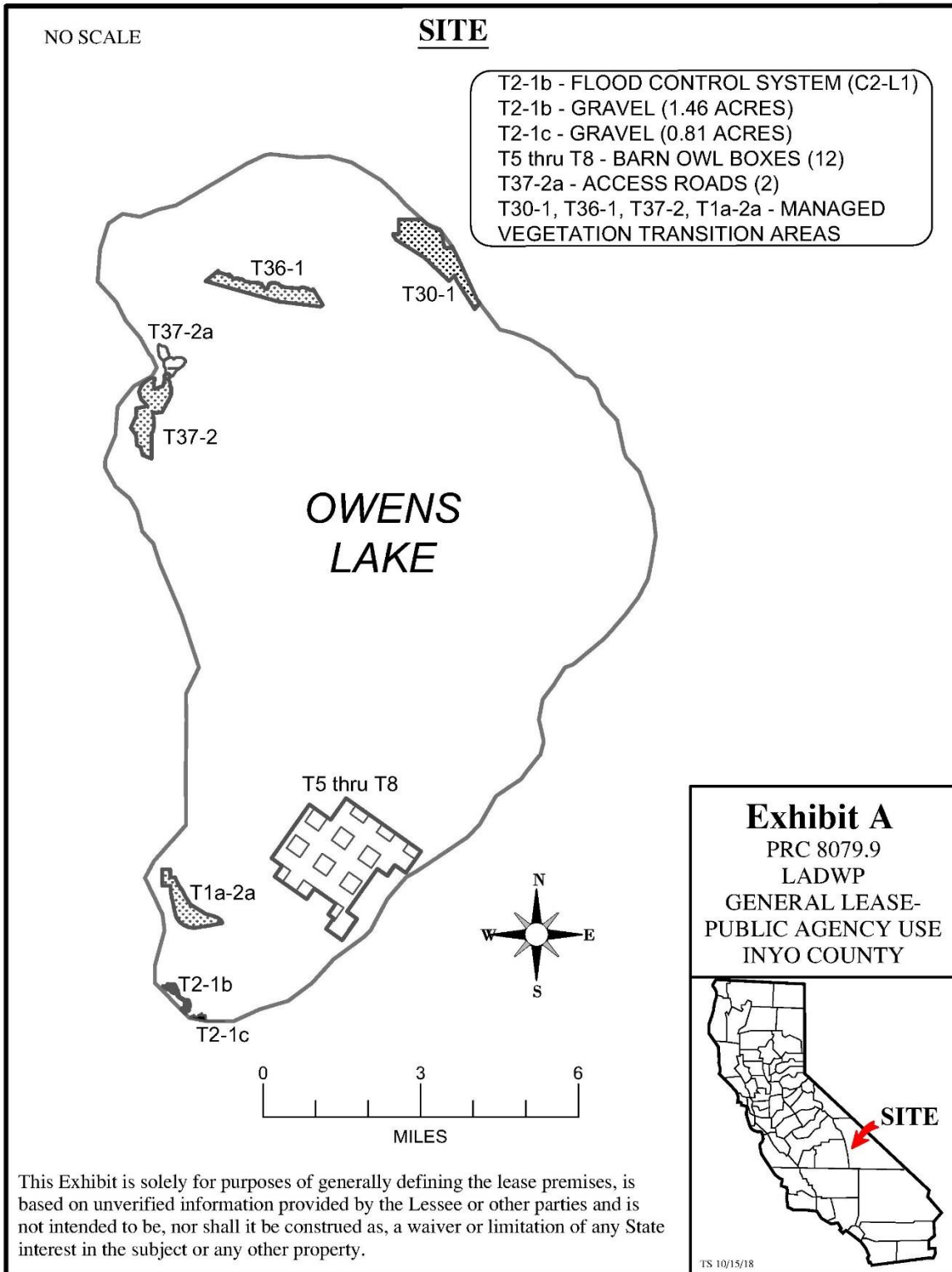
- Redesignation of existing Managed Vegetation and BACM Hybrid DCAs to Shallow Flooding.

