

CALENDAR ITEM

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PRC 8079.9

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C. Connor

AMENDMENT OF LEASE

LESSEE:

City of Los Angeles
Department of Water and Power
William T. Van Wagoner
111 North Hope Street
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. Construction of sand fence and vegetation enhancement in Cell T1A-1, in support of the Phase VII Owens Lake Dust Control Project. Construction, use, and maintenance of two access roads (one access road to cell T37-1, and one access road to cell T37-2); and, 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.

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 Commission finds such action to be in the State's best interest.

CALENDAR ITEM NO. **50** (CONT'D)

PROPOSED AMENDMENT:

The **Land Use or Purpose** of Section 1 of the Lease would be amended to authorize the construction, operation, and maintenance of 2.03 square miles of dust control measures associated with Phase 8 of the Owens Lake Dust Control Project (the Project).

The **Authorized Improvements** of Section 1 of the Lease would be amended to authorize the placement of 2.03 square miles of gravel cover as a dust control measure that includes: placement of up to approximately 1.04 million tons of gravel on top of a permeable geotextile fabric in Lease Parcel Areas A and B; placement of up to approximately 6,000 tons of road base material to expand the existing roadway to 30 feet on Corridor 1; and construction of earthen berms three feet high, 12 feet wide, armored with gravel, that will nearly surround Lease Parcel Areas A and B. A maximum of approximately 20,000 tons of additional gravel per year may be placed for maintenance purposes.

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

- a) Specifications (type, size, color, etc.) of the proposed gravel to be placed within the proposed Lease area shall be approved by the Commission's Executive Officer or his designee. It is intended that the gravel cover blend in with the surrounding playa wherever practicable. If the Lessee objects to the determination by the Executive Officer or his designee, then the Lessee may petition the Commission for a review of that determination within 90 days at a regularly-scheduled Commission meeting.
- b) A written maintenance plan for the lease premises shall be submitted for Commission staff's approval.
- c) All permits, authorizations, and plans issued or required by any and all other state, local, or federal agencies as a result of this project shall be submitted to Commission staff.
- d) Wherever and whenever safe, the City of Los Angeles (City or Lessee) shall maintain public access to the Owens Lakebed throughout the estimated 20-month Phase 8 Project construction period, particularly during the public's annual bird counting activities.
- e) The City shall implement and adhere to the environmental impact minimization measures described in Exhibit C - Mitigation Monitoring and Reporting Program, which is part of the Owens Dry Lake Phase 8 Dust Control Measures Mitigated Negative Declaration submitted by the Lessee

CALENDAR ITEM NO. **50** (CONT'D)

and adopted by Lessor on December 10, 2010, except as modified by specific provision of this Lease Amendment. In the event of any conflict between the provisions of the Mitigation Monitoring and Reporting Program and the Lease Amendment, the provisions of the Lease Amendment shall prevail.

- f) To offset the estimated Greenhouse Gas Emissions from construction and maintenance of the Phase 8 Dust Control Project, the City shall obtain 13,965 metric tons of carbon offsets/Renewable Energy Certificates (RECs) as a one-time obligation, to be purchased prior to construction of the Phase 8 Dust Control Project. The City shall submit proof of acquisition of the carbon offsets/RECs to Commission staff prior to commencement of the Phase 8 Dust Control Project.
- g) The City acknowledges the Commission's approval and issuance of this Lease Amendment for the placement of gravel dust control measures on the Owens Lakebed is no assurance that future use of gravel cover would be allowed on sovereign lands of the Owens Lakebed. Lessee acknowledges that it is Lessor's position that placement of gravel cover on the Owens Lakebed does not protect or promote its Public Trust uses and values and any future requests for the placement of gravel cover on Owens Lake is subject to further evaluation by the Commission on a case-by-case basis, as with any other project, taking into account all relevant factors, including other components of the project that may enhance Public Trust uses and values 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 it is exercising its authority and responsibility as trustee of the State's Public Trust lands as authorized by law (Public Resources Code sections 6301 and 6216).
- h) The City shall only use the proposed gravel stockpile in Area A during the construction period expected to last approximately 20 months. Gravel shall not be stockpiled on the Lease Premises for maintenance activities.
- i) The Lessee shall be responsible for reimbursing all of Lessor's reasonable staff expenses, not to exceed \$50,000, incurred by Lessor and its staff for ensuring compliance with all terms and conditions of the Lease including but not limited to the Mitigation Monitoring and Reporting Program.
- j) To mitigate for the loss of potential enhancement of Public Trust values on the 2.03 square miles of Owens Lake to be covered by gravel and in consideration for the granting of this Lease Amendment, Lessee shall within 6 months following authorization of this Lease Amendment by Lessor deposit \$500,000 into the Kapiloff Land Bank Fund for the acquisition, management, maintenance and improvement of real property located adjacent or within the

CALENDAR ITEM NO. **50** (CONT'D)

bed of Owens Lake for the Public Trust purposes of ecological preservation, open space, wildlife habitat and public access.

- k) Within 180 days of Lessee's completion of the placement of the gravel and related Project activities, Lessee will provide copies of as-built plans or drawings for the authorized improvements.
- l) Lessee shall reimburse Lessor in full for all reasonable costs and attorneys fees, including, but not limited to, those of the Department of Justice, not to exceed \$1,000,000, that Lessor incurs in connection with the defense of any action brought against Lessor challenging the issuance of this Lease, any provision of this Lease, the environmental review upon which the issuance of this Lease is based or any other matter related to this Lease or its issuance. In addition, Lessee shall reimburse Lessor for any court costs and reasonable attorney fees that Lessor may be required by a court to pay as the result of such action.

Section 3, Description of Lease Premises, would be amended to include the lands described in the attached Exhibit "B" and as depicted on the attached Exhibit "A", which by reference are made a part hereof.

All other terms and conditions of Lease No. PRC 8079.9, as amended, would remain in effect.

OTHER PERTINENT INFORMATION:

- 1. The City applied to the Commission for authorization of the placement of 2.03 square miles of gravel dust control measures (DCMs) on the dry lakebed of Owens Lake, as the Phase 8 component of the Owens Lake Dust Mitigation Program.
- 2. The proposed project would involve the installation of a four-inch layer of coarse gravel screened to greater than ½-inch in diameter to the surface of the Owens Dry Lake playa on two areas of the lake, shown on Exhibit A. Approximately 1.01 million tons of gravel is proposed for placement within Area A and approximately 0.03 million tons of gravel is proposed for placement in Area B. The gravel would be placed on top of a permeable geotextile fabric. The gravel is anticipated to be obtained from local gravel production operations such as the Los Angeles Department of Water and Power (LADWP) shale pit located on Federal Bureau of Land Management lands east of State Route 136, approximately two miles from the lakebed southeast of Keeler and the Federal White Aggregate Dolomite mine located off the lakebed south of Swansea and east of Highway 136 (refer to Exhibit A-3).

