

**CALENDAR ITEM
C47**

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S 8

04/05/16
PRC 9085.9
D. Simpkin

AMENDMENT OF LEASE

LESSEE:

Great Basin Unified Air Pollution Control District

AREA, LAND TYPE, AND LOCATION:

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

AUTHORIZED USE:

The continued use and maintenance of 128 Sensit sites, five meteorological towers, and one air monitoring station.

LEASE TERM:

20 years, beginning August 23, 2013.

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 interests.

PROPOSED AMENDMENT:

1. Amend **Land Use or Purpose** of Section 1 of the Lease to authorize the removal of 14 Sensit sites and the addition of three new Sensit sites.

2. Replace **Exhibit A, Land Description** of the lease with the attached Exhibit A, Land Description. All other terms and conditions of the lease shall remain in effect without amendment.

STAFF ANALYSIS AND RECOMMENDATION:

Statutory Authority:

Public Resources Code sections 6005, 6216, and 6301; California Code of Regulations, Title 2, section 2000, subdivision (b).

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Public Trust and State's Best Interests Analysis:

The proposed amendment is for a general lease for public agency use. The previously authorized and the proposed improvements aid the Lessee in collecting air quality data from Owens Lake. The Lessee is responsible for enforcing Federal, State and local air quality regulations and for ensuring that the federal and state air quality standards are met. The subject lease aids the Lessee in monitoring air quality in the Owens Valley to protect the public from air pollution in the region. The subject lease amendment allows the Lessee the flexibility to relocate equipment in a timely manner as conditions change on Owens Lake. The use of sovereign lands for scientific study and environmental monitoring is generally consistent with the common law public trust doctrine. Such uses provide the public with valuable information and facilitate the development of programs to protect health and safety.

The Sensit sites are located throughout the lakebed but occupy a relatively small surface area. As such, the Sensit sites do not create a substantial barrier to public trust uses in the area. Commission staff believes the proposed amendment will not substantially interfere with public trust needs at Owens Lake, at this time, or for the foreseeable term of the proposed lease.

The proposed improvements will be governed by the terms of the existing lease, which contains several conditions to protect or preserve public trust uses in the area including but not limited to: (1) procedures for protecting snowy plovers; (2) a requirement that the Lessee indemnify the State for any liability arising from the lease; and (3) a non-exclusivity clause that allows the state to lease the premises for other uses during the lease term. Additionally, the lease term is limited to twenty years. This allows the Commission to require the Lessee to remove the improvements and restore the land in the future if public trust needs in the area change over time. The lease premises have been drawn narrowly around the improvements to minimize the impact on public access. For all the reasons above, Commission staff believes the issuance of this lease amendment is consistent with the common law public trust doctrine and in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. On September 20, 2013, the Commission authorized a 20-year General Lease – Public Agency Use to the Great Basin Unified Air Pollution Control District (District) for the continued use and maintenance of 124 Sensit sites (air particles monitoring equipment), five meteorological towers, and one air monitoring station.

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2. On February 20, 2015, the Commission authorized an amendment to the lease, for the removal of five Sensit sites and the addition of nine Sensit sites.
3. The District submitted an application to amend the lease to reflect the removal of 14 Sensit sites in 2015. In addition, the District is requesting authorization to install three additional Sensit sites.
4. Staff recommends the issuance of this amendment as it promotes 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.
5. The staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

6. 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.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

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RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

AUTHORIZATION:

Authorize the amendment of Lease No. PRC 9085.9, a General Lease – Public Agency Use, effective April 5, 2016, to authorize the removal of 14 Sensit sites and the addition of three Sensit sites and to amend the Land Description as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; all other terms and conditions of the lease will remain in effect without amendment.

EXHIBIT A

PRC 9085.9

LAND DESCRIPTION

One hundred and twenty-three parcels of State-owned sovereign land in the bed of Owens Lake, County of Inyo, State of California, being more particularly described as follows:

Parcels 1 – 117 (Sensit Sites)

One hundred and seventeen (117) circular parcels of State-owned sovereign land being 3.048 meters in diameter, the centers of said parcels having the follow coordinates:

