

**STAFF REPORT
C54**

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11/29/17
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 19 amendments to the lease for the construction, operation, and maintenance of additional components of dust control. Exhibit C provides a summary of these amendments.

Most recently, on June 22, 2017, the Commission authorized the 19th amendment to the Lease approving the placement of gravel on a 0.41-acre area on the west side of Mainline, between Dust Control Areas (DCAs) T21 and T21-L3 conditioned upon the fulfillment of retaining a qualified Tribal Liaison. ([Item C58, June 22, 2017](#)). LADWP has named an interim Tribal Liaison until such time that a full Tribal Consultation Policy is developed.

PROPOSED AMENDMENT:

1. Ratify the Executive Officer's earlier emergency authorization for the following emergency measures taken between April and June 2017.
 - a. Placement of temporary plastic lining to protect Mainline (Brady Highway) and the Owens Lake Zonal Mainline pipe and submains.
 - b. Temporarily secure approximately 825 feet of irrigation supply line extending from DCA T36 to T37.
 - c. Placement of additional rock armor along the west berm of DCA T29.
 - d. Placement of additional rock armor along the east berm of DCA T36.

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2. Delegate authority to the Executive Officer or her designee to authorize the placement of gravel on a 0.45-acre area on the west side of DCA T37-2-L1/T37-2a upon the Executive Officer's finding that specific conditions have been met.
3. Lessee shall not maintain the existing 3,400-foot-long, at-grade road located on the west side of DCA T37-2-L1/T37-2a.

BACKGROUND:

Historical Overview

Owens Lake is located in southwest Inyo County, approximately 200 miles north of Los Angeles. The Lake was a natural and navigable waterway at the time of California's statehood and is thus sovereign land of the State. Wildlife, waterfowl, and the nearby residents depended on and benefited from the Lake, which covered approximately 110 square miles and was up to 50 feet deep in places. Early settlers diverted water from the Owens River to grow crops and irrigate pasture for livestock, and steamboats carried cargo across the Lake. In 1908, the City commenced construction of an aqueduct to divert water from the Owens River north of the Lake. After completion of the Los Angeles Aqueduct in 1913, the Lake's water level rapidly declined. By 1930, the Lake was virtually dry with only a small brine pool remaining.

The diversion of water led to dust storms carrying away as much as 4 million tons (3.6 million metric tons) of dust from the lakebed each year, causing respiratory problems for residents in the Owens Valley. The U.S. Environmental Protection Agency designated the southern part of the Owens Valley as a Serious Non-Attainment Area for PM10. PM10 is an abbreviated reference for suspended particulate matter (dust) less than or equal to 10 microns in mean aerodynamic diameter (approximately 1/10 the diameter of a human hair). The Great Basin Unified Air Pollution Control District (District) subsequently designated the Non-Attainment area as the "Owens Valley PM10 Planning Area."

The District determined that dust emissions from the dry lakebed of the Lake are responsible for causing the air in the Owens Valley PM10 Planning Area to exceed the PM10 national ambient air quality standards and that water diversions by the City caused the Lake to become dry and the lakebed to be in a condition that produces dust. The District has the authority to issue regulatory orders to the City to control dust emissions.

2017 Runoff Event

In January and February 2017, Inyo County and the surrounding Eastern Sierra mountains received record-breaking amounts of precipitation which rapidly filled reservoirs, lakes, rivers and streams, causing them to reach capacity, and produced a snowpack equal to 241 percent of normal. The record rainfall

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combined with anticipated snowmelt runoff in the spring and summer created a potential for inundation of the existing DCAs that would damage or destroy essential infrastructure used to maintain dust control. In response, the City and Inyo County issued Emergency Proclamations related to the high levels of precipitation and the need to take immediate steps to avoid the widespread flooding which could cause damage to public property, infrastructure, and the environment unless emergency measures were put into place.