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4. It is anticipated that no maintenance will be required in the first few years of operation. Sand and dust accumulation, washouts, or inundation may require additional gravel placement. Up to approximately 20,000 tons of gravel per year may be placed for ongoing maintenance.
5. Gravel is a dust control measure approved by the Great Basin Unified Air Pollution Control District (Great Basin) as a BACM to reduce the emissions of PM₁₀ leaving the property. Other currently accepted BACM measures include shallow flooding and managed vegetation. 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 wildlife habitat areas, public access and recreation areas, and sites for potential solar energy development. The master plan is expected to be available for public review sometime in 2011.
6. The proposed project also includes the widening of the Corridor 1 roadway, located in an area authorized by the Commission in a previous lease amendment, from 12 feet to 30 feet, requiring the addition of approximately 6,000 tons of road base material to be obtained from LADWP's Shale Pit.
7. An earthen berm, approximately three feet high and approximately 12 feet wide, armored with gravel, would be constructed to nearly surround both dust control areas A and B. The berms are proposed to be constructed with a 2:1 slope. The berms are proposed for wind protection and to prevent gravel washout during high storm water flows.
8. A Mitigated Negative Declaration (MND), SCH# 2010071044, and accompanying Mitigation Monitoring and Reporting Program were prepared and adopted for this project by the City on September 7, 2010. Commission staff has reviewed and considered such documents.
9. 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 declared that all lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significant 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

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use classification as required by Title 2, California Code of Regulations, Section 2954 is not applicable.

BACKGROUND

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 benefitted 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, high winds 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) 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). Great Basin subsequently designated the Non-Attainment area as the "Owens Valley PM₁₀ Planning Area."

Great Basin 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 water diversions by the City caused Owens Lake to become dry and the lakebed to be in a condition producing dust.

On June 14, 1999, the Commission authorized the issuance of Lease No. 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 authorized nine amendments to this lease for the construction, operation, and maintenance of additional components of dust control. These components include 35.2 square miles of shallow flooding, 3.7 square miles of managed vegetation, 3.12 square miles of tillage, 0.4 square miles of sand fencing, and 0.14 square miles of gravel.

On April 6, 2010, the Commission denied an application by the City 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

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because it was found to be inconsistent with the Public Trust needs, resources, and values of Owens Lake, and was not in the best interests of the State.

Great Basin subsequently granted a variance to the City, allowing the City more time to implement DCMs on the areas proposed for the moat and row. As a condition for granting the variance, Great Basin required the City to construct two additional square miles of BACM dust controls a year earlier than compared with normal procedures. These two square miles make up the Phase 8 Project.

Commission staff commented on the City's proposed MND by letter dated August 17, 2010, for the proposed Project. Commission staff expressed numerous concerns with the project description, environmental analysis, and impacts to Public Trust values.

PUBLIC TRUST

Owens Lake is State sovereign land held in trust for the people of the State under the Public Trust Doctrine. This common law doctrine ensures the public's right to use California's waterways for navigation, fishing, boating, and other water-oriented activities. Preservation of lands in their natural state to protect scenic and wildlife habitat values is also an appropriate Public Trust use (*Marks v. Whitney* (1971) 6 Cal.3d 251). Uses that do not protect or promote Public Trust values, are not water dependent or oriented, and exclude rather than facilitate public access and use, are not consistent with the trust. The Commission has the responsibility to manage Owens Lake on behalf of the public to protect these rights and values.

For years, the City diverted water from Owens Lake, which has forever changed the Public Trust values at Owens Lake. Continuing Public Trust uses on the lakebed include public access, recreation, wildlife habitat, open space, and aesthetic enjoyment, among others. The currently proposed gravel cover project on two square miles of the lakebed would not enhance but rather diminish its Public Trust values. Commission staff opposed the widespread application of gravel on the lakebed for nearly 20 years because of its impacts to Public Trust values.

Nevertheless, the City proposed gravel cover because it does not require the application of water and it meets Great Basin's requirements for dust control. Unlike the City's earlier moat and row design, gravel cover would not entrap wildlife, although it would eliminate wildlife habitat. Gravel cover would not block or restrict the viewshed, and the visual impact would be minimized by blending gravel to approximate the same color as the existing lakebed.

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In order to work toward the goal of reducing the PM₁₀ emissions from the Owens Lakebed, Commission staff proposed a special lease provision requiring the City to preserve and enhance the Public Trust values of Owens Lake elsewhere in order to offset the loss of Public Trust values resulting from the proposed Project. This provision calls for the acquisition of another property with habitat value located along the side of the lakebed. Authorization for approval of the acquisition of the real property would be brought to the Commission for consideration.

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, it is exercising its authority and responsibility as trustee of the State's Public Trust lands as authorized by law (Public Resources Code sections 6301 and 6216). Application of the Public Trust Doctrine may require a balancing of competing uses and needs (National Audubon Society v. Superior Court of Alpine County (1983) 33 Cal. 3d 419, 496-497.)

Commission staff believes the benefits to the State resulting from the required lease provision – the acquisition of additional real property with habitat value – would offset the loss of Public Trust values from implementation of the Phase 8 Project and therefore recommends approval of the lease amendment.

APPROVALS OBTAINED:

City of Los Angeles Department of Water and Power

FURTHER APPROVALS REQUIRED:

California Department of Fish and Game
California Department of Transportation
Lahontan Regional Water Quality Control Board
Bureau of Land Management
U.S. Army Corps of Engineers

EXHIBITS:

| | |
|-----------|---|
| A.1 – A.3 | Site/Location Map |
| B. | Land Description |
| C. | Mitigation Monitoring and Reporting Program |
| D. | Lease Amendment (Not available at this time.) |

PERMIT STREAMLINING ACT DEADLINE:

April 4, 2011

CALENDAR ITEM NO. **50** (CONT'D)

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that a Mitigated Negative Declaration and a Mitigation Monitoring and Reporting Program were prepared and adopted for this project on September 7, 2010, by the City of Los Angeles Department of Water and Power and that the Commission reviewed and considered the information contained therein.

Adopt the Mitigation Monitoring and Reporting Program, as contained in Exhibit C, 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 Authorized Improvements, the Special Provisions, and the Land Description as described herein to authorize the construction, operation, and maintenance of gravel dust control measures on 2.03 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, together with a deposit of \$500,000 into the Kapiloff Land Bank Fund for the acquisition, management, maintenance and improvement of real property located adjacent or within the bed of Owens Lake for the Public Trust purposes of ecological preservation, open space, wildlife habitat and public access, 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 interests; all other terms and conditions of the lease as previously amended will remain in effect without amendment.