Before approving such modifications, the Commission must apply the standards outlined above to ensure that a subsequent EIR is not required. As described in more detail below, Commission staff has determined, on the basis of substantial evidence in light of the whole record, that:

- minor changes or additions to the previously certified EIR for the Owens Lake Phase 7a Dust Control Measures Project are necessary;
- minor changes or additions to the previously certified EIR for the Owens Lake Dust Mitigation Program – Phase 9/10 Project are necessary;
- none of the conditions described in State CEQA Guidelines section 15162 calls for the preparation of a subsequent EIR; and
- an addendum is the appropriate CEQA document for analysis and consideration of the portion of the Projects on lands under the jurisdiction of the Commission.

Circulation of an addendum for public review is not required (State CEQA Guidelines, § 15164, subd. (c)); however, the decision-making body must consider the addendum in conjunction with the previously certified EIRs for the project (State CEQA Guidelines, § 15164, subd. (d)).

Figure 1. Project Location



1.3 BACKGROUND

Owens Lake was a natural and navigable waterway at the time of California's statehood and is thus sovereign land of the State under the jurisdiction of the Commission. Wildlife, waterfowl, and the nearby communities including the area's original Native American residents depended on and benefited from Owens Lake, which covered approximately 110 square miles and was 50 feet deep in places. Tribes have occupied the area for thousands of years, moving as the historical shoreline shrank and grew over time, using and stewarding the natural resources provided by the Lake, known to them as Patsiata. Early settlers diverted water from the Owens River to grow crops and irrigate pasture for livestock, and steamboats carried cargo across the lake. In 1908, the City began construction of an aqueduct to divert water from the Owens River north of Owens Lake. After completion of the Los Angeles Aqueduct in 1913, the City began transporting river water to Los Angeles, causing Owens Lake water levels to rapidly decline. By 1930, the Lake was virtually dry with only a small brine pool remaining. Since then, dust storms have carried away as much as four million tons of dust from the lakebed annually, causing respiratory problems for residents in the Owens Valley.

The U.S. Environmental Protection Agency has designated the southern part of the Owens Valley as a Serious Non-Attainment Area for PM₁₀ (suspended particulate matter [dust] less than or equal to 10 microns in mean aerodynamic diameter [about 1/10 the diameter of a human hair]). The Great Basin Unified Air Pollution Control District (GBUAPCD or District) subsequently designated the Non-Attainment area as the Owens Valley PM₁₀ Planning Area. The District determined that dust emissions from the dry lakebed of Owens Lake cause air in the Owens Valley PM₁₀ Planning Area to exceed the PM₁₀ national ambient air quality standards, and that water diversions by the City caused Owens Lake to become dry and the lakebed to be in a condition that produces dust. The District has authority to issue Supplemental Control Requirements Determinations (Orders) to the City for dust control purposes and recently approved the 2016 Owens Valley Planning Area PM₁₀ State Implementation Plan (GBUAPCD 2016).

The City constructs and operates dust control measures (DCMs) on the Lake in compliance with Orders from the District under the authority of California Health and Safety Code section 42316, legal settlement agreements with the District, lease agreements for use of state lands (administered by the Commission), and other regulatory approvals. LADWP has also developed, in coordination with Commission staff and other stakeholders, a Habitat Suitability Model (HSM) for the Lake that includes various physical parameters that can be objectively measured as a means of predicting and monitoring habitat suitability and ensuring maintenance of wildlife habitat and use on the Lake.