To manage the additional volume of excess water, the City released higher than normal flows from the Lower Owens River onto the bed of Owens Lake. To protect public infrastructure and prevent damage to Owens Lake Dust Mitigation infrastructure, the City obtained a Letter of Emergency Authorization from staff on April 27, 2017, to implement temporary emergency measures. The letter required the City to submit an application to amend the lease to include these temporary emergency measures.

The construction phase of the temporary emergency measures was completed on June 23, 2017. The City is currently monitoring Owens River flows and Owens Lake brine pool elevations, and conducting maintenance of the temporary emergency measures. No new maintenance activities are anticipated at this time and removal of the temporary measures is anticipated by August 2018.

Proposed Alterations to Dust Control Cells DCA T37-2-L1/T37-2a

On August 19, 2015, the Commission authorized the 16th amendment to the Lease approving the Owens Lake Dust Mitigation Program – Phase 9/10 Project ([Item C61, August 19, 2015](#)). As part of the Commission's August 19, 2015 authorization, the City was authorized to construct 116 acres of Shallow Flood dust control in DCA T37-2-L1/T37-2a. The City is required to complete the Phase 9/10 Dust Control Project no later than December 31, 2017.

The original design plans for DCA T37-2-L1/T37-2a included the construction of a three-foot-high gravel berm road along the western edge of the DCA. In September 2017, staff was informed that an at-grade road had been constructed in this area, and that local Tribes had concerns regarding the construction of the road. The City also notified staff that 3,350 feet of fence posts were installed adjacent to the at-grade road and that the City was planning to install sand-fences to prevent dust and sand from entering the DCA. The installation of fence posts and the placement of sand fences are improvements that the Commission has not authorized.

Commission staff is working with the City, the District, and local Tribes to reach a resolution that will allow the City to meet its dust control requirements and address concerns raised by local Tribes. At this time, the City has agreed to

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remove the existing fence posts, and not install sand fences. Staff is working with the Tribes, the City and the District to reach agreement on the dust control measures regarding the west side of DCA T37-2-L1/T37-2a. One potential solution for the issues that have arisen is for the City to cease maintaining the existing road to address concerns from the Tribes. In exchange for the City's abandonment of the existing road, the placement of gravel at two discreet locations along the road, which have been designated by the District as dust emissive "hot spots" could be approved. These hot spots are along the current road, but occupy a wider swath of land. As such, some of the gravel placement would extend outside the approved width of the road into the adjacent cell. However, the overall amount of gravel cover would be less than previously authorized by the Commission.

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:

Emergency Measures

For years, the City has been diverting water from Owens Lake, which has forever changed and almost eliminated the Public Trust resources at Owens Lake. However, since the City began implementing dust control measures at Owens Lake with shallow flooding and managed vegetation, the bird population of the Lake has increased significantly. The identified Public Trust resources at Owens Lake include wildlife habitat, public access, recreation, and aesthetic enjoyment, among others.

As the Legislature's delegated trustee over the State's sovereign land and resources at the Lake, the Commission has the responsibility to manage the dry lakebed in the best interests of the State and in consideration of the common law Public Trust Doctrine, taking care to protect the identified Public Trust resources and values.

Biological resource surveys were performed from May 3 through May 24, 2017, in conformance with the Owens Lake Dust Mitigation Program (OLDMP) Phase 9/10 Mitigation Monitoring Program and Reporting Program.

Far Western Anthropological Research Group, Inc., and Native American representatives from the Big Pine Paiute Tribe and Lone Pine Paiute-Shoshone Reservation participated in pedestrian surveys between April 17 and May 28, 2017. Cultural resource monitoring occurred

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between May 1 and June 19, 2017 by representatives of the Big Pine Paiute Tribe and Lone Pine Paiute-Shoshone Reservation.

Beginning in April of this year, staff coordinated with the Governor's Office of Emergency Services, the City, and other State agencies with jurisdiction over the Lake to streamline authorization of emergency measures that were needed to protect substantial public infrastructure and prevent damage to OLDMP infrastructure. Due to the urgent timeframes, Commission staff authorized the City to perform a discrete list of activities on the condition that the City submit a lease amendment application for the measures to the Commission for final approval.

