

**CALENDAR ITEM
C33**

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06/28/10
PRC 8079.9
C. Connor

**CONSIDER APPLICATION FOR AMENDMENT OF
GENERAL LEASE – PUBLIC AGENCY USE**

APPLICANT:

City of Los Angeles, Department of Water and Power
William Van Wagoner
111 North Hope Street, Room 1468
Los Angeles, CA 90012

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in Owens Lake, Inyo County.

AUTHORIZED USE:

Research and monitoring at the South Sand Sheet, implementation of shallow flooding and monitoring at the North Sand Sheet, and the construction and operation of the South Zone Dust Control Project. Construction, installation, operation, and monitoring of shallow flooding dust control measures (DCMs) associated with Phases IV, V, and VII of the Owens Lake Dust Control Project. Construction, installation, operation, and monitoring of 0.5 square mile of channel area improvements; and construction of sand fence and vegetation enhancement in Cell T1A-1, in support of the Phase VII Owens Lake Dust Control Project.

LEASE TERM:

20 years, beginning May 1, 1999.

CONSIDERATION:

The public health and safety; with the State reserving the right at any time to set a monetary rent if the State Lands Commission (Commission) finds such action to be in the State's best interest.

PROPOSED AMENDMENT:

The **Land Use or Purpose** of Section 1 of the Lease would be amended to authorize the construction, use, and maintenance of two access roads and

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implementation of soil tillage for dust control purposes on 3.12 square miles of emissive sites within the Phase VII Owens Lake Dust Control Project.

The **Term** provision of Section 1 of the Lease, only as it pertains to the Authorized Improvements described below, would be amended to be for a period of three years, commencing on the effective date of the Amendment, or one year after a master plan for the entire lakebed is approved by the State Lands Commission, whichever occurs first. The amendment may be terminated sooner as provided under the Lease.

The **Authorized Improvements** provision of Section 1 of the Lease would be amended to include the following: Construction, use, and maintenance of two access roads (one access road to cell T37-1, and one access road to cell T37-2); Implementation of soil tillage totaling 3.12 square miles on dust control cell areas T1A-3, T1A-4, T12-1, T32-1, T37-1, and T37-2.

Section 2, Special Provisions of the Lease would be amended to include, but not be limited to, the following:

- 1) 1:1 mitigation within Owens Lake for impacts to biological resources resulting from implementation of soil tillage and agreement to participate in a long-term conservation plan with legally binding requirements to designate an appropriate acreage of shallow flood for the term of the lease or until a master plan is approved by the Department of Fish and Game and the State Lands Commission
- 2) A requirement that the City would design and submit to the Commission a plan for a public trail system for viewing Owens Lake with interpretive signs and free public parking. Following written approval of the plan by Commission staff, Lessee shall submit an application for a lease amendment to construct the parking lot and trail system.
- 3) Lessee shall provide written documentation of the Great Basin Unified Air Pollution Control District (District) Air Pollution Control Officer's (APCO) approval of Lessee's plans to implement soil tillage prior to any ground disturbing activities.

Section 3, Description of Lease Premises, would be amended to include areas for construction of two access roads and implementation of 3.12 square miles of soil tillage for dust control purposes on the lands shown on the attached Exhibit A (for reference purposes only) and described in the attached Exhibit B.

All other terms and conditions of Lease PRC 8079.9, as amended, would remain in full force and effect.

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DESCRIPTION OF SOIL TILLAGE:

Tillage is a process whereby the surface of the soil is roughened or made uneven to make it more resistant to wind erosion. The roughness reduces wind velocity along the surface and provides furrows to catch windblown soil particles.

Benefits of tillage include (a) relatively quick implementation with immediate effectiveness; (b) no infrastructure is required; (c) has a low profile that does not obstruct views; and (d) does not use water.

