

**CALENDAR ITEM
C17**

A 34
S 17

10/22/09
PRC 8079.9
J. Brown

AMENDMENT OF LEASE

LESSEE:

City of Los Angeles, Department of Water and Power
c/o William Van Wagoner
111 North Hope Street, Room 1460
Los Angeles, CA 90012

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in 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. 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 miles of channel area improvements in support of the Phase VII Owens Lake Dust Control Project.

EXISTING IMPROVEMENTS:

The lease authorized the 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; construction of utility infrastructure for shallow flooding; construction of soil berms along the down-slop 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.

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Second Lease Amendment: Installation of managed vegetation with irrigation; installation and implementation of additional acreage for shallow flooding (with support infrastructure previously described in First Lease Amendment); construction of ponds; placement of 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 DCMs 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.

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 maintain the T-5 Drip Irrigation components of the Phase VII Owens Lake Dust Control project on the land as depicted on the attached Exhibit "A".

b) Authorized Improvements

In addition to previously authorized improvements, the following components of the Phase VII T-5 Drip Irrigation Area may include: the construction of 200 feet of new eight-inch HDPE effluent pipeline and necessary appurtenances that may include the construction of valves, a flow meter, a booster pump, a chlorine injection pump, and freeze protection. All other terms and conditions of the lease shall remain in effect without amendment.

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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 T-5 Additional Drip Irrigation components of the Phase VII project;
 - b) Lessee shall submit as-built plans of, and compliance and monitoring reports for, all of the T-5 Additional Drip Irrigation components 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 T-5 Additional Drip Irrigation components 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 (District), which may require amendment to this Lease.

All other terms and conditions of the Lease shall remain in effect without amendment.

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 PM₁₀. PM₁₀ 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 District subsequently designated the Non-Attainment area as the “Owens Valley PM₁₀ 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 PM₁₀ Planning Area to exceed the PM₁₀ national ambient air quality standards and that water diversions by the city of Los Angeles, Department of Water and Power (City), have caused Owens Lake to become dry and the lakebed to be in a condition that produces dust.

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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 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 PM₁₀ 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; 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. The Moat and Row dust control proposal would not entail use of flooding, but would require additional earth movement and construction.

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.

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 Revised Moat and Row dust control project. The City, acting as the Lead Agency under the California Environmental Quality Act, prepared a Supplemental Environmental Impact Report for the Revised Moat and Row dust control project.

On June 1, 2009, the Commission authorized an amendment of Lease No. PRC 8079.9 for the City to construct and maintain two earthen berms to channel and extend the flow of water coming from Cartago Springs onto the Lake bed as part of the Phase VII Owens Lake Dust Control Project.

On August 11, 2009, staff presented an Informational Calendar Item to the Commission regarding the City's application for the Revised Moat and Row dust control project. Staff presented information regarding numerous environmental impacts relating to biology, air quality, and aesthetics. In addition, staff reported that the Revised Moat and Row Project may not be consistent, as designed, with the public trust values of Owens Lake. Subsequent to the Commission's hearing on August 11, 2009, the City certified the Supplemental Environmental Impact Report. Staff anticipates that the Revised Moat and Row application will be considered separately at the October 22, 2009 public hearing.

OTHER PERTINENT INFORMATION:

1. The City owns or has permission to use the lands adjoining the lease premises.
2. The City submitted an application on July 30, 2009, to amend the lease to construct 200 feet of eight-inch effluent pipeline and appurtenant facilities within an area previously leased as Phase V of the Owens Lake Dust Control Project. The pipeline is proposed to be located in the T-5 Drip Irrigation area in support of the Phase VII Owens Lake Dust Control Project. The Legal Description of the Lease will remain unchanged.
3. An EIR and Mitigation Monitoring Program (SCH # 2007021127) were prepared and certified on February 7, 2008, for this project by the District. Commission staff reviewed the document and Mitigation Monitoring Program adopted by the lead agency.

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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.
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
Bureau of Land Management

FURTHER APPROVALS REQUIRED:

None

EXHIBIT:

A. Site and Location Map

PERMIT STREAMLINING ACT DEADLINE:

February 28, 2010 (CSLC as a responsible agency).

RECOMMENDED ACTION:

IT IS RECOMMENDED THAT THE COMMISSION:

CEQA FINDING:

FIND THAT AN EIR (SCH #2007021127) AND MITIGATION MONITORING PROGRAM WERE PREPARED FOR THIS PROJECT BY GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT AND CERTIFIED ON FEBRUARY 7, 2008 AND THAT THE COMMISSION REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN.

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ADOPT THE FINDINGS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15091 AND 15096 (h), AS CONTAINED ON FILE IN THE SACRAMENTO OFFICE OF THE CALIFORNIA STATE LANDS COMMISSION.

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

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 (FOR REFERENCE PURPOSES ONLY) AND BY THIS REFERENCE MADE A PART HEREOF, EFFECTIVE OCTOBER 22, 2009: TO AMEND THE LAND USE OR PURPOSE, THE AUTHORIZED IMPROVEMENTS, AND THE SPECIAL PROVISIONS TO AUTHORIZE THE CONSTRUCTION, INSTALLATION, OPERATION, AND MAINTENANCE OF THE T-5 DRIP IRRIGATION COMPONENTS ASSOCIATED WITH THE PHASE VII OWENS LAKE DUST CONTROL 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.