The purpose of the proposed amendment is to seek ratification by the Commission of staff's emergency authorization of emergency measures taken between April and June 2017. All the emergency measures are located within areas currently under lease to the City for implementation of the OLDMP. Prior to authorizing the work, staff found that the relatively small area of impact and the location of the emergency measures would not significantly impact the Public Trust resources. Further, staff worked with the City and other agencies to ensure that all authorized work was limited to what was necessary to prevent substantial damage to public property. The emergency authorization from staff also placed certain requirements on the City and required the City to assume responsibility for any liability associated with the work. By ratifying the authorization in a lease amendment, the Commission will ensure that standard lease terms and conditions apply to these areas.

The proposed amendment requires the City to notify staff upon removal of any temporary measures and if any measures will be left in place.

Gravel Cover

The Commission has previously determined that placement of gravel cover on the Lake does not protect or promote its Public Trust uses and values. Previous Commission authorizations for gravel cover included other components to mitigate for the loss of potential enhancement of Public Trust values on the area to be covered in gravel. For example, the Commission accepted as mitigation: gravel cover integrated within a mosaic of shallow ponds and managed vegetation to improve aesthetic values, public access amenities such as trails and overlooks, and implementation of the Habitat Suitability Model with monitoring and adaptive management.

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The proposed amendment includes the placement of 0.45-acre area of gravel cover to reduce dust emissions from the dry lakebed and improve air quality in the Owens Valley. Improving air quality will have significant health benefits for the residents of the Owens Valley.

The original design plans included a 3-foot-high, 27-foot-wide berm road along the west side of T37-2-L1/T37-2a. As designed, the berm road would occupy approximately 3.04 acres and would require the use of geotextile fabric, sand and other road base materials, as well as gravel along the berm slopes. The amendment to place 0.45 acre of gravel will result in a significantly smaller impact to Public Trust values and resources than the previously authorized berm road. No grading will take place prior to gravel placement and existing vegetation will remain. The requirement to not maintain the existing at-grade road addresses concerns from local Tribes.

Staff recommends the Commission conditionally approve the placement of gravel upon the Executive Officer's finding that the following conditions have been met:

- The City provided Commission staff with sufficient photographic evidence that the 3,350 feet of fence posts have been removed.
- The City submitted a letter to Commission staff and local Tribes confirming that the existing at-grade road will be abandoned and will not be maintained for any reason.
- Written documentation has been provided that the local Tribes, the District, and the City have agreed to the placement of gravel on 0.45 acre, as proposed.

In the event the conditions above are not met to the satisfaction of the Commission's Executive Officer, it is anticipated that the City may implement Shallow Flooding as authorized by the Commission on August 19, 2015, as part of the Phase 9/10 Project.

Conclusion:

Staff believes the proposed amendment will not significantly impact the Public Trust resources and values of wildlife habitat, public access, recreation, and aesthetic enjoyment on this portion of the Lake, at this time, and 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.

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OTHER PERTINENT INFORMATION:

1. Staff participated in the Owens Lake Master Project processes starting in March 2010 with the City, the District, other public agencies, Native American Tribes, non-governmental organizations, and other interested stakeholders, to develop a framework to manage the variety of important resources on the lakebed while continuing to control dust. On June 23, 2015, the City released a Notice of Preparation for the Environmental Impact Report (EIR) for the Master Project. The Commission's consideration of the Master Project and a new lease is anticipated to occur following completion of the Master Project EIR and action by the City.
2. 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.
3. **Emergency Measures:** In authorizing the emergency measures, staff found that this activity was exempt from the requirements of the California Environmental Quality Act (CEQA) as a statutorily exempt project. The project was exempt because it involved a specific action to prevent or mitigate an emergency.

Authority: Public Resources Code section 21080, subdivision (b)(4) and California Code of Regulations, title 14, section 15269, subdivision (c).