NO SCALE

SITE

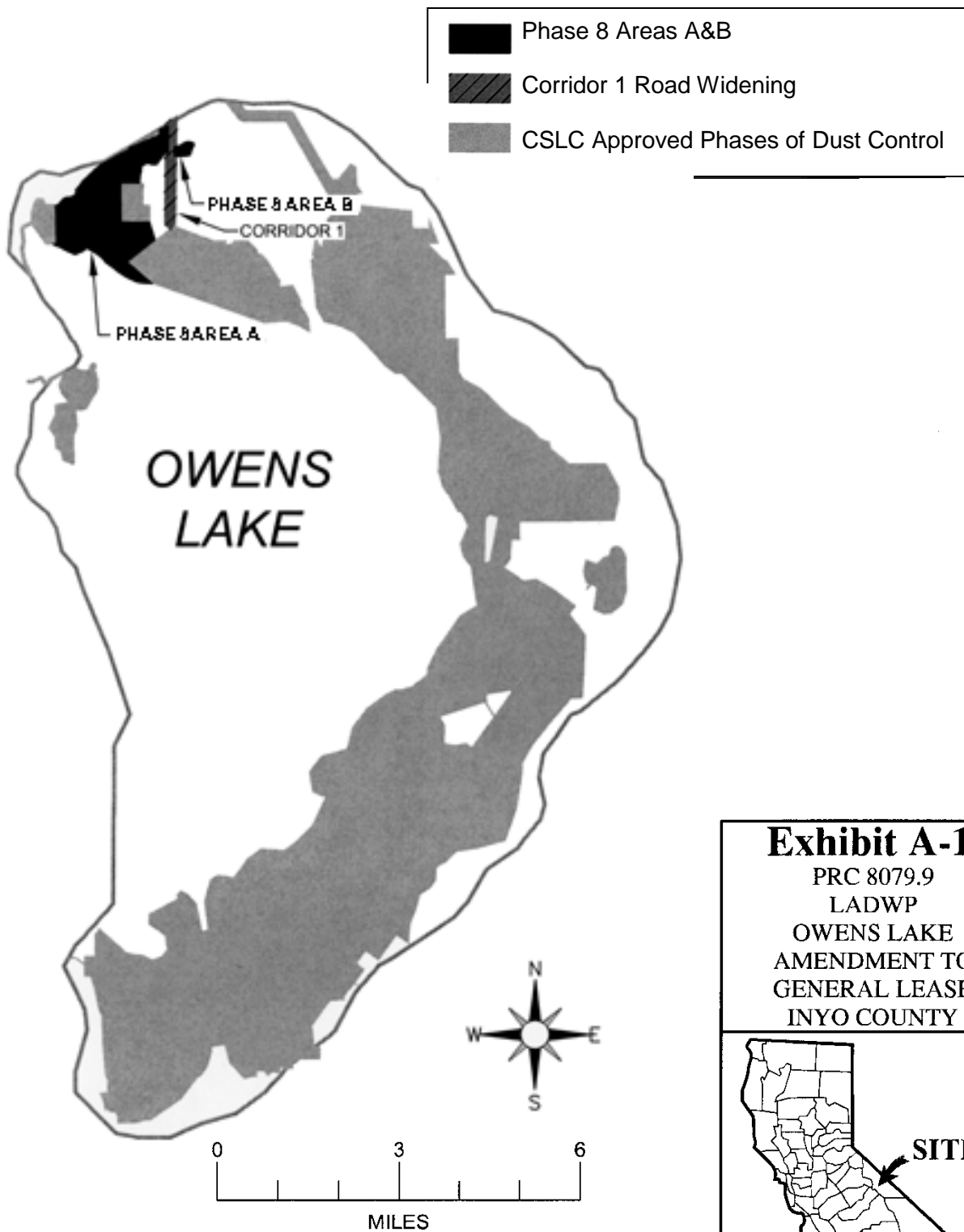


Exhibit A-1

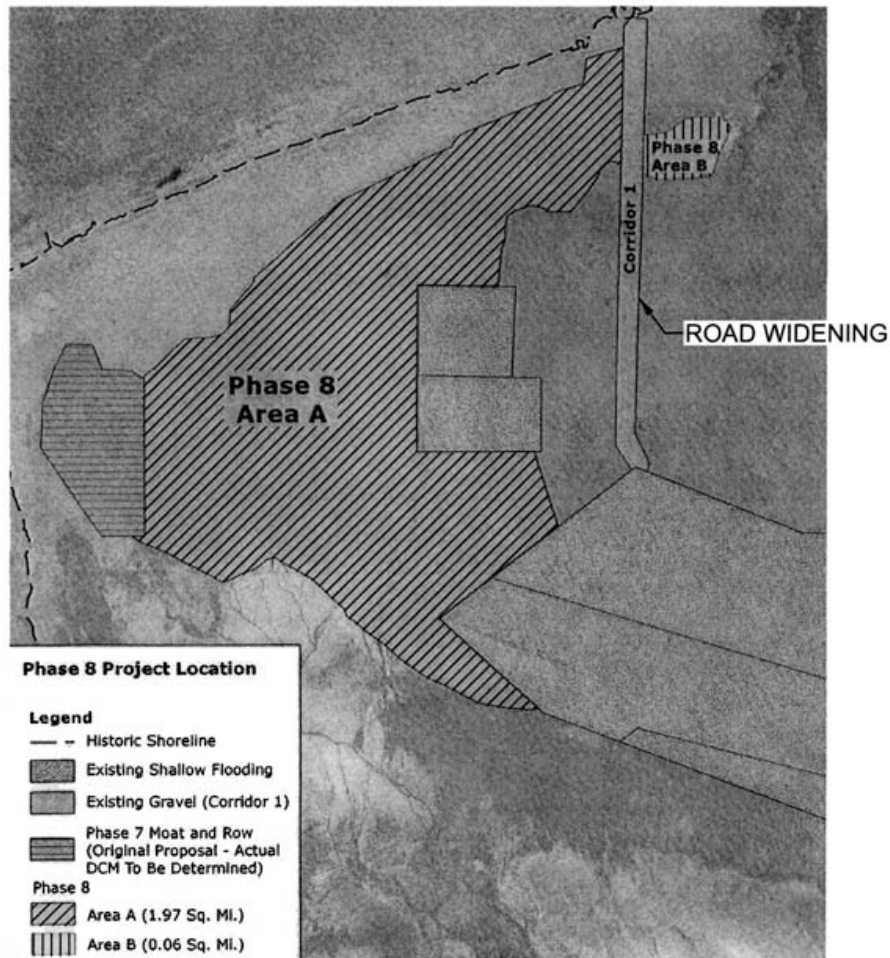
PRC 8079.9
LADWP
OWENS LAKE
AMENDMENT TO
GENERAL LEASE
INYO COUNTY



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.