1. N = 4042635.89 Meters, E = 415700.66 Meters;
2. N = 4022500.18 Meters, E = 409498.47 Meters;
3. N = 4042596.63 Meters, E = 415059.22 Meters;
4. N = 4041931.48 Meters, E = 408044.75 Meters;
5. N = 4028055.82 Meters, E = 414402.96 Meters;
6. N = 4037501.43 Meters, E = 409000.88 Meters;
7. N = 4036990.83 Meters, E = 408507.56 Meters;
8. N = 4036997.93 Meters, E = 409012.78 Meters;
9. N = 4035999.29 Meters, E = 408494.44 Meters;
10. N = 4032789.95 Meters, E = 422885.59 Meters;
11. N = 4031287.64 Meters, E = 421964.80 Meters;
12. N = 4024646.50 Meters, E = 410157.94 Meters;
13. N = 4024208.41 Meters, E = 411228.66 Meters;
14. N = 4024004.93 Meters, E = 417499.41 Meters;
15. N = 4042502.15 Meters, E = 414500.75 Meters;
16. N = 4042494.87 Meters, E = 415482.03 Meters;
17. N = 4041457.65 Meters, E = 414407.88 Meters;
18. N = 4040505.73 Meters, E = 414501.38 Meters;
19. N = 4037396.65 Meters, E = 408497.34 Meters;
20. N = 4037424.09 Meters, E = 417511.19 Meters;
21. N = 4036499.14 Meters, E = 408501.53 Meters;
22. N = 4033489.96 Meters, E = 420507.63 Meters;
23. N = 4033476.29 Meters, E = 421494.44 Meters;
24. N = 4032272.80 Meters, E = 418590.88 Meters;
25. N = 4032509.88 Meters, E = 421499.72 Meters;
26. N = 4031495.63 Meters, E = 421503.59 Meters;
27. N = 4030493.52 Meters, E = 417470.22 Meters;

28. N = 4028560.11 Meters, E = 415483.06 Meters;
29. N = 4028624.00 Meters, E = 418666.00 Meters;
30. N = 4027479.42 Meters, E = 416494.34 Meters;
31. N = 4025482.63 Meters, E = 412516.66 Meters;
32. N = 4040034.54 Meters, E = 412135.75 Meters;
33. N = 4025615.30 Meters, E = 418440.78 Meters;
34. N = 4024485.21 Meters, E = 412468.63 Meters;
35. N = 4024498.76 Meters, E = 414510.88 Meters;
36. N = 4024461.61 Meters, E = 417496.06 Meters;
37. N = 4023490.91 Meters, E = 410490.97 Meters;
38. N = 4043034.18 Meters, E = 408914.51 Meters;
39. N = 4042190.85 Meters, E = 415032.45 Meters;
40. N = 4042057.25 Meters, E = 414842.25 Meters;
41. N = 4032241.64 Meters, E = 421814.30 Meters;
42. N = 4031928.77 Meters, E = 421622.54 Meters;
43. N = 4031706.73 Meters, E = 421999.34 Meters;
44. N = 4031615.89 Meters, E = 422211.28 Meters;
45. N = 4032170.99 Meters, E = 422726.01 Meters;
46. N = 4031720.18 Meters, E = 422803.39 Meters;
47. N = 4031588.98 Meters, E = 422537.61 Meters;
48. N = 4031202.09 Meters, E = 422460.24 Meters;
49. N = 4031313.11 Meters, E = 421642.73 Meters;
50. N = 4030882.49 Meters, E = 421656.18 Meters;
51. N = 4030879.12 Meters, E = 422157.45 Meters;
52. N = 4030438.41 Meters, E = 421794.12 Meters;
53. N = 4023878.97 Meters, E = 412268.07 Meters;
54. N = 4025347.13 Meters, E = 413771.06 Meters;
55. N = 4041658.81 Meters, E = 414790.43 Meters;
56. N = 4033223.27 Meters, E = 418486.30 Meters;
57. N = 4028620.56 Meters, E = 411479.18 Meters;
58. N = 4032846.37 Meters, E = 420823.42 Meters;
59. N = 4042292.62 Meters, E = 408201.85 Meters;
60. N = 4041661.69 Meters, E = 408279.17 Meters;
61. N = 4043059.92 Meters, E = 416155.20 Meters;
62. N = 4018654.69 Meters, E = 409915.72 Meters;
63. N = 4044416.53 Meters, E = 415324.80 Meters;
64. N = 4020058.28 Meters, E = 411883.71 Meters;
65. N = 4035400.45 Meters, E = 408485.44 Meters;
66. N = 4038754.30 Meters, E = 409355.76 Meters;
67. N = 4043150.77 Meters, E = 414993.72 Meters;
68. N = 4043536.96 Meters, E = 415793.06 Meters;