Staff recommends the Commission find this project is also exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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

4. **Gravel Cover:** Gravel cover along the road was contemplated in the Phase 9/10 project, for which the Commission considered the EIR at its August 19, 2015 meeting for the overall Phase 9/10 Project. As part of the Commission's approval of the lease amendment for the overall Phase 9/10 Project, the Commission adopted a Mitigation Monitoring Program and Findings made in conformance with the State CEQA Guidelines (Cal. Code Regs., tit. 14, §§ 15091, 15096), as contained in Exhibits C and D, respectively, to Calendar Item C61 at the August 19, 2015 Commission meeting ([Calendar Item C61, August 19, 2015](#)). To the extent the proposed gravel cover will occupy a slightly wider area than the approved road, staff recommends that the Commission find that this activity is

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exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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

5. 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. Location and Site Map
- B. Summary of Lease Amendments
- C. Letter Authorizing Emergency Work

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Emergency Measures: 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 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

Find that staff's approval was exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a statutorily exempt project pursuant to Public Resources Code section 21080, subdivision (b)(4) and California Code of Regulations, title 14, section 15269, subdivision (c), specific actions necessary to prevent or mitigate an emergency.

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Gravel Cover: Find that an EIR, State Clearinghouse No. 2014071057, was prepared for the Phase 9/10 Project by the Los Angeles Department of Water and Power and certified on June 2, 2015, and the Commission reviewed and considered the information contained therein. Find that the activity, as approved, will not have a significant effect on the environment and, additionally, is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 4, Minor Alterations to Land; California Code of Regulations, title 14, section 15304.

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:

1. Authorize the amendment of Lease No. PRC 8079.9, a General Lease – Public Agency Use, to ratify staff's emergency authorization of the following emergency measures taken between April 2017 and June 2017: placement and removal of temporary plastic lining to protect Mainline (Brady Highway) and the Owens Lake Zonal Mainline pipe and submains, temporarily secure approximately 825 feet of irrigation supply line extending from DCA T36 to T37, placement of additional rock armor along the west berm of DCA T29, and placement of additional rock armor along the east berm of DCA T36.
2. Authorize the Executive Officer or her designee to amend the lease to allow placement of 0.45 acre of gravel cover in DCA T37-2-L1/T37-2a as shown on Exhibit A (for reference purposes only) attached and by this reference made a part hereof, subject to a finding by the Commission's Executive Officer that all of the following conditions have been met: (a) the City provided Commission staff with sufficient photographic evidence that the 3,350 feet of fence posts have been removed; (b) the City submitted a letter to Commission staff and local Tribes confirming that the existing at-grade road will be abandoned and will not be maintained for any reason; and (c) written documentation has been provided that the local Tribes, the District, and the City have agreed to the placement of gravel on 0.45 acre, as proposed.