2.0 DESCRIPTION OF PROJECT MODIFICATIONS AND ADDENDUM DETERMINATION

The following analysis was undertaken to analyze whether the modifications to the previously approved Projects proposed by the City, identified in Table 1, would have any new or substantially more severe potentially significant environmental impacts that were not addressed in the EIRs for Phase 7a and 9/10 certified by the City in 2013 and 2015, respectively. Commission staff determined the appropriate focus of this analysis, based on CEQA issue areas most likely to be implicated, would be on aesthetics, air quality, biological resources, and cultural resources. Based on substantial evidence gathered through examination of the City's previously certified EIRs and Commission staff's analysis of the anticipated environmental consequences of the requested lease amendments, along with consultation with CDFW, the District, and Tribal representatives, Commission staff determined that:

- Approval of the lease, as amended, would fall under the scope of the prior EIRs relied on by the Commission, as a responsible agency, on September 20, 2013 (Phase 7a) and August 19, 2015 (Phase 9/10); and
- While the lease amendment reflects some changes and additions that are necessary to successfully implement dust mitigation as compared to the originally certified EIRs, none of the events identified in CEQA section 21166 or CEQA Guidelines section 15162 has occurred or will occur due to the proposed amendments.

As noted above, if the proposed Project modifications do not involve new or substantially increased significant impacts resulting from a change in the project or a change in the circumstances under which a project will occur, but instead reflect minor changes or additions, CEQA Guidelines section 15164 directs lead or responsible agencies to prepare an addendum to the CEQA document. Pursuant to CEQA Guidelines section 15164, subdivision (e), which states that lead or responsible agencies shall provide an explanation of their decision not to prepare additional environmental analysis in a subsequent document, Commission staff evaluated the proposed modifications to the Projects and provides such explanations, below.

Table 1. Summary of Project modifications

EIR/Phase	DCA	Original Authorization	Proposed Amendment
7a	T37-2, T1A-2_a, T30-1, T36-1	BACM Hybrid or Managed Vegetation	Shallow Flood
9/10		Temporary black sand fences	Long-term, higher, playa-colored sand fences with corvid deterrent
9/10	T2-1b, T2-1c	Shallow Flood	Gravel Cover
9/10	T37-2a	Not specifically included but replacing roads not constructed as part of the original 9/10 plan	2 walking paths/ roads
9/10	T2-1b	Not included but necessary to protect larger dust control infrastructure	Flood control system (drainage ditch with berms and riprap lined slopes)

Redesignation from BACM Hybrid or Managed Vegetation to Shallow Flood

Shallow Flooding is a DCM that consists of releasing fresh and/or recycled water into a DCA and allowing it to spread, wet the surface, and thereby suppress windborne dust during the dust season (October 1st to June 30th). BACM Hybrid is a concept that incorporates a mix of DCMs, including Shallow Flooding, Managed Vegetation, and Gravel Cover. Managed Vegetation is a DCM that facilitates vegetation growth for the reduction of sand motion and soil erosion. This Addendum analyzes a proposed change to the Phase 7a Project to redesignate approximately 353 acres (0.55 square miles) of BACM Hybrid or Managed Vegetation DCAs to Shallow Flooding in order to maintain compliance with dust control standards.

The Phase 7a EIR described one new DCA (T37-2) as a mix of Shallow Flooding and Managed Vegetation as well as existing Shallow Flooding DCAs proposed to be redesignated to BACM Hybrid. Redesignating the Managed Vegetation portion of these DCAs back to Shallow Flooding was not described in the Phase 7a EIR. LADWP now proposes to manage portions of the DCAs, identified as “Challenging” (Formation Environmental, 2017) for vegetative cover targets and currently not meeting compliance according to the District, as Shallow Flooding. Approximately 287 acres (0.45 square miles) of the previously transitioned BACM Hybrid or Managed Vegetation areas within DCAs T36-1_b, T30-1 and T1A-2_a would be redesignated to Shallow Flooding. The remaining approximately 66 acres (0.10 square miles) located within DCA T37-2 would

either be managed as Shallow Flooding or be operated as part of the “Shallow Flooding Transition Zone”- anticipated to be vegetated or partially vegetated.