Soil tillage at Owens Lake would be implemented by the use of a bulldozer equipped with a tilted blade or other conventional agricultural equipment that would, depending upon the specific soil type, cut through to a depth of up to 24 inches below the native surface. Tillage passes would be spaced in such a way that resultant soil rows would be 18 to 36 inches high. Spacing between the tilled ridges would depend on soil type. Spacing of 1 to 3 feet is proposed for sandy soils and 8 to 14 feet for clay soils. Re-tilling of the soils would be permitted for maintenance purposes as needed. Due to differences in soil types, maintenance of the tilled areas and the determination as to the effectiveness of the tillage shall be determined by the District's APCO. The primary direction of tillage would be perpendicular to prevailing winds, but the tillage rows shall be curved up to 30 degrees in either direction to avoid long straight rows and provide a more natural-looking pattern. This pattern would also help avoid wind jetting down long straight rows. Gaps in the tillage, both transverse and longitudinal to the direction of construction equipment travel, would be provided approximately every 1,000 feet for access and monitoring purposes. The size of the gaps would be at least 10 to 20 feet wide. Tillage is intended to be a temporary method of dust control until a long-term solution is developed and presented to the Commission for consideration.

The City previously implemented tillage as a temporary DCM in some Shallow Flood construction areas between October 1, 2009, and April 1, 2010. Tillage is not a Best Available Control Measure (BACM) approved by the District, and implementation of tillage will require prior review and approval by the District's APCO, as well as all other applicable regulatory approvals.

The City, in coordination with Commission staff and other responsible agencies and interested parties, is engaged in a lake-wide master planning process to identify additional DCMs, locations of permanent wildlife habitat areas, and areas for potential solar energy development. The master plan is expected to be available for public review within the next 12 months.

BACKGROUND:

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One hundred twenty-five years ago, the water of Owens Lake covered 110 square miles and was over 50 feet deep. A steamboat carried cargo across its broad expanse. Early settlers diverted water from the Owens River to grow crops and irrigate pasture for livestock. Wildlife, waterfowl, and local residents depended on and benefited from Owens Lake. This lake was an important feeding and resting stop for millions of waterfowl each year. After the City began operating the Los Angeles Aqueduct in 1913, the lake level rapidly declined. Within approximately 25 years, only a small brine pool remained of the original 110 square mile lake. Today, dust storms may carry away as much as four million tons (3.6 million metric tons) of dust from the lakebed each year, causing respiratory problems for residents in the Owens Valley.

The United States Environmental Protection Agency (U.S. EPA) has 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 ten microns in mean aerodynamic diameter (approximately 1/10 the diameter of a human hair). Great Basin subsequently designated the Non-Attainment area as the "Owens Valley PM₁₀ Planning Area."

Great Basin has determined that dust emissions from the dry lakebed of Owens 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 have caused Owens Lake to become dry and the lakebed to be in a condition that produces dust.

On June 14, 1999, the Commission authorized the issuance of PRC 8079.9 to the city of Los Angeles for a period of 20 years, for the Owens Lake South Sand Sheet Air Quality and Sand Fence Effectiveness Monitoring System. Since that time, the Commission has authorized eight amendments to this lease for the construction, operation, and maintenance of additional components of dust control.

On April 6, 2010, the Commission denied an application by the City of Los Angeles Department of Water and Power for a lease amendment to allow the construction of the moat and row dust control design on the remaining Phase VII emissive sites. The moat and row design was denied because it was inconsistent with the Public Trust needs, resources, and values of Owens Lake, and was not in the best interest of the State.

OTHER PERTINENT INFORMATION:

1. Great Basin, acting as Lead Agency under CEQA, certified the Final Subsequent Environmental Impact Report for the 2008 Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation

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Plan (2008 SIP FSEIR) (SCH No. 2007021127) and adopted a Mitigation Monitoring Program in early 2008. The 2008 SIP FSEIR evaluated the implementation of 15.1 square miles of DCMs for Owens Lake, including 3.5 square miles of moat and row DCMs.