NO SCALE

SITE

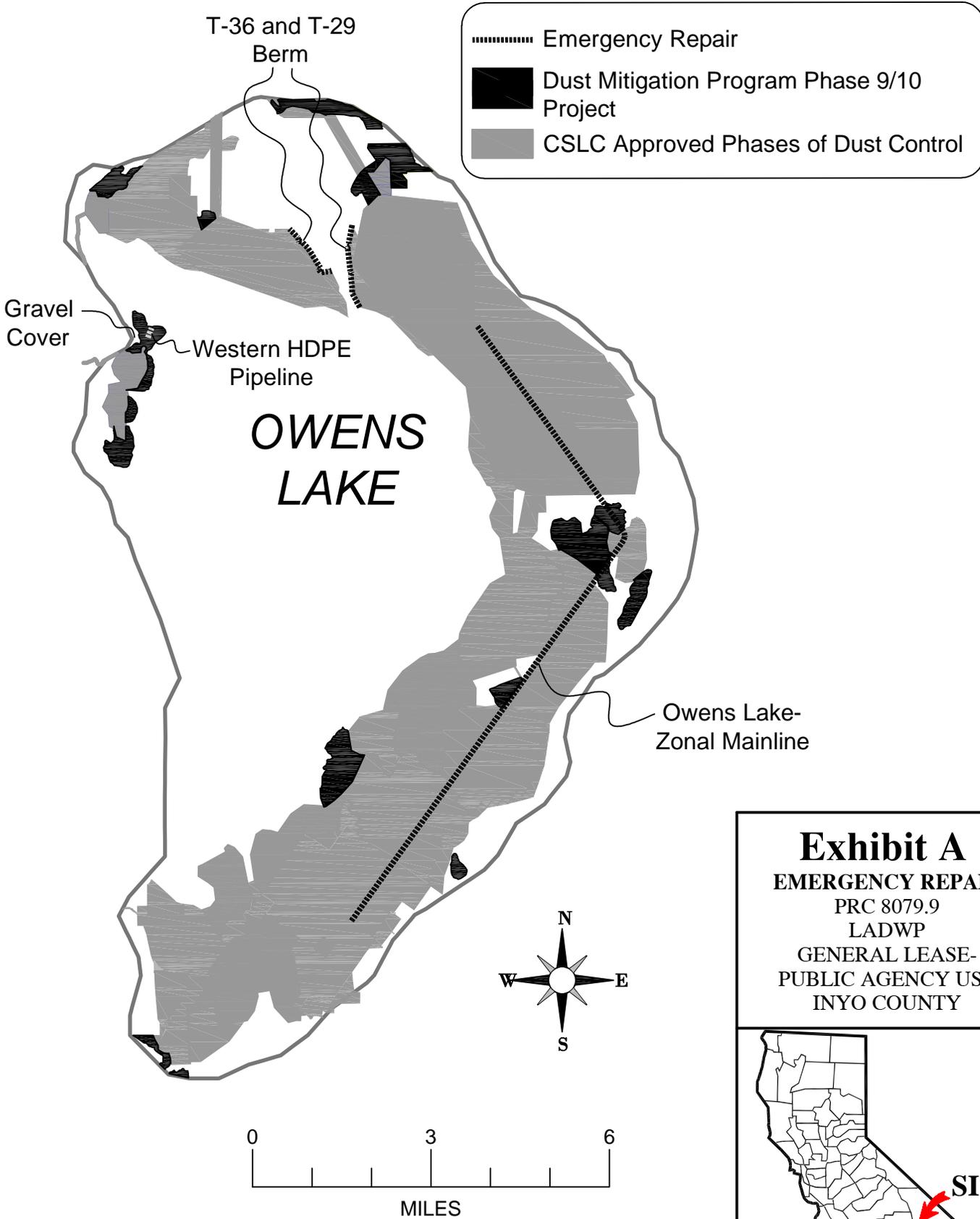


Exhibit A
EMERGENCY REPAIR
PRC 8079.9
LADWP
GENERAL LEASE-
PUBLIC AGENCY USE
INYO COUNTY



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

Exhibit B: Summary of Lease Amendments

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

Original Lease. Allowed the City to comply with dust mitigation requirements by installing a South Sand Sheet Air Quality and Sand Fence Effectiveness Monitoring System on the leased premises ("Premises"). (Approved: 6/14/1999; Available at: <http://archives.slc.ca.gov/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 cover for dust control for the 0.41-acre parcel west of Mainline, between existing DCAs T21 and T21-L3. (Approved 6/22/17; Available at: http://archives.slc.ca.gov/Meeting_Summaries/2017_Documents/06-22-17/Items_and_exhibits/C58.pdf)

CALIFORNIA STATE LANDS COMMISSION

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April 27, 2017

Milad Taghavi
 City of Los Angeles
 Department of Water and Power
 111 North Hope Street, Room 1468
 Los Angeles, CA 90012

Via email to: Milad.Taghavi@ladwp.com (Hard copy to follow via US Post)

Subject: Request for Authorization for Emergency Activities in the Lower Owens River and Owens Lake, Inyo County

Dear Mr. Taghavi:

This letter is in response to your request on behalf of the City of Los Angeles, Department of Water and Power (LADWP), for authorization for emergency activities from the staff of the California State Lands Commission (Commission).

