

MINUTE ITEM
This Calendar Item No. C52 was approved as
Minute Item No. 52 by the California State Lands
Commission by a vote of 3 to 0 at its
10-06-04 meeting.

**CALENDAR ITEM
C52**

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10/6/04
PRC 5464.1
E. Kruger

**CONSIDER APPROVAL OF AMENDMENT OF
STATE MINERAL EXTRACTION LEASE NO. PRC 5464.1,
OWENS LAKE,
INYO COUNTY**

APPLICANT:

U.S. Borax, Inc.
Attn.: Mr. Paul Lamos, Superintendent
Owens Lake Operations
P. O. Box 37
209 North Main Street
Lone Pine, CA 93545

AREA, LAND TYPE, AND LOCATION:

State Mineral Extraction Lease No. PRC 5464.1 contains 16,120 acres, more or less, of State sovereign land located on the dry lake bed of Owens Lake in west-central Inyo County and is situated along the east side of U.S. Highway 395, approximately five miles south of Lone Pine, California.

BACKGROUND:

On October 17, 2002, California State Lands Commission (Commission) staff received an application from U.S. Borax, Inc. (Borax) requesting amendment of the subject mineral lease. Borax indicated to Commission staff that it was requesting modification of the term of the subject mineral lease, as well as other provisions of the lease, that are relative to Borax's trona upgrade project at Owens Lake. Borax is also requesting the quitclaim of certain State parcels within the leased land that subsequently will be leased by the Los Angeles Department of Water and Power (the LADWP) for dust control mitigation. Commission staff determined that Borax's amendment application was complete as of May 1, 2003.

The mineral resource deposit at Owens Lake is composed of trona (a mineral composed of a hydrated double salt of sodium carbonate and sodium

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bicarbonate), soda ash (a sodium carbonate compound), sodium sulfate and sodium chloride salts. The trona ore deposited at Owens Lake covers an area of about 16,000 acres of the dry-lake bed, which is included in the subject mineral lease, and occurs in beds with thicknesses varying from a few inches to about nine feet. Since the mid-1970s, trona has been mined in the nearer-shore, lower-sulfate areas of the lake by the currently used panel-mining method. In this method, a block containing about 100,000 tons of ore is isolated from the lakebed through the construction of an impervious clay seal. The construction of the seal allows for the draining of contaminants, such as the sodium sulfate and sodium chloride salts, from the panel. Historically, mineral extraction operations have targeted these lower-sulfate areas within the deposit. However, as operations have progressed through the years, it has become more difficult to locate quality ore containing fewer contaminants.

Borax has proposed the trona upgrade project to economically recover and process, through further refinement, available lower-quality trona ore. The trona processing upgrade project is a modification of Borax's panel-mining method of operation for processing trona ore at the Owens Lake site. The upgrade would provide for an improvement in the quality of the ore that is produced and shipped during mineral extraction operations. Processing of the lower quality trona for the upgrade project would include an on-site, mobile washing facility and a calcining (drying) facility off-site. The modified process would allow Borax to extract and process lower quality ore located farther out on the dry-lake bed, and to increase production rates. The upgrade project will increase total production to approximately 144,000 tons of trona ore per year.

STATUTORY AND OTHER REFERENCES:

- A. Public Resources Code: Division 6, section 6898, section 6898.5
- B. California Code of Regulations: Title 2, section 2200

OTHER PERTINENT INFORMATION:

1. Borax has requested the additional extensions of term beyond those provided in the subject mineral lease because the trona upgrade operation is a long-term project, and that Borax desires to recoup the capitalization of their substantial investment. Lessee shall have the option to renew this lease for four (4) successive periods of ten (10) years each, beyond the initial ten-year (10-year) extension already approved by the State that extended the term of the lease to July 31, 2008, each on such reasonable terms and conditions as may be prescribed by the State, including, but not limited to, modification of the royalty or rental provisions,

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or any other provisions, in a manner that, in the opinion of the State, will adequately protect the State's environment and interests.