These proposed changes would not require any physical changes to the infrastructure at the Project location. Rather, these redesignations can be achieved by increasing watering using existing infrastructure. As a result, no new or more severe impacts are expected to cultural resources, and the Tribes did not object to this redesignation during Project coordination. Generally speaking, using the HSM developed to monitor habitat values on the Lake, Shallow Flood DCAs provide a higher habitat value to important bird guilds compared to managed vegetation, so no new or more severe impacts to biological resources would occur. Lastly, it is expected that because the Shallow Flooding would bring the DCAs into dust control compliance, air quality would be improved by this project modification. Based on the above facts, the proposed amendment would not create new significant environmental effects or an increase in the severity of previously identified significant effects as indicated in section 15162 of the CEQA Guidelines.

In the event that these areas are identified as candidates to meet vegetation coverage percentage goals in the future, LADWP may redesignate back to Managed Vegetation to ensure dust control compliance is met while also achieving water conservation.

Sand Fences

Section 3.1.5 of the Phase 9/10 EIR describes the dust control plan to be implemented during construction. Measures include installation of temporary sand fences strategically placed within the DCA being constructed. Sand intrusion from emissive areas adjacent to the DCAs has been heavier than anticipated. To minimize sand movement into areas of BACM sand fences will be located as noted in Table 2. Sand control is necessary to prevent covering of gravel within Gravel Cover BACM areas and burying of newly emergent vegetation in Managed Vegetation areas, which could cause the areas to become emissive and fall out of compliance.

Table 2. Phase 9/10 Extended Use Sand Fence Locations

DCA	BACM	Length	Reason Sand Fencing Proposed
T2-1c (Duck Pond L1)	Managed Vegetation	648.5 (new) 572.9 (retain existing)	Protect Managed Vegetation while it is becoming established and avoids impacting wetlands
T10-3a	Gravel	464.9 (retain existing)	Protect against high sand flux from the north
T15	Gravel	269.2 (retain posts only)	Posts will be retained to allow more rapid deployment of sand fences if adjacent areas become more emissive
T20	Gravel	656.8 (retain posts only)	Posts will be retained to allow more rapid deployment of sand fences if adjacent areas become more emissive
T22	Gravel	662 (retain posts only) 1,072.4	Protect against moderate to very high sand-flux potential
T32-2 West, T32-1	Gravel and Managed	3,540.7 (retain existing)	Protect against very high cumulative annual sand fluxes
T35-3	Gravel	684.4 (retain existing)	Protect north side of the DCA bordering uncontrolled playa

Sand fences are also referenced in EIR Section 4.2.7 in Mitigation Measure Air-1, which reads in part:

- Temporary sand fences shall be installed where feasible as soon as practicable without delaying Project completion and shall be maintained as necessary until areas of Managed Vegetation have been established. Sand fences may be used temporarily during construction in order to limit the movement of sand from construction zones to adjacent areas of the lake bed. Sand fence would be black fabric with 50 percent porosity that is UV stabilized (Model SF-50 from U.S. Fence, or equivalent) and supported by steel T-posts (approximately 7 feet in height and driven into the ground to a depth of approximately 4 feet, resulting in approximately 3 feet of height for exposed post). Since the fence will not exceed 60 inches in

height, wire or monofilament line across the top would not be necessary to reduce perching by predators (corvids). Temporary sand fence shall be maintained and then removed at the completion of construction activities. Sand fences that deteriorate and could potentially create litter on the lake bed shall be repaired or removed.

Revisions to the mitigation measure are required to reflect extended use of sand fences and to clarify design details of the fencing. The clarifications regarding fence color, bird avoidance structures and placement off the ground reflect input from LADWP biologists and consultations with Native American tribal representatives. The relevant part of the text of Mitigation Measure Air-1 is revised as follows with new or changed text in **bold**:

- Temporary sand fences shall be installed where feasible as soon as practicable without delaying Project completion and shall be maintained **in place as necessary to limit sand movement and dust generation**. Sand fences may be used temporarily during construction **and for an extended period during operation**. Sand fence material would have 50 percent porosity that is UV stabilized (Model SF-50 from U.S. Fence, or equivalent) and supported by steel T-posts (approximately 7 feet in height and driven into the ground to a depth of approximately **3 feet, resulting in approximately 4 feet of height for exposed post**). **New and replacement fencing will be playa-colored material. Pointed wood dowels will be installed on each fence post to prevent perching by Corvids, with the point of the dowel ending roughly 6 inches above the top of the fencepost.** Sand fences will maintain a 2-inch gap above the ground level to facilitate movement of Snowy Plover broods and other small animals. Fence panels will maintain 5-foot-wide gaps between each 100-foot set of panels to allow access pathways for larger animals. Sand fences that deteriorate and could potentially create litter on the lake bed will be repaired or replaced.