LADWP has provided copies of the City of Los Angeles' Emergency Proclamation, as well as the Emergency Declaration from Inyo County related to the high levels of precipitation during January and February 2017. This precipitation rapidly filled reservoirs, lakes, rivers, and streams throughout the Eastern Sierra region, causing them to reach capacity, and produced a snowpack equal to 241 percent of normal. As a result, widespread flooding will cause damage to public property, infrastructure, and the environment unless emergency measures are taken.

LADWP plans to take immediate steps to: (1) armor facilities, including the Lower Owens River pumpback station and ancillary facilities; (2) divert creek and water conveyance flows as necessary to prevent damage; and (3) clean, repair and rebuild water delivery and conveyance facilities as needed, to manage the flow of water into Owens Lake in a manner that avoids additional air quality problems at the shoreline of the lakebed and in a manner that is most protective of the current dust mitigation infrastructure.

To manage the increased flow of water, LADWP has requested authorization to:

- Remove and relocate existing rock for a wide flow path on the east bank of the Lower Owens River
- Place appropriately sized rock/riprap on the west bank of the Owens River to reinforce the bank
- Excavate approximately 2 acres of material from the Lower Owens River
- Tamp down an existing 2 acres of vegetation within the Lower Owens River
- Install a temporary water barrier (approximately 700 feet) along the west/right bank of the Lower Owens River
- Install a temporary perimeter barricade at the Lower Owens River pumpback station
- Install armament (riprap/Armorstone/appropriate-sized rock) on existing berms at T29 and T36
- Secure an existing above ground pipeline with temporary shoring and stabilization methods
- Install temporary anchoring and membrane stabilization materials along Brady Highway to protect the existing zonal mainline.

This proposed work is further depicted in the documents provided by LADWP, which are enclosed as Attachment A to this letter. LADWP states that the water will be redirected by the barriers in the Lower Owens River and Owens Lake Delta into the Owens Lake Brine Pool. The water will stay within the Owens River and Delta at all times. LADWP expects the water to evaporate from the Owens Lakebed between 12 to 18 months after the high level of flows cease.

Additionally, LADWP requests the authorization to reinforce a 400-foot section of the existing access road by adding up to 5 feet of roadway base material in the vicinity of Corridor 1 and extending the existing 18-inch-diameter culvert at the crossing. The access road crosses the west branch of the water pathway in the Owens Lake Delta. The reinforcement will allow for continued access to power lines between the west branch and the main water pathway, that are the only source of electricity for the south Owens Valley, the Owens Lake Dust Mitigation Program, and the Lower Owens River Project's pumpback station. The access will be required to protect and maintain the power pole footings from possible erosion due to the anticipated spring and summer runoff. The extension of the culvert, if needed, would require the addition of another 5 to 8 feet section of a new 18-inch-diameter corrugated or high-density polyethylene pipe.

Commission staff does not object to LADWP utilizing sovereign lands to manage the extraordinary flow of water into Owens Lake, subject to the following conditions:

1. That the State of California, its officers, agents, and employees shall not be liable for any claims, damages, or injuries of any kind and from any cause, arising out of or connected in any way with the proposed emergency activities described in this Letter, and that LADWP shall indemnify, hold harmless, and, at the option of the State, defend the State, its officers, agents, and employees, against and for any and all liability for any claims, damages, or injuries of any kind and from

any cause, arising out of or resulting from the proposed emergency activities described herein, ; and