2. The environmental document that allows mineral extraction associated with the Trona Processing Upgrade Project is Final Environmental Impact Report (SCH#2003041127) that was certified by the Inyo County Planning Commission (the County) on April 28, 2004. At the same time, the Inyo County Planning Commission approved Conditional Use Permit No. 2002-13/U.S. Borax and Reclamation Plan No. 2002-1/U.S. Borax with conditions and mitigation measures. Lessee shall abide by all terms, conditions and mitigation measures in the approved Conditional Use Permit No. 2002-13/U.S. Borax and Reclamation Plan No. 2002-1/U.S. Borax and California Regional Water Quality Control Board Lahontan Region (the RWQCB) Waste Discharge Requirements No. WDID 6B140202001, approved on September 9, 2004 (Board Order No. R6T-2004-0035). All of these documents are on file in the Long Beach Office of the California State Lands Commission. Lessee shall promptly furnish the State with copies of any Mitigation Monitoring Program reports and annual reports prepared by or for the County. The County is also requiring a \$63,255 financial assurance. The financial assurance for the RWQCB permit has yet to be determined. The amount of the bond will not be final until Borax submits a Closure Plan to the RWQCB for the upgrade project. The Closure Plan will be submitted by Borax before the start of operations for the upgrade project.
3. The bond required in the mineral lease amendment pursuant to Paragraph 19 of Section 5 of the lease is to be in the amount of Sixty-Thousand Dollars (\$60,000). Lessee shall be required to furnish this bond by December 1, 2004. The existing bond is Thirty-Thousand Dollars (\$30,000) for the mineral lease.
4. Portions of Section 2 of the lease has been either amended to provide for Borax's trona upgrade project or deleted. Among the amended provisions are a clearer definition of "gross sales price, FOB, Owens Lake", and updated addresses to Notices. The provision for waste discharge in the lease has been amended to reflect the findings of the regulatory process for this project, and a new paragraph has been added to the lease to provide for an on-site process water well, as specified in Inyo County's approval of the upgrade project. Additionally, all references throughout Section 2 to the "State Lands Division" shall be changed to "staff of the

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State Lands Commission". All other lease terms and conditions shall remain in full force and effect.

5. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, sections 15091 and 15096) are contained on file in the Long Beach Office of the California State Lands Commission. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. However, the Commission has declared that all state school lands and submerged lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by Title 2, California Code of Regulations, section 2954 is not applicable.
6. The State land to be excluded from the amended mineral lease is located along the southeast boundary of the leased land, and amounts to a total of 80 acres, more or less. This excluded State land likely will be used by the LADWP for the construction of dust control measures.

EXHIBIT:

- A. Land Description

PERMIT STREAMLINING ACT DEADLINE:

October 28, 2004

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDINGS:

1. FIND THAT A FINAL ENVIRONMENTAL IMPACT REPORT (SCH#2003041127) WAS CERTIFIED BY THE INYO COUNTY PLANNING COMMISSION ON APRIL 28, 2004, AND THAT AT THE SAME TIME, THE INYO COUNTY PLANNING COMMISSION APPROVED CONDITIONAL USE PERMIT NO. 2002-13/U.S. BORAX AND RECLAMATION PLAN NO. 2002-1/U.S. BORAX WITH CONDITIONS AND MITIGATION MEASURES. LESSEE

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SHALL ABIDE BY ALL TERMS, CONDITIONS AND MITIGATION MEASURES IN THE APPROVED CONDITIONAL USE PERMIT NO. 2002-13/U.S. BORAX AND RECLAMATION PLAN NO. 2002-1/U.S. BORAX AND CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD LAHONTAN REGION WASTE DISCHARGE REQUIREMENTS NO. WDDID 6B140202001, AND THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

2. ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTIONS 15091 AND 15096 (h), AS CONTAINED ON FILE IN THE LONG BEACH OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.
3. ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED ON FILE IN THE LONG BEACH OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

AUTHORIZATION:

1. AUTHORIZE THE AMENDMENT OF STATE MINERAL EXTRACTION LEASE NO. PRC 5464.1 UPON THE TERMS AND CONDITIONS AS OUTLINED IN THIS CALENDAR ITEM AND IN THE FORM OF THE EXECUTED LEASE AMENDMENT DOCUMENT ON FILE IN THE LONG BEACH OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.
2. AUTHORIZE THE EXECUTIVE OFFICER OR HIS DESIGNEE TO EXECUTE ANY DOCUMENTS NECESSARY TO IMPLEMENT THE COMMISSION'S ACTION.