These proposed changes would require only minor physical changes to the infrastructure at the Project location. In addition, modifications to Mitigation Measure Air-1 ensure no new impacts to aesthetics, cultural, or biological resources. As a result, the proposed amendment would not create new significant environmental effects or an increase in the severity of previously identified significant effects as indicated in section 15162 of the CEQA Guidelines.

Gravel Cover BACM

The Phase 9/10 Project EIR summarizes the size of the DCAs included in the Project, the approximate area of the construction zone, and the BACM to be installed. As summarized in Table 3, below, three DCAs require small areas of Gravel Cover, called “gap areas,” to control dust emissions in select areas along the DCA perimeter. The gap areas are the

result of field conditions and engineering constraints for the installation of irrigation systems. Design drawings for these three DCAs indicate the small gap areas of Gravel Cover, which will correspondingly reduce the areas of Managed Vegetation (in T2-1b and T2-1c) and Shallow Flooding (in T37-2d).

Table 3. Gravel Cover BACM Areas

DCA	BACM	Additional Gravel Cover to fill Gaps (acres)	Rationale for Additional Gravel Cover
T2-1b (C2-L1)	Managed Vegetation	0.81 (1.6 % of the DCA)	Gravel added to gaps in select areas around the DCA perimeter to meet dust compliance requirements in the area between the end of the irrigation system and the DCA boundary.
T2-1c (Duck Pond L1)	Managed Vegetation	1.46 (1.4 % of the DCA)	
T37-2d (T37-2-L4)	Shallow Flooding	2.83 (2.4 % of the DCA)	Due to cultural resource concerns, the perimeter berm was rerouted and reduced in length by approximately 600 linear feet. A portion of the DCA adjacent to the area of concern fell outside of the revised berm boundary, leaving it without irrigation infrastructure. Therefore, Gravel Cover is needed for dust control in this area.

The previously approved Phase 9/10 Project includes over 3.6 square miles of Gravel Cover BACM. The modification to the Project Description identifies approximately 5 acres of Gravel Cover to fill gaps and control dust at the perimeter of three DCAs. The 0.2 percent increase in Gravel Cover area would be visually consistent with other dust control on the lake and would not significantly impact aesthetics because gravel from local sources is within the range of existing lake bed color. Gravel Cover installation in the gap areas has also been located within the area of construction disturbance that has been previously surveyed for cultural resources. Installation of Gravel Cover in gap areas will reduce Managed Vegetation in T2-1b and T2-1c by 2.27 acres, and Shallow Flooding in T37-2d by 2.83 acres. Under the approved 9/10 EIR Project, the Avoidance Alternative, projected habitat value for the six bird species guilds modeled for habitat values on Owens Lake would increase from 29 to 350 percent over 2013 conditions. With minor reduction of Managed Vegetation and Shallow Flooding in approximately 5.1 acres (1.9 percent of

the area of the three DCAs), plus creation of walking paths/roads on 0.67 acres (0.6 percent of the Shallow Flood DCA) projected habitat values for the six species guilds modeled would still increase over 2013 conditions.

These proposed changes would require only minor physical changes to the existing DCAs, ensure the areas will not be emissive, will not degrade habitat values, and do not impact cultural resources. As a result, the proposed amendment would not create new significant environmental effects or an increase in the severity of previously identified significant effects as indicated in section 15162 of the CEQA Guidelines.