NO SCALE

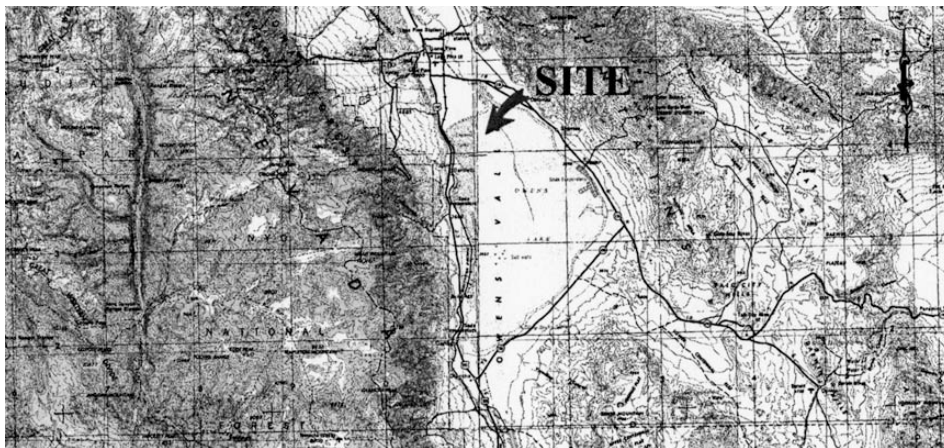
SITE



PHASE 8 DUST CONTROL AND CORRIDOR 1 ROAD WIDENING

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

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Exhibit A-2

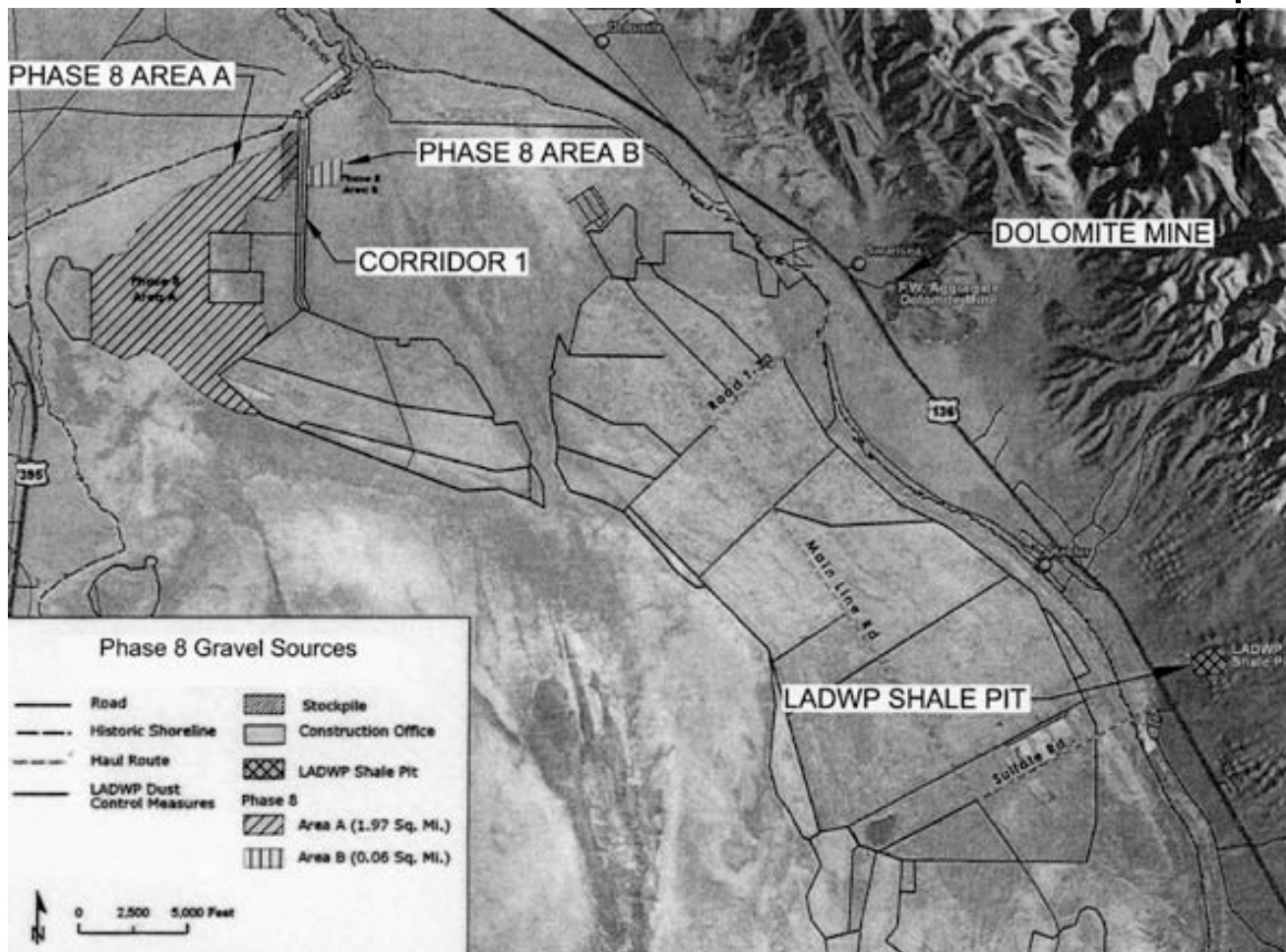
PRC 8079.9
LADWP
OWENS LAKE
AMENDMENT TO
GENERAL LEASE
INYO COUNTY



JAK 11/10

NO SCALE

SITE



PHASE 8 GRAVEL SOURCES

NO SCALE

LOCATION



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 A-3

PRC 8079.9
LADWP
OWENS LAKE
AMENDMENT TO
GENERAL LEASE
INYO COUNTY



JAK 11/10

EXHIBIT B

PRC 8079.9

LAND DESCRIPTION

Owens Lake Dust Mitigation Program Phase VIII

Two parcels of State-owned sovereign land in the bed of Owens Lake in the County of Inyo, State of California, being more particularly described as follows:

Parcel "Area A"

BEGINNING at a point from whence Mineral Monument No. 58, a white marble stone monument with a metal plate cross stamped "MM #58", as said monument is shown on that map filed in Book 11, of Record of Surveys at page 7, Official Records of the County of Inyo, State of California, bears South 82°33'20" East, a distance of 33,809.58 feet; thence along the following described courses:

North 03°26'36" East, 74.17 feet;
North 48°52'54" West, 2,757.09 feet;
North 51°18'54" East, 2,932.57 feet;
North 17°37'34" West, 1,651.40 feet;
South 89°03'21" West, 1,449.77 feet;
North 88°18'10" West, 753.98 feet;
North 89°17'09" West, 138.60 feet;
North 00°46'34" West, 3,115.77 feet;
North 89°41'36" East, 1,580.27 feet;
North 03°25'26" East, 712.91 feet;
North 17°46'56" East, 174.14 feet;
North 10°01'15" East, 239.96 feet;
North 07°08'36" West, 159.50 feet;
North 16°38'48" East, 125.82 feet;
North 43°16'04" East, 166.61 feet;
North 69°55'17" East, 382.37 feet;
South 70°36'29" East, 191.94 feet;
South 73°30'29" East, 192.61 feet;
North 86°33'28" East, 410.84 feet;
North 35°02'42" East, 826.62 feet;
North 29°31'20" East, 271.66 feet;
North 62°21'36" East, 149.81 feet;
South 87°21'03" East, 75.95 feet;
South 68°15'10" East, 186.43 feet;
North 00°09'55" West, 2,465.02 feet;

South 76°44'25" West, 253.42 feet;
South 71°20'26" West, 630.84 feet;
South 05°44'28" West, 472.31 feet;
South 36°03'33" West, 112.05 feet;
South 72°23'40" West, 530.94 feet;
South 38°56'20" West, 141.08 feet;
South 69°31'24" West, 676.61 feet;
South 63°08'54" West, 615.38 feet;
South 70°04'24" West, 580.29 feet;
South 37°36'09" West, 370.06 feet;
South 67°03'21" West, 663.72 feet;
South 60°13'04" West, 1,481.59 feet;
South 64°44'06" West, 256.39 feet;
South 51°11'45" West, 807.99 feet;
South 34°19'09" West, 77.31 feet;
South 44°33'59" West, 382.27 feet;
South 56°11'02" West, 151.22 feet;
South 38°29'45" West, 319.86 feet;
South 53°18'35" West, 210.98 feet;
South 46°07'31" West, 326.24 feet;
South 25°46'20" West, 207.94 feet;
South 43°09'12" West, 187.63 feet;
South 35°32'57" West, 231.07 feet;
South 46°18'58" West, 262.99 feet;
South 07°08'43" East, 279.16 feet;
South 33°17'46" West, 198.12 feet;
South 56°28'36" West, 173.07 feet;
South 76°45'58" West, 246.73 feet;
North 89°31'01" West, 230.57 feet;
South 68°03'15" West, 204.64 feet;
South 56°22'38" West, 172.48 feet;
South 39°11'54" West, 578.78 feet;
South 67°26'17" West, 419.72 feet;
South 58°18'49" East, 163.14 feet;
South 01°17'08" East, 3,032.03 feet;
South 88°53'36" West, 326.75 feet;
South 43°13'34" East, 273.15 feet;
South 70°16'51" East, 459.39 feet;
South 63°37'46" East, 845.55 feet;
South 65°58'25" East, 614.97 feet;
North 67°24'23" East, 757.58 feet;

