

**STAFF REPORT
C58**

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06/21/18
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 20 amendments to the lease for the construction, operation, and maintenance of additional components of dust control. Exhibit A provides a summary of these amendments.

On June 22, 2017, the Commission approved the 19th amendment to the Lease, which, among other things, included a provision requiring the City to develop a Tribal Consultation Policy and appoint an official Tribal Liaison within 12 months of the effective date of the amendment, or by June 22, 2018 ([Item C58, June 22, 2017](#)).

On November 29, 2017, the Commission authorized the 20th amendment to the Lease to ratify staff's emergency authorization of emergency measures taken between April 2017 and June 2017 ([Item C54, November 29, 2017](#)). In addition, the Commission 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-L1/T37-2a.

PROPOSED AMENDMENT:

Amend Section 2 – Special Provisions, Paragraph 2(E) of the 19th amendment to extend the deadline for 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. In addition, the City shall provide a draft copy to Commission staff for review and comment at least 30 days prior to adoption.

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

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503;
California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

The proposed amendment to extend the deadline for the City to complete and adopt a Tribal Consultation Policy and appoint an official Tribal Liaison no later than December 23, 2018, will allow the City to expand the Tribal Consultation Policy to include all of LADWP's activities in the Owens Valley rather than just at Owens Lake. Staff believes this expansion of the scope of the City's Tribal engagement efforts will enhance communication with Tribal governments in the Owens Valley with a vested interest in Owens Lake, its cultural resources, and its Public Trust values.

No physical changes to the City's Owens Lake Dust Mitigation Control Program are proposed. Staff believes the proposed amendment will not significantly impact the Public Trust resources and values - including but not limited to wildlife habitat, public access, recreation, and aesthetic enjoyment - on Owens Lake, at this time or for the foreseeable term of the lease. 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.

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 the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.
2. On June 22, 2017, the Commission authorized the 19th amendment of the lease ([Item C58, June 22, 2017](#)) authorizing the placement of gravel on a 0.41-acre area on the west side of Mainline, between DCAs T21 and T21-L3. Prior to commencement of the specific work authorized by the amendment, the City was required to identify an interim Tribal Liaison, who is not the project manager and who reports directly to LADWP's Executive Management, to ensure effective, meaningful, and mutually beneficial coordination and communication with the Tribal governments of

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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 work and activities under the lease. On August 16, 2017, the City notified Commission staff and California Native American Tribes in the area that an interim Tribal Liaison had been chosen.

In addition, the City was required to complete a Tribal Consultation Policy, including adoption of the Policy and the appointment of an official Tribal Liaison, no later than June 22, 2018. The City has informed staff that it will not meet the deadline of June 22, 2018 and requested an additional 6 months to comply with the lease provision. According to the City, additional time is required to:

- Develop a comprehensive Policy that encompasses the entire Owens Valley, in addition to Owens Lake.
- Engage other organizations within the City that maintain facilities and conduct projects in the Owens Valley.
- Engage California Native American Tribes in the development of the Policy.

The City has informed Commission staff that it contracted the services of Dr. Manley Begay with Northern Arizona University to assist the City in developing the Policy, and coordination and communication between California Native American Tribes and the City.

3. Approving the amendment of the Lease to extend the date for the City to develop a Tribal Consultation Policy is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

EXHIBIT:

- A. Summary of Lease Amendments

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RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease amendment will not substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; and is in the best interests of the State.

AUTHORIZATION:

Authorize the Amendment of Lease No. PRC 8079.9, a General Lease – Public Agency Use, to amend Section 2, Special Provisions, Paragraph 2(E) of the 19th Amendment to allow the City of Los Angeles Department of Water and Power 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.

Exhibit A: 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/MeetingSummaries/1999Documents/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/MeetingSummaries/2000Documents/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/MeetingSummaries/2002Documents/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/ITEMSANDEXHIBITS/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/ITEMSANDEXHIBITS/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/2009Documents/10-22-09/ITEMS AND EXHIBITS/C17.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2009Documents/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/VotingRecord.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2009_Documents/12-17-09/VotingRecord.pdf); Note: Recommendation modified; for actual approval, see: [http://archives.slc.ca.gov/Meeting_Summaries/2009 Documents/12-17-09/Minutes.pdf](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/Voting Record.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2010_Documents/06-28-10/Voting_Record.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/2010Documents/12-10-10/Complete Items/50.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2010Documents/12-10-10/Complete_Items/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](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/2013Documents/06-21-13/Items and Exhibits/C61.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2013Documents/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](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/MeetingSummaries/2014Documents/04-23-14/Items and exhibits/C55.pdf](http://archives.slc.ca.gov/MeetingSummaries/2014Documents/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/MeetingSummaries/2014Documents/09-02-14/Items and exhibits/02.pdf](http://archives.slc.ca.gov/MeetingSummaries/2014Documents/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 6/28/2015; 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 on a 0.41-acre area on the west side of Mainline, between 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