2. That LADWP shall comply with any and all terms and conditions imposed by Commission staff, as described in this Letter; and
3. That LADWP shall obtain and secure, prior to commencement of the project, all approvals necessary or appropriate from any and all other agencies or governmental entities having jurisdiction; and
4. That disturbance of the property under the Commission's jurisdiction shall be kept to a minimum area consistent with the nature and purpose of the proposed action, and that LADWP shall take all necessary and appropriate precautions to prevent littering or pollution on sovereign lands, waterways, and adjoining properties; and
5. That LADWP shall be responsible for any damage, destruction, or loss occurring to State lands, waterways, adjoining property, the State's lessees, or other members of the public resulting from the proposed emergency activities described herein. The Commission and LADWP acknowledge that the emergency activities are in response to natural flooding that is anticipated to occur at Owens Lake, and this provision is not intended to create liability for LADWP that does not result from the specific emergency activities undertaken by LADWP and occurring on State lands; and
6. That LADWP shall provide the Commission staff notice prior to any actual work or activity taking place pursuant to the approvals given and shall provide to the Commission staff any information requested as to the work completed; and
7. No refueling, maintenance, or repairs to any equipment or vehicles will be permitted on lands subject to the Commission's jurisdiction; and
8. All personal property, tools, equipment, or other materials taken onto or placed upon sovereign lands shall remain the property of LADWP and/or its contractors. Such property shall be promptly removed from these lands upon completion of the project. The Commission does not accept any responsibility for any damage, including damages to any property, including equipment, tools, machinery, or other materials placed on State-owned land; and
9. LADWP shall provide photos and a written description of the condition of the site upon completion; and
10. As early as feasible, and in any event at least 24 hours before construction commences in any area, LADWP shall provide notice to the Tribal Historic Preservation Officer, or, if none, the designated cultural resource liaison for the following Tribes: Big Pine Paiute Tribe of the Owens Valley, Bishop Paiute Tribe, Fort Independence Community of Paiute, Timbisha Shoshone Tribe, and Lone

Pine Paiute Shoshone Reservation. LADWP will not begin activity without the presence of a Tribal monitor if requested by one or more of the above-named representatives; and

11. LADWP shall submit an application to amend the existing lease to cover actions proposed under this emergency action by June 1, 2017; and

12. Commission staff is aware that birds are currently nesting in or around the area of proposed construction; harm to wildlife habitat and individuals, including nesting birds, eggs, and chicks could therefore result from excavation, vegetation tamping, installation of roadway base and riprap, and other proposed activities. All actions authorized by this letter must be in compliance with California Fish and Game Code section 3503 and all other applicable environmental laws. Prior to the commencement of any work authorized by this letter, LADWP shall provide the Commission and the California Department of Fish and Wildlife with written assurance that all construction complies with either: (a) Mitigation Measures B10-1, B10-2, B10-3, B10-4, and B10-5 from the Mitigation Monitoring Program adopted for the Owens Lake Dust Mitigation Program Phase 9/10 Project, as shown in Attachment B ; or (b) an alternative nesting bird avoidance and protection plan approved in writing by both Commission staff and the Department of Fish and Wildlife.

This emergency approval and its conditions pertain solely to the emergency activities described herein that are occurring on State sovereign lands, and shall become effective upon the date executed by LADWP and shall remain in effect until August 31, 2017.

LADWP acknowledges that Commission staff's emergency approval for the project is no assurance that future use of sovereign lands would be allowed. 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 (Pub. Resources Code, §§ 6301 and 6216).

This letter is not intended, nor shall it be construed as, a waiver of any limitation of any right, title, or interest of the California State Lands Commission in any lands under its jurisdiction.

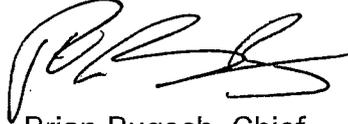
The Executive Officer finds that the project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to California Code of Regulations, title 14, section 15061 as a statutorily exempt project. The project is statutorily exempt pursuant to Public Resources Code section 21080, subdivision (b)(4), and California Code of Regulations, title 14, section 15269, subdivision (c), specific actions necessary to prevent or mitigate an emergency.

Please have an authorized representative of LADWP sign in the space provided below, accepting the conditions as set forth in this letter and return the signed original to this office. You may email a copy of the signed letter; however, if the signed original is not

received within 10 business days after receipt of this letter, this emergency approval shall be null and void.

If you have any questions, please contact Grace Kato at 916-574-1227 or via email at Grace.Kato@slc.ca.gov.