North 49°51'59" East, 315.09 feet;
South 85°54'56" East, 100.86 feet;
South 60°23'43" East, 860.25 feet;
South 44°09'24" East, 158.66 feet;
South 53°14'48" East, 200.02 feet;
South 48°20'36" East, 419.93 feet;
South 23°37'17" East, 165.34 feet;
South 43°44'28" East, 162.46 feet;
South 68°19'07" East, 153.95 feet;
South 44°33'02" East, 272.77 feet;
South 69°48'47" East, 177.14 feet;
South 50°33'26" East, 644.24 feet;
South 56°53'48" East, 817.60 feet;
South 65°11'04" East, 976.63 feet;
South 80°57'49" East, 566.91 feet;
South 86°03'25" East, 828.10 feet to the point of BEGINNING;

Parcel "Area B"

BEGINNING at a point from whence Mineral Monument No. 58, a white marble stone monument with a metal plate cross stamped "MM #58", as said monument is shown on that map filed in Book 11, of Record of Surveys at page 7, Official Records of the County of Inyo, State of California, bears South 61°54'51" East, a distance of 34,079.97 feet; thence along the following described courses:

North 11°16'21" West, 193.15 feet;
North 61°39'14" West, 258.68 feet;
North 81°34'29" West, 247.44 feet;
North 89°57'30" West, 172.23 feet;
South 68°27'52" West, 326.55 feet;
South 56°11'08" West, 401.76 feet;
South 79°42'24" West, 492.16 feet;
South 00°17'23" West, 840.97 feet;
South 73°34'12" East, 338.60 feet;
North 87°38'38" East, 487.83 feet;
North 87°34'59" East, 317.91 feet;
North 74°02'03" East, 341.99 feet;
North 17°08'13" East, 442.36 feet;
North 20°27'34" East, 305.57 feet;
North 31°37'41" East, 214.89 feet to the point of BEGINNING;

The Bearings used in this description are on the California Coordinate System, NAD83, (CCS83/92), Zone 4. The Coordinate values, in U.S. Survey Feet, of said Mineral Monument No. 58, also known as Triangulation Station "Keeler" are: Northing 2,064,076.37, Easting 6,890,187.91. All distances shown herein are grid distances in U.S. Survey Feet. To obtain ground surface distances, multiply the distances shown by 1.000228742.

END OF DESCRIPTION



MITIGATION MONITORING AND REPORTING PROGRAM

SCH # 2010071044

Owens Dry Lake Phase 8 Dust Control Measures Project
Initial Study / Mitigated Negative Declaration

| No. | Impact | Mitigation Measure | Time Frame for Implementation | Responsible Monitoring Agency (Notifications) | Initials | Date | Remarks |
|---------------------------|---|---|-------------------------------|---|----------|------|---------|
| Cultural Resources | | | | | | | |
| Air-1 | Installation of project facilities will temporarily increase fugitive dust emissions. | Fugitive Dust Emissions Control and Minimization In compliance with GBUAPCD Rule 401, LADWP shall take reasonable precautions to prevent visible particulate matter from being airborne, under normal wind conditions, beyond the property from which the emission originates. Best available control measures shall be implemented during construction and maintenance activities to minimize emission of fugitive dust from earthwork and travel on unpaved roads and other areas. Best available control measures may include, but would not be limited to, the use of windbreaks, water trucks, and water sprays twice a day, or comparable measures that prevent visible dust from occurring. At a minimum, active operations shall utilize one or more of the applicable best available control measures to minimize fugitive dust emissions from each fugitive dust source type that is part of the active operation. The maximum area of soil disturbance at any one time will be 40 acres; where applicable, geotextile will be installed within 10 working days with constructible conditions (i.e., no rain events). Monitoring reports will be prepared during construction activity and made available to GBUAPCD and CSLC as requested. | During construction | LADWP (Monitoring Reports provided to GBUAPCD and CSLC as requested) | | | |

ATTACHMENT 3

| No. | Impact | Mitigation Measure | Time Frame for Implementation | Responsible Monitoring Agency (Notifications) | Verification of Compliance | | |
|-------|---|---|-------------------------------|--|----------------------------|------|---------|
| | | | | | Initials | Date | Remarks |
| Air-2 | Installation of project facilities will result in emissions of air pollutants from construction vehicles and equipment. | Low Emissions Tune-ups Schedule A schedule of low emissions tune-ups shall be prepared for all equipment operating on site for more than 10 working days. A log shall be maintained and made available to GBUAPCD and CSLC as requested. | During construction | LADWP (Tune-up Log provided to GBUAPCD and CSLC as requested) | | | |
| Air-3 | Installation of project facilities will result in emissions of air pollutants from construction vehicles and equipment. | Low-emission Equipment Utilization Low-emission equipment/mobile construction equipment shall be used for project construction to the maximum extent practical, feasible, and available. | During construction | LADWP | | | |
| Air-4 | Installation of project facilities will result in emissions of air pollutants from construction vehicles and equipment. | Low-emission Mobile Vehicle Utilization during Construction Low-emission or alternative-fueled mobile vehicles shall be used during project construction to the maximum extent practical, feasible, and available. In addition, carpooling of construction workers shall be encouraged. | During construction | LADWP | | | |
| Air-5 | Operation of project facilities will result in emissions of air pollutants from construction vehicles and equipment. | Low-emission Mobile Vehicle Utilization during Operation Hybrid, low-emission (CA LEV II; PZEV, SULEV; or ULEV) or alternative-fueled mobile vehicles, such as electric or fuel cells, shall be used for the proposed project site to the maximum extent practical, feasible, and available. In addition, | During operation | LADWP | | | |

ATTACHMENT 3

| No. | Impact | Mitigation Measure | Time Frame for Implementation | Responsible Monitoring Agency (Notifications) | Verification of Compliance | | |
|-------|---|--|--|---|----------------------------|------|---------|
| | | | | | Initials | Date | Remarks |
| Bio-1 | Installation of project facilities could result in disturbance of Western Snowy Plover. | carpooling of operations and maintenance workers shall be encouraged. Lakebed Worker Education Program To minimize potential direct impacts to western snowy plover from construction activities, LADWP shall continue the lakebed worker education program consistent with the previous approach and per CDFG recommendations. The program shall be based on western snowy plover identification, basic biology and natural history, alarm behavior of the snowy plover, and applicable mitigation procedures required of LADWP and construction personnel. The program shall be conducted by a biologist familiar with the biology of the western snowy plover at Owens Dry Lake and familiar with special status plant and wildlife species of the Owens Lake basin. The education program shall explain the need for the speed limit in the snowy plover buffer areas and the identification and meaning of buffer markers. All construction, operation, and maintenance personnel working within the project area shall complete the program prior to their working on the lakebed. A list of personnel who have completed the education program shall be maintained and made available to GBUAPCD upon request. | Prior to the start of construction and as new employees are retained | LADWP (List of trained employees provided to GBUAPCD as requested) | | | |
| Bio-2 | Installation of project facilities could result in disturbance of Western Snowy Plover. | Preconstruction Surveys for Western Snowy Plover To minimize potential direct impacts to western snowy plover within the project area due to construction activities, LADWP shall conduct a preconstruction survey for western snowy plover in all potential snowy plover habitat prior to any construction activity that is performed during the snowy plover breeding season (March 15 to August 15). Preconstruction surveys shall be performed no more than 7 days prior to the start | No more than 7 days prior to the start of construction activity to be performed from March 15 to August 15 | LADWP (GBUAPCD to be notified of active nest locations.) | | | |