69. N = 4044696.01 Meters, E = 414468.71 Meters;
70. N = 4021424.94 Meters, E = 409077.62 Meters;
71. N = 4019578.50 Meters, E = 409031.26 Meters;
72. N = 4018907.49 Meters, E = 409376.72 Meters;
73. N = 4039115.75 Meters, E = 409176.67 Meters;
74. N = 4027482.22 Meters, E = 414320.79 Meters;
75. N = 4026838.13 Meters, E = 414578.59 Meters;
76. N = 4028123.31 Meters, E = 410402.54 Meters;
77. N = 4042337.61 Meters, E = 407340.29 Meters;
78. N = 4042773.02 Meters, E = 407684.08 Meters;
79. N = 4042672.07 Meters, E = 408276.32 Meters;
80. N = 4033406.55 Meters, E = 421723.08 Meters;
81. N = 4026263.85 Meters, E = 414015.17 Meters;
82. N = 4019408.51 Meters, E = 411491.24 Meters;
83. N = 4020066.44 Meters, E = 412311.53 Meters;
84. N = 4033358.15 Meters, E = 422126.04 Meters;
85. N = 4041774.51 Meters, E = 410997.31 Meters;
86. N = 4039784.27 Meters, E = 417296.91 Meters;
87. N = 4035505.51 Meters, E = 419486.69 Meters;
88. N = 4023496.15 Meters, E = 412503.00 Meters;
89. N = 4023566.07 Meters, E = 413526.19 Meters;
90. N = 4040115.92 Meters, E = 411890.94 Meters;
91. N = 4020593.70 Meters, E = 413177.88 Meters;
92. N = 4024554.40 Meters, E = 413543.47 Meters;
93. N = 4023494.15 Meters, E = 414494.94 Meters;
94. N = 4023497.97 Meters, E = 415501.06 Meters;
95. N = 4022489.03 Meters, E = 411485.63 Meters;
96. N = 4020515.04 Meters, E = 413527.63 Meters;
97. N = 4021500.90 Meters, E = 414501.16 Meters;
98. N = 4022505.02 Meters, E = 414488.91 Meters;
99. N = 4022663.04 Meters, E = 413401.97 Meters;
100. N = 4021332.60 Meters, E = 409302.00 Meters;
101. N = 4020235.86 Meters, E = 409801.13 Meters;
102. N = 4024419.37 Meters, E = 412929.87 Meters;
103. N = 4024232.29 Meters, E = 412769.95 Meters;
104. N = 4023646.91 Meters, E = 412788.05 Meters;
105. N = 4023517.16 Meters, E = 412969.10 Meters;
106. N = 4023390.43 Meters, E = 413138.07 Meters;
107. N = 4022716.61 Meters, E = 413669.14 Meters;
108. N = 4023797.89 Meters, E = 412374.57 Meters;
109. N = 4023187.05 Meters, E = 411770.82 Meters;

- 110. N = 4021110.83 Meters, E = 410408.06 Meters;
- 111. N = 4020853.80 Meters, E = 410197.26 Meters;
- 112. N = 4019890.10 Meters, E = 409219.50 Meters;
- 113. N = 4026935.56 Meters, E = 415215.46 Meters;
- 114. N = 4025395.61 Meters, E = 414406.61 Meters;
- 115. N = 4041696.10 Meters, E = 417900.80 Meters;
- 116. N = 4038168.40 Meters, E = 409034.90 Meters;
- 117. N = 4023559.10 Meters, E = 410950.20 Meters.

Parcels 118 – 122 (Met Towers)

Five (5) circular parcels of State-owned sovereign land being 14.021 meters in diameter, the centers of said parcels having the follow coordinates:

- 118. N = 4028441.39 Meters, E = 411798.88 Meters; (Cottonwood)
- 119. N = 4042494.84 Meters, E = 415481.91 Meters; (A Tower)
- 120. N = 4038779.00 Meters, E = 409421.40 Meters; (Bartlett Met)
- 121. N = 4030431.30 Meters, E = 420256.25 Meters; (B Tower)
- 122. N = 4041463.66 Meters, E = 410496.59 Meters. (Delta)

Parcel 123 (North Beach Air Monitoring Station)

One parcel of State-owned sovereign land being 6.096 meters by 6.096 meters square, the center of said parcel having the follow coordinates:

- 123. N = 4044545.42 Meters, E = 411378.94 Meters;

BASIS OF BEARINGS for this description is UTM Zone 11 meters.