Walking Paths/Roads

Section 3.1.8 of the Phase 9/10 EIR describes Operations and Maintenance activities for the Project but did not include descriptions or analysis of two elevated berm paths necessary for accessing electrical handholes. During a site visit by Commission staff where these paths were observed, this discrepancy was identified, and staff requested the City apply for a lease amendment to obtain authorization for the paths, or otherwise remove the paths. In order to bring the paths under authorization in the lease, the Project Description for the Phase 9/10 Project is revised to add the following new Operations and Maintenance facilities:

- T37-2a (T37-2-L1): Two elevated (at berm level), rock-cap (9/16th rocks) walking paths/roads will allow access for Maintenance crews to electrical handholes within the sprinkler Shallow Flooding DCA. The paths are approximately 150 linear feet on the northeast and 1,000 linear feet on the east side of the DCA, respectively. The combined total area of the walking paths/roads is 0.67 acres.

Phase 9/10 of the OLDMP includes miles of new gravel berm roads and maintenance access roads. The addition of 1,150 feet of walking paths/roads for maintenance workers to access electrical equipment in T37-2-L1 are in areas previously surveyed for cultural resources and would be visually consistent with existing roads and pathways. These proposed changes would require only minor physical changes to the existing DCAs, will not degrade habitat values, and do not impact cultural resources. As a result, the proposed amendment would not create new significant environmental effects or an increase in the severity of previously identified significant effects as indicated in section 15162 of the CEQA Guidelines.

T2-1B Flood Control System

Section 3.1.6.1 of the Phase 9/10 EIR describes the drainage systems installed beneath Managed Vegetation fields and/or on the margins of Shallow Flood areas. Additional drainage facilities are required in T2-1b (C2-L1). During January and February 2017, when T2-1b was under construction, flooding from Cartago Creek inundated the Managed

Vegetation DCA. A temporary drainage ditch was installed to protect the site. To ensure that the site remains protected, it is necessary to install a permanent berm flood control system. Permanent drainage systems at T2-1b include approximately 1,000 linear feet of unlined ditch in the northwest area of the DCA and approximately 600 linear feet of unlined ditch in the southeastern portion. The berms will have riprap on one side to prevent erosion, as needed, banks will be sloped 3:1, and be entirely located within the construction limits and DCA boundary. The intent of the drainage system is to prevent excessive stormwater from entering the DCA, and thereby avoid damage to managed vegetation.

These proposed changes would require only minor physical changes to the existing DCAs, will not degrade habitat values, and do not impact cultural resources. Specifically, this modification was designed in coordination with the City's Biologist to ensure wildlife would not be able to become entrapped, and in coordination with Tribes to ensure the drainage system would discourage off-road vehicle traffic and potential looters. With respect to air quality, the drainage system would ensure the Managed Vegetation area is not inundated by floodwaters that would damage or kill the vegetation. As a result, the proposed amendment would not create new significant environmental effects or an increase in the severity of previously identified significant effects as indicated in section 15162 of the CEQA Guidelines.

3.0 CONCLUSION

Commission staff prepared this Addendum pursuant to Public Resources Code section 21166 and State CEQA Guidelines sections 15162 through 15164 (see Section 1.2, *Addendum Purpose*). As detailed in the explanations and facts presented in Section 2.0 above, this Addendum to the Phase 7a EIR certified by the City on May 24, 2013, and to the Phase 9/10 EIR certified by the City on June 2, 2015, supports the conclusion that the changes to the Project would not result in any new or substantially more severe significant environmental effects and do not represent a substantial change to the circumstances under which the Phase 7a and Phase 9/10 Projects are being carried out. In addition, Commission staff believes that no new information exists that would give rise to a new or substantially more severe significant environmental effect or that would affect the implementation or effectiveness of the previously adopted mitigation measures. In particular, the Projects are consistent with State CEQA Guidelines section 15164 in that only minor changes have been made to the Projects, and none of the conditions described in Public Resources Code section 21166 or State CEQA Guidelines section 15162 has occurred. Therefore, Commission staff recommends the Commission find that no subsequent or supplemental document is required.

4.0 ADDENDUM PREPARATION SOURCES AND REFERENCES

4.1 ADDENDUM PREPARERS

California State Lands Commission

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