ATTACHMENT 3

| No. | Impact | Mitigation Measure | Time Frame for Implementation | Responsible Monitoring Agency (Notifications) | Verification of Compliance | | |
|-----|--------|--|-------------------------------|---|----------------------------|------|---------|
| | | | | | Initials | Date | Remarks |
| | | <p>of ground-disturbing activities. A 200-foot buffer shall be placed around all active snowy plover nests that are discovered within the construction area. This buffer shall protect the plover nest from both destruction and construction noise. Green-colored stakes of less than 60 inches in height with yellow flagging shall be used to mark buffer edges, with stakes spaced at eight approximately equidistant locations. The location of the nest (global positioning system coordinates) and current status of the nest shall be reported within 24 hours of discovery to GBUAPCD. Maps of snowy plover nest locations shall be posted at the construction office and made available to all site personnel and GBUAPCD staff. The activity of the nest shall be monitored by a biological monitor, as per existing guidelines for the North Sand Sheet and Southern Zones dust control projects and any revisions to the monitoring protocol that have been approved by CDFG. Active snowy plover nests shall be monitored at least weekly. The nest buffer shall remain in place until such time as the biological monitor determines that the nest is no longer active and that fledglings are no longer in danger from proposed construction activities in the area. Buffers shall be more densely marked where they intersect project-maintained roads. Vehicles shall be allowed to pass through nest buffers on maintained roads at speeds less than 15 miles per hour, but shall not be allowed to stop or park within active nest buffers. Permitted activity within the nest buffer shall be limited to foot crews working with hand tools and shall be limited to 15-minute intervals, at least one hour apart, within a nest buffer at any one time.</p> | | | | | |

ATTACHMENT 3

| No. | Impact | Mitigation Measure | Time Frame for Implementation | Responsible Monitoring Agency (Notifications) | Verification of Compliance | | |
|-------|---|--|-------------------------------|---|----------------------------|------|---------|
| | | | | | Initials | Date | Remarks |
| Bio-3 | Vehicle travel related to project construction could result in disturbance of nesting Western Snowy Plover. | Snowy Plover Nest Speed Limit To minimize potential direct and cumulative impacts to western snowy plover and other sensitive biological resources from vehicles construction activities, LADWP shall implement a speed limit of 30 miles per hour within all active construction areas on Owens Dry Lake during construction of dust control measures. Speed limits shall be 15 miles per hour within active snowy plover nest buffers. Designated speed limits for other construction areas outside of active nest buffers shall be maintained at 30 miles per hour where it is determined to be safe according to vehicle capabilities, weather conditions, and road conditions. Site personnel and GBUAPCD staff shall be informed daily of locations where active nest buffers overlap with roads in the construction area. Signs shall be posted that clearly state required speed limits. Speed limit signs shall be posted at all entry points to the lake. The number of speed limit signs shall be kept at a minimum near active snowy plover nest areas to reduce potential perches for raptors and other snowy plover predators and shall be outfitted with Nixalite or the functional equivalent if greater than 72 inches (increased from the original 60 inches) in height at entry points to the lake and 60 inches in height by active snowy plover nest areas. | During construction | LADWP (GBUAPCD to be notified if active nest buffers overlap with roads in the construction area.) | | | |
| Bio-4 | Lighting used during project construction, if any, could | Lighting Best Management Practices To minimize indirect impacts to nesting bird species associated with project lighting during construction activities, LADWP shall institute all | During construction | LADWP | | | |

ATTACHMENT 3

| No. | Impact | Mitigation Measure | Time Frame for Implementation | Responsible Monitoring Agency (Notifications) | Verification of Compliance | | |
|-------|---|---|------------------------------------|--|----------------------------|------|---------|
| | | | | | Initials | Date | Remarks |
| | result in disturbance of nesting birds. | best management practices to minimize lighting impacts on nocturnal wildlife consistent with previous requirements and CDFG recommendations. Best management practices include those listed below, and are included in the Project Description of the GBUAPCD 2008 State Implementation Plan Subsequent Environmental Impact Report. Previous construction has occurred during nighttime hours to complete construction schedules and to prevent personnel from working during times of high temperatures. If night work is deemed necessary, then construction crews shall make every effort to shield lighting on equipment downward and away from natural vegetation communities or play areas, and especially away from known nesting areas for snowy plovers during the nesting season (March to August). All lighting on newly built facilities shall be minimized to the greatest extent possible, while still being in compliance with all applicable safety requirements. Required lighting shall be shielded so that light is directed downward and away from vegetation or play areas. | | | | | |
| Cul-1 | Installation of project facilities could result in disturbance of known cultural resources. | Protection of Known Archaeological Sites Recorded archaeological sites on the project sites will be protected from incidental damage during project construction by flagging the locations prior to the start of construction activity. Extended Phase I testing will be accomplished to delineate site boundaries. The sites, and a radius of 20 feet around the sites shall not be subject to minor land leveling, geotextile installation, gravel installation, construction vehicle traffic, or other disturbances. Specific demarcation of the area to be avoided will be determined in coordination with a qualified archaeologist. | Prior to the start of construction | LADWP (Native American representatives to be notified in advance of the archaeologist site visit) | | | |

ATTACHMENT 3

| No. | Impact | Mitigation Measure | Time Frame for Implementation | Responsible Monitoring Agency (Notifications) | Verification of Compliance | | |
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| | | <p>Alternatively, if avoidance of resources is impractical, an archaeological testing and evaluation program to characterize and evaluate sites for CRHR-significance will be conducted. If the resources are found to be unique under CEQA, and avoidance is not feasible, then the archaeologist will conduct data recovery excavations, photodocument the sites (or other documentation including oral histories), or define a compensatory mitigation program (which comprises a budget be established for a specific purpose, such as a NRHP nomination). Any Phase II testing or Phase III data recovery programs would be subject to the approval and issuance of a permit from the CSLC. In addition, coordination will be conducted for cultural resources under the jurisdiction of the BLM to ensure the work will comply with Section 106 of the NHPA.</p> <p>Based on the NAHC contact list for the project, Native American representatives shall be notified of the archaeologist site visit schedule, and be invited to be present on a volunteer basis.</p> | | | | | |
| Cul-2 | Installation of project facilities could result in disturbance of unknown cultural resources. | <p>Protection of Unknown Archaeological Sites</p> <p>During earthwork necessary for berm creation at the Phase 8 area, a qualified archaeological monitor shall be present. Based on the NAHC contact list for the project, Native American representatives shall be notified of the archaeological monitor's schedule, and be invited to be present on a volunteer basis.</p> | During construction of Phase 8 berms | LADWP (Native American representatives to be notified in advance of the archaeological monitor's schedule) | | | |