Sincerely,



Brian Bugsch, Chief
Land Management Division

Accepted By:

City of Los Angeles
Department of Water and Power

By: 

Richard F. Harasick

Title: Senior Assistant General Manager -
Water System

Date: May 3, 2017

Attachment A: LADWP Project Plans
Attachment B: Mitigation Monitoring Plan

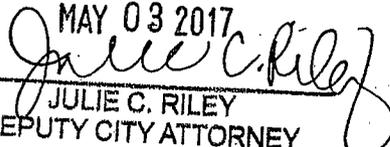
cc:

Big Pine Paiute Tribe of the Owens Valley
Shannon Romero, Chairperson
Danelle Gutierrez
P.O. Box 700
Big Pine, CA 93513

Bishop Paiute Tribe
Gerald Howard, Chairperson
Raymond Andrews, THPO
50 Tu Su Lane
Bishop, CA 93514

Fort Independence Community of Paiute
Norman Wilder II, Chairperson
Stephanie Arman, THPO
P.O. Box 67
Independence, CA 93526

APPROVED AS TO FORM AND LEGALITY
MICHAEL N. FEUER, CITY ATTORNEY

MAY 03 2017
BY 
JULIE C. RILEY
DEPUTY CITY ATTORNEY

LADWP
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Timbisha Shoshone Tribe
George Gholson, Chairperson
Barbara Durham, THPO
621 W. Line Street, Ste 109
Bishop, CA 93514

Lone Pine Paiute Shoshone Reservation
Mary Wuester, Chairperson
Kathy Bancroft
P.O. Box 747
Lone Pine, CA 93545

Office of Historic Preservation
Brendon Greenaway
1725 23rd Street, Suite 100
Sacramento, CA 95816

Terrie Robinson
Native American Heritage Commission
1550 Harbor Blvd, Suite 100
West Sacramento, CA 95691

Paul Lamos
Superintendent, Owens Lake Operations
U.S. Borax Inc.
P.O. Box 37, 209 N. Main Street
Lone Pine, CA 93544

Nathan Francis
U.S. Borax Land Manager
U.S. Borax Inc.
Boron Operations
14486 Borax Road
Born, CA 93516

Grace Kato, CSLC
Eric Gillies, CSLC
Jamie Garrett, CSLC
Christopher Huitt, CSLC

CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

JENNIFER LUCCHESI, *Executive Officer*
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California Relay Service TDD Phone 1-800-735-2929
from Voice Phone 1-800-735-2922

Contact Phone: (916) 574-1890
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NOTICE OF EXEMPTION

File Ref: Lower Owens River

Title: Request for Authorization for Emergency Activities in the Lower Owens River and Owens Lake, Inyo County.

Location: Sovereign land of the Lower Owens River and Owens Lake, Inyo County

Description: To prevent damage to public property, infrastructure, and the environment due to anticipated widespread flooding in the Lower Owens River and Owens Lake, Los Angeles Department of Water and Power proposes emergency activities to: (1) armor facilities, including the Lower Owens River pump back station and ancillary facilities, diversion and water conveyance structures; (2) divert creek and water conveyance flows as necessary to prevent damage; and (3) clean, repair and rebuild water delivery and conveyance facilities as needed, to manage the flow of water into Owens Lake in a manner that avoids additional air quality problems at the shoreline of the lakebed and in a manner that is most protective of the current dust mitigation infrastructure.

Name of Approving Public Agency: California State Lands Commission

Name of Proponent (Person or Agency): Los Angeles Department of Water and Power

Exempt Status:

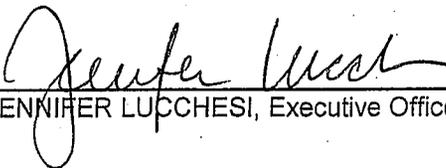
Statutory Exemption:

Emergency Project [Sec. 21080(b)(4); 15269(c)]

Reasons for exemption:

Authorization for emergency activities is statutorily exempt from the requirements of the California Environmental Quality Act because it involves specific actions necessary to prevent or mitigate an emergency.

DATE RECEIVED FOR FILING AND POSTING BY THE GOVERNOR'S OFFICE OF PLANNING AND RESEARCH



JENNIFER LUCCHESI, Executive Officer

Contact Person: Grace Kato (916) 574-1900