EXHIBIT A**LAND DESCRIPTION**

Those portions of the State-owned bed of Owens Lake, Inyo County, State of California, as shown on that certain map titled "Plat of Owens Lake", approved by W. S. Kingsbury, dated November, 1921, on file in the office of the State Lands Commission and designated as LRB 237, described as follows:

The following eighteen (18) parcels of land in T 17 S, R 37 E, MDM:

- 1) Protracted Sections 8, 9, 16, 17, 20, 21, 22, 23, 26, 27, 28, 29, 33 and 34
- 2) W $\frac{1}{2}$ of W $\frac{1}{2}$ of Protracted Section 10
- 3) E $\frac{1}{2}$ of E $\frac{1}{2}$ of Protracted Section 7
- 4) SE $\frac{1}{4}$ of Protracted Section 18
- 5) E $\frac{1}{2}$ of NE $\frac{1}{4}$ of Protracted Section 18
- 6) W $\frac{1}{2}$ of NW $\frac{1}{4}$ of Protracted Section 15
- 7) NW $\frac{1}{4}$ of SW $\frac{1}{4}$ of Protracted Section 15
- 8) S $\frac{1}{2}$ of S $\frac{1}{2}$ of Protracted Section 15
- 9) S $\frac{1}{2}$ of SW $\frac{1}{4}$ of Protracted Section 14
- 10) SW $\frac{1}{4}$ of SE $\frac{1}{4}$ of Protracted Section 14
- 11) E $\frac{1}{2}$ of Protracted Section 19
- 12) W $\frac{1}{2}$ of W $\frac{1}{2}$ of Protracted Section 24
- 13) E $\frac{1}{2}$ of E $\frac{1}{2}$ of Protracted Section 30
- 14) N $\frac{1}{2}$ of Protracted Section 32
- 15) SE $\frac{1}{4}$ of Protracted Section 32
- 16) E $\frac{1}{2}$ of SW $\frac{1}{4}$ of Protracted Section 32
- 17) W $\frac{1}{2}$ of Protracted Section 35
- 18) W $\frac{1}{2}$ of E $\frac{1}{2}$ of Protracted Section 35

The following fifteen (15) parcels of land in T 18 S, R 37 E, MDM:

- 1) Protracted Sections 4, 8 and 9
- 2) NW $\frac{1}{4}$ of Protracted Section 2
- 3) N $\frac{1}{2}$ of Protracted Section 3
- 4) SW $\frac{1}{4}$ of Protracted Section 3
- 5) W $\frac{1}{2}$ of SE $\frac{1}{4}$ of Protracted Section 3
- 6) E $\frac{1}{2}$ of Protracted Section 5
- 7) SW $\frac{1}{4}$ of Protracted Section 5
- 8) S $\frac{1}{2}$ of NW $\frac{1}{4}$ of Protracted Section 5
- 9) E $\frac{1}{2}$ of Protracted Section 6
- 10) E $\frac{1}{2}$ of Protracted Section 7
- 11) N $\frac{1}{2}$ of Protracted Section 17
- 12) N $\frac{1}{2}$ of Protracted Section 16
- 13) N $\frac{1}{2}$ of NW $\frac{1}{4}$ of Protracted Section 15

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- 14) SW ¼ of NW ¼ of Protracted Section 15
- 15) W ½ of Protracted Section 10

EXCEPTING FROM the above-described thirty-three (33) parcels the following:

All that portion of said NW ¼ of Protracted Section 2 lying southeasterly of a line connecting the midpoint of the east line of said NW ¼ with the midpoint of the south line of said NW ¼.

All that portion of said W ½ of SE ¼ of Protracted Section 3 lying southeasterly of a line connecting the midpoint of the east line of said W ½ with the southwest corner of said W ½.

All those portions within Lake Land Location 2168 patented by the State of California to Irving Fisher July 23, 1907.

All those portions within Lake Land Location 2175 patented by the State of California to Irving Fisher November 12, 1907.

All those portions within Lake Land Location 2159 patented by the State of California to Irving Fisher November 10, 1910.

All those portions leased under PRC 2976.1, approved and authorized by the State Lands Commission in its regular public meeting on June 19, 1998.

Subdivision of protracted sections in this description is based on procedures contained in the 1973 Manual of Instructions for the Survey of the Public Lands of the United States.

END OF DESCRIPTION

Prepared 8/30/2004 by the Boundary Unit of the California State Lands Commission.