ATTACHMENT 3

| No. | Impact | Mitigation Measure | Time Frame for Implementation | Responsible Monitoring Agency (Notifications) | Verification of Compliance | | |
|---------|--|--|---|--|----------------------------|------|---------|
| | | | | | Initials | Date | Remarks |
| Cul-3 | Installation of project facilities could result in disturbance of unknown cultural resources. | Protection of Unknown Archaeological Sites If previously unrecorded cultural resources are encountered during the project, all work shall cease within 100 feet of the discovery until the find can be evaluated by a qualified archaeologist. Work will not resume until the qualified archaeologist provides approval. | During construction | LADWP | | | |
| Cul-4 | Installation of project facilities could result in disturbance of paleontological resources. | Protection of Paleontological Resources During earthwork necessary for berm creation at the Phase 8 area, a paleontological monitor shall be present. The monitor may be a qualified paleontological monitor or a cross-trained archaeologist, biologist, or geologist working under the supervision of a qualified principal paleontologist. If paleontological materials are discovered that are significant or potentially significant, then the following would apply: data recovery and analysis, preparation of a data recovery report or other reports, and accession of recovered fossil material at an accredited paleontological repository (e.g., the University of California's Museum of Paleontology). | During construction of Phase 8 berms | LADWP | | | |
| Cul-5 | Excavation for installation of project facilities could result in the disturbance of previously unknown human remains. | Protection of Unknown Human Remains In the unexpected event that human remains are discovered, the Inyo County Coroner shall be contacted, the area of the find shall be protected, and provisions of State CEQA Guidelines Section 15064.5 shall be followed. | During construction | LADWP (Inyo County Coroner to be contacted if human remains discovered) | | | |
| Trans-1 | Truck trips for gravel transportation across SR 136 could create | Traffic Work Safety Plan LADWP shall develop and implement a Traffic Work Safety Plan to be approved by Caltrans for the construction phase of the Phase 8 project. The Plan will address the use of warning lights, | Prior to gravel transport during construction | LADWP (Plan approval by Caltrans) | | | |

ATTACHMENT 3

| No. | Impact | Mitigation Measure | Time Frame for Implementation | Responsible Monitoring Agency (Notifications) | Verification of Compliance | |
|---------|---|---|---|--|----------------------------|------|
| | | | | | Initials | Date |
| | traffic hazards. | signs, traffic cones, signals, flag persons and/or comparable measures as needed to maintain safe travel of haul trucks across SR 136 during construction. | | | | |
| Trans-2 | Truck trips for gravel transportation across SR 136 could result in roadway damage. | Roadway Repair Plan LADWP shall repair damage to SR 136 in the areas near the mines where project-related truck traffic crosses SR 136. Prior to the start of construction activity, existing conditions at the crossings will be documented. After construction of Phase 8 is complete, physical damage documented at the SR 136 crossings will be repaired. | Roadway conditions to be documented prior to the start of construction; repairs, if necessary, to be implemented after construction is complete | LADWP (Repair plans to be approved by Caltrans) | | |

Initial Study Text Revisions/Errata

for

The Owens Dry Lake Phase 8 Dust Control Measures Project Mitigated Negative Declaration



**Los Angeles Department of Water
Environmental Affairs and Sustainability Program
111 North Hope Street, Room 1044
Los Angeles, CA 90012**

September 2010

**Owens Dry Lake Dust Mitigation Measures Project
Initial Study Text Revisions/Errata**

September 2010

The following minor text changes are made to the Initial Study and incorporated as part of the Initial Study/Mitigated Negative Declaration. None of these changes substantially modify the analysis or conclusions of the document, but instead simply clarify aspects of the previously circulated document. The changes would not result in new, avoidable significant effects requiring mitigation. Based on agency comments, revisions to Mitigation Measure Air-1 are added to clarify, but not replace, the measure. Overall, the impacts of the project would remain less than significant as mitigated. Therefore, consistent with CEQA §15073.5, recirculation of the Negative Declaration for the Owens Dry Lake Phase 8 Dust Control Measures project is not required.

Changes to the text are noted with **bold** (for added text) or ~~strikeout~~ type (for deleted text).

Section 1.2, Project Background and Objectives, Page 1-1, footnote 1:

¹ Emissive areas are areas on the Owens Lake playa that produce dust emissions. This determination can be based on a combination of calculated sand fluxes, visible dust plume observations, ~~and~~ visible surface erosion after dust storm events, **PM10 measurements and federally approved computer modeling** (GBUAPCD, 2008a).

Section 1.2.1, Project Background, Page 1-2, and footnote 2:

LADWP is currently implementing the Owens Lake Dust Mitigation Program (OLDMP) in order to eliminate exceedances of the ~~state~~ **and** federal particulate matter (PM10) air quality standard².

² Particulate matter (PM) consists of varying combinations of dry solid fragments, solid cores with liquid coatings and small droplets of liquid. These tiny particles vary greatly in shape, size and chemical composition, and can be made up of many different materials such as metals, soot, soil and dust. PM₁₀ are particles up to 10 microns in size. The Federal PM₁₀ standard is 150 ug/m³ as a 24-hour average. **The state PM₁₀ standard is 50 ug/m³ as a 24-hour average.**

~~Therefore, d~~Due to the delay in implementation of a ~~small~~ portion of Phase 7, LADWP submitted a variance petition to the GBUAPCD Hearing Board on August 21, 2009 requesting a 1-year time extension for completion of 3.5 square miles of the Moat and Row DCM. ~~Consistent with~~ **As a condition** of the variance, the proposed action is implementation of Gravel Cover Best Available Control Measure (BACM) on 2.03 square miles of area identified by GBUAPCD as emissive; the boundaries of the area were provided to LADWP by GBUACPD in December 2009 (T. Schade pers. comm., 2009).

Shallow Flooding, Managed Vegetation, and Gravel Cover are approved BACM DCMs for Owens Dry Lake.

Section 1.3, Project Location and Environmental Setting, Page 1-7:

Other nearby communities include Swansea, Dolomite and Keeler to the east, and Cartago and Olancho to the south, **and Boulder Creek to the west.**

Section 1.4.13, Corridor 1 Improvement, Page 1-11:

To allow for haul trucks traveling in two directions to the stockpile area, the width of the most northerly 0.3 miles of Corridor 1 will be increased from 12 feet to 30 feet to the east (Figure 4). **The area of disturbance will be approximately 1.5 acres (0.3 miles X 40 ft (18 ft expansion plus vehicle travel area)).** The expansion of Corridor 1 will require the addition of approximately 6,000 tons of road base. It is anticipated that necessary materials will be obtained from the LADWP Shale Pit.

Section 1.4.1.4, Berms, Page 1-11:

Phase 8 Area A will be protected from periodic high flows from the Owens River from existing Corridor 1 which is raised and armored. However, the north and south boundaries of Area A will be bermed for wind protection to limit sand inundation of the gravel. For Phase 8 Area B, a berm will be constructed around the area for wind protection and to prevent inundation and gravel washout during high flows. The berms will be earthen, approximately 3 feet high, approximately 12 feet wide, **with a maximum slope of 2:1**, and armored with gravel.

