

**CALENDAR ITEM  
C23**

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S 17

06/01/09  
PRC 8079.9  
J. Brown

**AMENDMENT OF LEASE**

**LESSEE:**

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

**AREA, LAND TYPE, AND LOCATION:**

Sovereign lands in the dry bed of Owens Lake, Inyo County.

**CURRENT 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. Construct, install, operate, and monitor additional acreage of shallow flooding dust control measures associated with Phases IV, V, and VII of the Owens Lake Dust Control project.

**EXISTING IMPROVEMENTS:**

Installation of the Owens Lake South Sand Sheet Air Quality and Sand Fence Effectiveness Monitoring System, consisting of air monitoring towers and meteorological instrumentation, and sand trapping devices.

First Lease Amendment: Installation of additional air monitoring towers and pipeline delivery systems; construction of access roads to service the pipeline systems; construct utility infrastructure for shallow flooding; construction of soil berms along the down-slope gradient and side boundaries of each irrigation block, and drain tiles consisting of perforated piping along the side and down-slope gradient boundaries of each irrigation block.

Second Lease Amendment: Installation of managed vegetation with irrigation; install and implement additional acreage for shallow flooding (with support infrastructure previously described in First Lease Amendment ); construction of

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ponds; place gravel in designated areas; construction of mainline pipelines; and installation of additional air/meteorological monitoring towers.

Third Lease Amendment: Installation of additional shallow flooding areas (with supporting infrastructure previously described in First Lease Amendment) and the construction of an underground electrical system.

Fourth Amendment: Installation of shallow flooding dust control measures associated with Phases IV and V of the Owens Lake Dust Control project; construction of drain pipeline, conveyance pipelines, control valve facilities, pump stations, and high voltage power cables, and water monitoring wells.

Fifth Amendment: Installation of shallow flooding dust control measures associated with Phase VII of the Owens Lake Dust control Project; construction of access roads and berms with riprap slopes, construction of drain pipelines, control valve facilities, pump stations, high voltage power cable, telemetry stations and supervisory control and data acquisition control facilities, dust control efficiency monitoring devices, and two access roads.

**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.

**PROPOSED AMENDMENT:**

1. Amend Section 1 – Basic Provisions of the lease as follows:

a) **Land Use or Purpose**

Construct, install, operate and monitor two earthen check berms, two access roads, and two barrier gates associated with Phase VII of the Owens Lake Dust Control project on the land as depicted on the attached Exhibits "A" and "B", and as described on the attached Exhibit "C".

b) **Authorized Improvements**

In addition to previously authorized improvements, the following components of the Phase VII Channel Project may include: the construction of two 18-inch high, 800 foot-long earthen check berms, two access roads with riprap slopes, and two tubular barrier gates.

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2. Amend Section 2 – Special Provisions of the lease to include the following conditions:
  - a) Lessee shall submit to Lessor a Notice of Completion of construction of the Channel components of the Phase VII project;
  - b) Lessee shall submit as-built plans of, and compliance and monitoring reports for, all of the Channel improvements for Phase VII of the Owens Lake Dust Control Project as described in Section 1 of this Lease Amendment, within 180 days of the completion of construction.
  - c) Lessee shall not construct or implement any other improvements within the Lease premises except as authorized and described in Section 1 of the Lease.
  - d) Lessee shall not implement additions or modifications to the design or location of the Channel improvements without authorization of Lessor.
  - e) Lessee acknowledges that future implementation of additional dust control measures may be necessary, as determined by the Great Basin Unified Air Pollution Control District, which may require amendment to this Lease.

**BACKGROUND INFORMATION:**

The United States Environmental Protection Agency (EPA) has designated the southern part of the Owens Valley as a Serious Non-Attainment Area for PM<sub>10</sub>. PM<sub>10</sub> is an abbreviated reference for suspended particulate (dust) less than or equal to ten 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 PM<sub>10</sub> Planning Area.”

The District has determined that dust emissions from the dry lakebed of Owens Lake are responsible for causing the air in the Owens Valley PM<sub>10</sub> Planning Area to exceed the PM<sub>10</sub> national ambient air quality standards and that water diversions by the city of Los Angeles, Department of Water and Power (City or Lessee), have caused Owens Lake to become dry and the lakebed to be in a condition that produces dust.

On July 28, 1998, the District and the City entered into a Memorandum of Agreement (MOA) for the control of the dust from the lakebed of Owens Lake

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which requires the City to implement specified dust control measures (DCMs), which include shallow flooding, managed vegetation, and gravel to control dust emissions at Owens Lake.

On June 14, 1999, the Commission authorized the issuance of Lease No. PRC 8079 to the City for the installation of the Owens Lake South Sand Sheet Air Quality and Sand Fence Monitoring System. This project provided data for the design and implementation of dust control measures as required by the Owens Valley PM<sub>10</sub> Planning Area Demonstration of Attainment State Implementation Plan (SIP) dated November 16, 1998.

On June 27, 2000, the Commission amended Lease No. PRC 8079 so that the City could construct and operate a shallow flooding project located on 13.5 square miles on the North Sand Sheet area of the dry lakebed of Owens Lake. On November 26, 2001, the Commission amended Lease No. PRC 8079 so that the City could construct and operate an additional 154 acres of shallow flooding at the south Zone Dust Control Project.