2. Revisions to the proposed moat and row DCM design necessitated additional CEQA review. The City, acting as Lead Agency under CEQA, certified the Final Supplemental Environmental Impact Report for the Owens Lake Revised Moat and Row Dust Control Measures (2009 Moat and Row FSEIR) (SCH No. 2008121074) and adopted a Mitigation Monitoring Program in September 2009. The 2009 Moat and Row FSEIR tiered off the 2008 SIP FSEIR.
3. At its December 17, 2009, meeting, the Commission approved a portion of the project evaluated in the 2009 Moat and Row FSEIR, consisting of sand fences and vegetation enhancement in Cell T1A-1. As part of its approval, the Commission adopted CEQA Findings, adopted a Mitigation Monitoring Program, and adopted a Statement of Overriding Considerations (Exhibits F, H, and G, respectively, to Calendar Item 41, on file in the Sacramento Office of the Commission).
4. The City's application to construct moat and row in the six remaining emissive areas in Phase VII was denied by the Commission on April 6, 2010. To reduce PM₁₀ emissions as required by Great Basin on the remaining areas, the City proposes to implement tillage as a temporary measure on 3.12 square miles previously evaluated for moat and row DCMs. In May 2010, the City prepared an addendum to the 2009 Moat and Row FSEIR, "Owens Lake Revised Moat and Row Dust Control Measures Addendum No. 1 to the 2009 Supplemental Environmental Impact Report" (Addendum) (Exhibit C), to address changes in the project since the 2009 Moat and Row FSEIR was certified.
5. The environmental analysis contained in the Addendum concluded that the impacts and mitigation requirements identified in the 2009 Moat and Row FSEIR remain substantively unchanged by the modification of the project description to implement tillage. The City found that tillage does not raise any new issues and does not exceed the level of impacts identified in the previous 2009 Moat and Row FSEIR.
6. The Commission's staff has reviewed the above documents and Mitigation Monitoring and Reporting Program for the proposed project and concurs with the City's Addendum. The CEQA Findings made by the Commission at its December 17, 2009, meeting apply to the proposed project to

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implement tillage. The Mitigation Monitoring Program adopted by the Commission at its December 17, 2009, meeting, applies to the proposed project to implement tillage, except for measures identified in section 4.0 of the Addendum pertaining to fences, fence posts, and standing water that will not be part of the tillage project (see attached Exhibit C).

7. A revised Statement of Overriding Considerations made in conformance with Title 14, California Code of Regulations, section 15093 and 15096(h) is attached as Exhibit D.
8. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 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 sections 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 Title 2, California Code of Regulations, section 2954 is not applicable.

APPROVALS REQUIRED:

California Department of Fish and Game

EXHIBITS:

- A. Site/Location Map
- B. Land Description
- C. CEQA Addendum
- D. Statement of Overriding Considerations

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Final Subsequent Environmental Impact Report for the 2008 Owens Valley PM10 Planning Area Demonstration of Attainment State Implementation Plan (2008 SIP FSEIR) (SCH No. 2007021127) was prepared and certified by the Great Basin Unified Air Pollution Control District on or about January 28, 2008, for Phase VII that included moat and row dust control measures, and that the Commission has reviewed and considered the information contained therein.

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Find that a Final Supplemental Environmental Impact Report for the Owens Lake Revised Moat and Row Dust Control Measures (2009 Moat and Row FSEIR) (SCH No. 2008121074) was prepared and certified by the City of Los Angeles, Department of Water and Power, on September 15, 2009, and that the Commission has reviewed and considered the information contained therein.

Find that the City of Los Angeles, Department of Water and Power prepared the "Owens Lake Revised Moat and Row Dust Control Measures Addendum No. 1 to the 2009 Supplemental Environmental Impact Report" (Addendum) (Exhibit C, attached hereto), in May 2010, to address changes in the project since the 2009 Moat and Row FSEIR was certified, and that the Commission has reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring and Reporting Program, as contained on file in the Sacramento Office of the Commission as Exhibit H to Calendar Item 41, December 17, 2009, as modified by the Addendum, section 4.0.

Adopt the Findings made in conformance with Title 14, California Code of Regulations, sections 15091 and 15096(h), as contained on file in the Sacramento Office of the Commission as Exhibit F to Calendar Item 41, December 17, 2009.

Adopt the revised Statement of Overriding Considerations made in conformance with Title 14, California Code of Regulations, sections 15093 and 15096(h) as contained in Exhibit D, attached hereto.

AUTHORIZATION:

Authorize the Amendment of Lease No. PRC 8079.9, a General Lease – Public Agency Use, to amend the Land Use or Purpose, the Term, the Authorized Improvements, the Special Provisions, and the Land Description as described herein to authorize the construction of two access roads and the implementation and maintenance of soil tillage on 3.12 square miles of lands shown on Exhibit A (for reference purposes only) and described on Exhibit B attached and by this reference made a part hereof; consideration being the public health and safety with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest; all other terms and conditions of the lease as previously amended will remain in effect without amendment.