Section 1.4.2, Project Construction, Page 1-13:

Gravel Conveyance. Gravel will be conveyed from the shale pit to the stockpile location by truck ~~or conveyor system. Without the conveyor,~~ Trucks will travel from the shale pit across SR 136 to Sulfate Road to Main Line Road (**aka Brady Highway**) to the stockpile (Figure 4). Return travel to the shale pit will be along the same path. The total distance of 12.6 miles would result in an approximate circuit time, including loading and dumping, of 95 minutes.

~~If a conveyor is installed from the mine across SR 136 to the LADWP Sulfate Facility, the truck travel distance is reduced to 11.4 miles and estimated circuit time would be 70 minutes (Figure 5). The conveyor system would consist of an approximately 4 foot-wide belt moving at 5 to 9 feet per second and a 900-horsepower (hp) electric motor. The motor is used to start the conveyor; once loaded, the motor will become a generator and power will be returned to the power distribution system on the lake (overall, the conveyor system would be a net generator of power). A new transformer and several power poles will also be installed on LADWP property as part of its operation. At the crossing with SR 136, the conveyor would be installed on BLM property and within the California Department of Transportation (Caltrans) right-of-way in a culvert (approximately 10 feet~~

~~diameter) under the roadway. To install the culvert, approximately 500 feet would be disturbed on the north/eastern (mine) side of SR 136 and approximately 200 to 300 feet would be disturbed on the south/western (lake) side of the roadway. The conveyor will be elevated on footings (metal with concrete foundations) and fencing and shielding will be installed for safety protection (in compliance with applicable MSHA and OSHA regulations). When carrying a full gravel load, the conveyor will transport 250 tons over 4,000 feet of length (approximately 125 pounds per foot) and take 8 minutes to clear.~~

[Similarly, other references to the conveyor system located in other sections of the document are not relevant.]

Gravel Installation. The vehicle and equipment staging area will be located at the construction office near the intersection of Main Line Road and Corridor 1, less than 1 mile from the Phase 8 project site (Figure 4). This area has been previously disturbed and has 20 acres available for staging activities **including: office trailer(s), open equipment storage area, fuel facilities with containment, and conexes (approximately 20 - 40 ft long) for equipment maintenance and materials storage. Phone and power service already exist at the site.** [Note that existing revegetation areas north and east of the existing fenceline will not be disturbed.] No vehicle fuels or oils will be stored in the gravel stockpile area; fuel trucks will be used to refuel construction equipment and gravel haul trucks and the existing fueling station at the Sulfate Facility will be available. Additionally, a **five 2,000-gallon** temporary aboveground fuel tanks will be installed at the construction office just northeast of the site to serve the fuel trucks. Once the geotextile is staked, dozers and ground crews will spread gravel to the required 4-inch thickness. It is assumed that geotextile fabric and gravel installation will proceed at two different areas concurrently and that construction will be completed over 18 months.

Section 1.6, Project Approvals, Page 1-15:

- Consistent with the previous DCMs installed on Owens Dry Lake, a Section 404 Permit will be sought from the U.S. Army Corps of Engineers **and a Section 401 Water Quality Certification will be sought from the Regional Water Quality Control Board.**

Section 2.3.3, Air Quality, Page 2-11:

Air-1. Fugitive Dust Emissions Control and Minimization. In compliance with GBUAPCD Rule 401, LADWP shall take reasonable precautions to prevent visible particulate matter from being airborne, under normal wind conditions, beyond the property from which the emission originates. Best available control measures shall be implemented during construction and maintenance activities to minimize emission of fugitive dust from earthwork and travel on unpaved roads and other areas. Best available control measures may include, but would not be limited to, ~~the use of chemical soil stabilizers, surface coverings,~~ windbreaks, water trucks, and water sprays twice a day, or comparable measures that prevent visible dust from occurring. At a minimum, active operations shall utilize one or more of the applicable best available control measures to

minimize fugitive dust emissions from each fugitive dust source type that is part of the active operation. **The maximum area of soil disturbance at any one time will be 40 acres; where applicable, geotextile will be installed within 10 working days with constructible conditions (i.e., no rain events).** Monitoring reports will be prepared during construction activity and made available to GBUAPCD and CSLC as requested.

Section 2.3.4, Biological Resources, Table 4 Header, Page 2-15:

Table 4
Sensitive Animal Species and Habitat Types
with the Potential to Occur on or near the Project Site

Page 2-20:

Bio-4. Lighting Best Management Practices. To minimize indirect impacts to nesting bird species associated with project lighting during construction activities, LADWP shall institute all best management practices to minimize lighting impacts on nocturnal wildlife consistent with previous requirements and CDFG recommendations. Best management practices include those listed below, and are included in the Project Description of the GBUAPCD 2008 State Implementation Plan Subsequent Environmental Impact Report. Previous construction has occurred during nighttime hours to complete construction schedules and to prevent personnel from working during times of high temperatures. If night work is deemed necessary, then construction crews shall make every effort to shield lighting on equipment downward and away from natural vegetation communities or playa areas, and especially away from known nesting areas for snowy plovers during the nesting season (March to August). All lighting, ~~in particular any permanent lighting,~~ on newly built facilities shall be minimized to the greatest extent possible, while still being in compliance with all applicable safety requirements. Required lighting shall be shielded so that light is directed downward and away from vegetation or playa areas.

Section 2.3.5, Cultural Resources, Pages 2-23 and 2-24:

CUL-2. During earthwork necessary for berm creation at the Phase 8 area ~~and for installation of the gravel conveyor system across SR 136,~~ a qualified archaeological monitor shall be present. Based on the NAHC contact list for the project, Native American representatives shall be notified of the archaeological monitor's schedule, and be invited to be present on a volunteer basis.

CUL-4. During earthwork necessary for berm creation at the Phase 8 area ~~and for installation of the gravel conveyor system across SR 136,~~ a paleontological monitor shall be present. The monitor may be a qualified paleontological monitor or a cross-trained archaeologist, biologist, or geologist working under the supervision of a qualified principal paleontologist. If paleontological materials are discovered that are significant or potentially significant, then the following would apply: data recovery

and analysis, preparation of a data recovery report or other reports, and accession of recovered fossil material at an accredited paleontological repository (e.g., the University of California's Museum of Paleontology).

Section 2.3.6 a)iii, Geology and Soils, Page 2-27:

The project will potentially expose structures (temporary fuel storage tanks) and one or more construction trailers to seismic-related ground failure. The construction trailer(s) will be a temporary, one-story structures (either one approximately 33 X 60 ft trailer or several single-wide approximately 11 ft by 60 ft trailers). As required by existing regulations, the fuel storage tank will be designed with necessary secondary containment and/or other spill prevention controls and countermeasures. ~~The project does not expose people or structures to potential substantial adverse effects involving strong seismic-related ground failure. Ground failure by liquefaction requires saturated soils, which would rarely occur on the Phase 8 project area. Since habitable structures will not be built as part of the proposed project, people will not be exposed to adverse effects involving seismic-related ground failure.~~ Since the proposed office trailer(s) will be one-story temporary structures, containment will be included with fuel storage tanks, and damage to other project facilities such as the gravel layer or underlying geotextile could be easily repaired, and impacts will therefore be less than significant.

Section 2.3.10, Land Use and Planning, Page 2-40:

For these reasons, and since a gravel layer for dust control was previously implemented in the same general area of the lake bed as the proposed Phase 8 project (Corridor 1 project), the Phase 8 project would be consistent with the Public Trust Doctrine and impacts on land use would be less than significant.