END OF DESCRIPTION

Prepared March 8, 2016 by the California State Lands Commission Boundary Unit.



NO SCALE

SITE

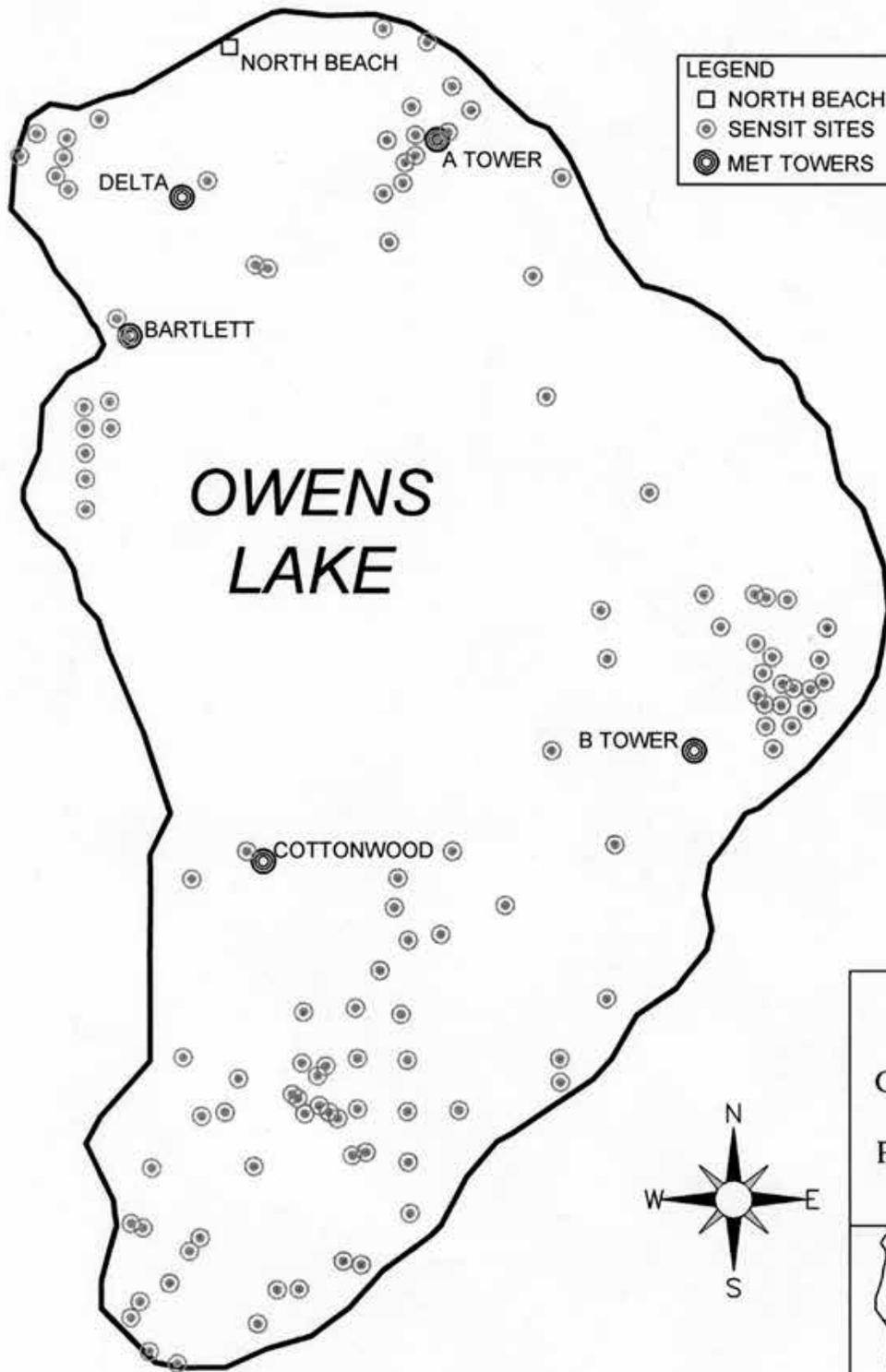


Exhibit B
PRC 9085.9
GREAT BASIN UAPCD
GENERAL LEASE -
PUBLIC AGENCY USE
INYO COUNTY



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.