On October 1, 2002, the Commission authorized the issuance of a Sublease to the California Department of Water Resources to access, maintain, and monitor the existing California Irrigation Management and Information System (CIMIS) Weather Station located on the lease premises for the North Sand Sheet Shallow Flooding Project.

On April 17, 2006, the Commission amended Lease No. PRC 8079.9 so that the City could construct and operate additional acreage of shallow flooding for Phases IV and V of the Owens Lake Dust Control Project.

On August 8, 2007, the City submitted an application to the Commission to amend Lease PRC 8079.9 so that the City could construct and operate an additional 9.2 square miles of shallow flooding and construct 3.5 square miles of a new dust control measure called Moat and Row and to construct, use, and maintain two access roads on the west shore of the dry bed of Owens Lake known as Phase VII of the Owens Lake Dust Control Project.

Commission staff has expressed concerns both verbally and in writing to the staffs of the District and the City that the Moat and Row design components of the Phase VII dust control project may not be compatible with the public trust values of Owens Lake.

On August 22, 2008, the Commission authorized only the Shallow Flooding components of the City's lease amendment application because the City's construction bid package contained revised design elements for the Moat and

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Row DCM that were not analyzed in the final EIR certified earlier by the Great Basin Unified Air Pollution Control District. The EIR prepared by District staff included a premise statement that the dust control measure designs may not have a significant impact upon wildlife, that spacing of the Moat and Row dust control units/arrays would be constructed at a minimum spacing of 250 Feet apart, and that rows with sloping sides would not exceed a ratio of 2:1. Design components that require additional analysis include, but are not limited to, perpendicular features, sand fencing, density of moat and row arrays, and steepness of slopes.

In a letter to Commission staff dated August 21, 2008, the City withdrew its lease amendment application for the Moat and Row dust control project and on March 24, 2009, the City submitted a new application to the Commission for consideration of the Moat and Row dust control project. The City is acting as the Lead Agency under the California Environmental Quality Act to prepare a Supplemental Environmental Impact Report for the proposed Moat and Row dust control project.

The two earthen berms being considered by the proposed Lease Amendment will enable the City to channel and extend the flow of water coming from Cartago Springs onto the Lake bed for dust control purposes.

**OTHER PERTINENT INFORMATION:**

1. The City owns/has the permission to use the lands adjoining the lease premises.
2. The City has submitted an application to amend the lease to construct, implement, and monitor dust control measures for Phase VII, described above.
3. An EIR and Mitigation Monitoring Program (SCH # 2007021127) were prepared and certified on January 28, 2008 for this project by the District. Commission staff has reviewed the document and Mitigation Monitoring Program adopted by the lead agency.
4. Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15901 and 15096) are contained on file in the Sacramento office of the Commission.
5. A Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, Section 15093) is contained on file in the Sacramento office of the Commission.

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6. 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 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.

**APPROVALS OBTAINED:**

Great Basin Unified Air Pollution Control District

**FURTHER APPROVALS REQUIRED:**

California Regional Water Quality Control Board  
California Department of Fish and Game  
United States Army Corps of Engineers

**EXHIBITS:**

- A. Location and Site Map - Phase VII  
A-1, A-2 Channel Site Plan
- B. Land Description

**PERMIT STREAMLINING ACT DEADLINE:**

As to the Lease Amendment Application for the Channel Components, the PSA deadline is September 3, 2009 (CSLC as a responsible agency).

As to the Lease Amendment Application for the Moat and Row Components, the application remains incomplete.

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

FIND THAT AN EIR AND MITIGATION MONITORING PROGRAM WERE PREPARED AND CERTIFIED ON JANUARY 28, 2008 FOR THIS PROJECT BY THE GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT(SCH # 2007021127) AND THAT THE COMMISSION REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

RE-ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15091 AND 15096

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(h), AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

RE-ADOPT THE MITIGATION MONITORING PROGRAM ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

RE-ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093, AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

**AUTHORIZATION:**

AUTHORIZE THE AMENDMENT OF LEASE NO. PRC 8079.9, A GENERAL LEASE – PUBLIC AGENCY USE, OF LANDS AS SHOWN ON EXHIBIT “A”, AND “A-1 AND A-2” ATTACHED (FOR REFERENCE PURPOSES ONLY) AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE JUNE 1, 2009: TO AMEND THE LAND USE OR PURPOSE TO AUTHORIZE THE CONSTRUCTION, INSTALLATION, OPERATION, AND MONITORING OF THE CHANNEL BERM DUST CONTROL PROJECT ASSOCIATED WITH PHASE VII OF THE OWENS LAKE DUST CONTROL PROJECT ON THE LAND DESCRIBED IN EXHIBIT B OF THE LEASE AND AS DEPICTED ON THE ATTACHED EXHIBIT A (FOR REFERENCE PURPOSES ONLY) TO AMEND THE AUTHORIZED IMPROVEMENTS, SPECIAL PROVISIONS AND LEASE DESCRIPTION; TO AUTHORIZE TWO 18 INCH-HIGH, 800-FOOT-LONG EARTHEN CHECK BERMS, TWO ACCESS ROADS WITH RIPRAP SLOPES AND TWO TUBULAR BARRIER GATES ASSOCIATED WITH THE PHASE VII PROJECT AS DESCRIBED IN EIR SCH#2007021127, ALL OTHER TERMS AND CONDITIONS OF THE LEASE AS PREVIOUSLY AMENDED WILL REMAIN IN FULL FORCE AND EFFECT.