

**CALENDAR ITEM
C58**

A 26
S 8

06/22/17
PRC 8079.9
G. Kato

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 State Lands Commission (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. Since that time, the Commission has authorized 18 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 August 9, 2016, the Commission authorized the 18th amendment to the Lease approving the City’s implementation of the 2016 Owens Lake Dynamic Water Management Plan to reduce the volume of water used on Owens Lake while still maintaining dust control ([Calendar Item C42, August 9, 2016](#)).

PROPOSED AMENDMENT:

1. Authorize the placement of gravel on a 0.41-acre area on the west side of Mainline, between DCAs T21 and T21-L3 conditioned upon the fulfillment of retaining a qualified Tribal Liaison as described in Paragraph 2 below.

2. Prior to commencement of the specific work authorized by this amendment, Lessee shall identify an interim Tribal Liaison, who is not the project manager and who reports directly to Lessee’s Executive Management, to ensure effective, meaningful, and mutually beneficial coordination and communication with the Tribal governments of California Native American Tribes geographically and culturally affiliated with the area – including the Big Pine Paiute, Bishop Paiute, Fort Independence

CALENDAR ITEM NO. **C58** (CONT'D)

Paiute, Lone Pine Paiute-Shoshone Reservation and Timbisha Shoshone concerning work and activities pursuant to Owens Lake Lease No. PRC 8079.9. Lessee shall provide Lessor's staff with the contact information of the interim Tribal Liaison.

3. Within 30 days of the effective date of this amendment, Lessee shall begin the process of developing a Tribal Consultation Policy. Lessee shall complete the Policy development process, including adoption of the Policy and the appointment of an official Tribal Liaison, within 12 months of the effective date of this amendment.

BACKGROUND:

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 (U.S. EPA) 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.

CALENDAR ITEM NO. **C58** (CONT'D)

The District required the City to mitigate dust emissions from a 0.47-acre privately-owned property as part of the Owens Lake Dust Mitigation Program – Phase 9/10 Project. However, the City was unable to reach an agreement with the private landowner for a non-exclusive easement to mitigate dust emissions from the property as required by the District. The District agreed to exchange other equivalent areas that could mitigate dust emissions as a means of complying with its regulatory order (2011 Supplemental Control Requirements Determination). The City has requested authorization to place gravel on an area west of Mainline between Dust Control Areas (DCAs) T21 and T21-L3. The parcel sits entirely on the buffer zones between two existing DCAs and is within the footprint of the Phase 9/10 project.

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:

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.

The area subject to the proposed amendment is within the footprint of the Phase 9/10 project previously authorized by the Commission ([Calendar Item C61, August 19, 2015](#)). Currently, the approximate areas of dust control measures on the Owens Lakebed include:

Dust Control Measure	Square Miles
Shallow Flooding	33.0
Managed Vegetation	5.58
Gravel Cover	7.61
Tillage with BACM Backup	2.32
Sand Fencing	0.30

CALENDAR ITEM NO. **C58** (CONT'D)

The Commission has previously determined that placement of gravel cover on the Lakebed 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.

Habitat assessment and wildlife presence/absence surveys were conducted on December 13, 2016, in the area proposed for gravel cover. Habitat assessments were conducted for Burrowing Owl, Mohave Ground Squirrel and Agassiz's Desert Tortoise. According to the City, there is no suitable habitat in the proposed project area for special status species including Burrowing Owl, Mohave Ground Squirrel, and Agassiz's Desert Tortoise. Historically, a few Snowy Plover nests have been found in the general area, though not in the specific proposed project area. Because it is possible that Snowy Plover may nest in the area, nesting surveys would be conducted before construction if during the nesting season to avoid impacts to nesting Snowy Plover.

The fundamental purpose of the proposed amendment is to authorize an additional 0.41-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. Although once a submerged part of Owens Lake, the proposed site is currently entirely playa with no vegetation and no adjacent water. The property is located within a buffer zone between two DCA's designated for gravel cover. The relatively small parcel and the location of the placement of gravel will not significantly impact the Public Trust resources.

Additionally, the proposed amendment adds a new requirement that the City identify an interim Tribal Liaison, develop and adopt a Tribal Consultation Policy within 12 months of the effective date of the amendment, including the appointment of an official Tribal Liaison. This requirement will enhance communication with Tribal governments in the area who have a vested interest in the Lake, its cultural resources, and its Public Trust values.

The discretionary action to be taken by the Commission on the proposed amendment to authorize the placement of an additional 0.41-acre area of

CALENDAR ITEM NO. **C58** (CONT'D)

gravel cover is ultimately a policy decision considering all relevant factors in determining whether the proposed project is in the State's best interests. Each time the Commission acts 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).

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

OTHER PERTINENT INFORMATION:

1. Staff has 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. An EIR, State Clearinghouse No. 2014071057, was prepared for the overall Phase 9/10 Project by the Los Angeles Department of Water and Power and certified on June 2, 2015. Staff reviewed such document and Mitigation Monitoring Program prepared pursuant to the provisions of the California Environmental Quality Act (CEQA)(Pub. Resources Code, § 21081.6) and adopted by the lead agency.
4. The Commission considered the EIR at its August 19, 2015 meeting ([Calendar Item C61, August 19, 2015](#)) 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

CALENDAR ITEM NO. **C58** (CONT'D)

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 meeting.

5. Staff reviewed the proposed lease amendment for an additional 0.41 acre of gravel cover and determined that for the purposes of CEQA, it would not involve any “substantial changes” or “new information of substantial importance,” resulting in any new or substantially more severe significant impacts compared with the overall Phase 9/10 Project, and thus no additional CEQA analysis is required as specified in Public Resources Code section 21166 and section 15162, subdivision (a) of the State CEQA Guidelines.
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. Location and Site Map
- C. Summary of Lease Amendments

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

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 Commission adopted a Mitigation Monitoring Program and Findings made in conformance with the State CEQA Guidelines at its regularly scheduled meeting on August 19, 2015.

CALENDAR ITEM NO. **C58** (CONT'D)

Find that in its independent judgment, none of the events specified in Public Resources Code section 21166 or State CEQA Guidelines section 15162 resulting in any new or substantially more severe significant impacts has occurred, and therefore, no additional CEQA analysis is required.

Find that the Project, as approved, will not have a significant effect on the environment.

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:

Authorize the amendment of Lease No. PRC 8079.9, a General Lease – Public Agency Use to authorize the placement of gravel cover for dust control for the 0.41-acre parcel west of Mainline, between existing DCAs T21 and T21-L3, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; and to require the City to identify an interim Tribal Liaison to coordinate all work and activities associated with Lease No. PRC 8079.9 and develop and adopt a Tribal Consultation Policy, including the appointment of an official Tribal Liaison within 12 months, effective June 22, 2017.

**EXHIBIT A
LAND DESCRIPTION**

PRC 8079.9

**Owens Lake
T21-C Gravel Cover**

A parcel of State-owned sovereign land in the bed of Owens Lake in the County of Inyo, State of California, being more particularly described as follows:

BEGINNING at a point from whence Mineral Monument No. 58, a white marble stone monument with a metal plate cross stamped "MM #58", as said monument is shown on that map filed in Book 11, of Record of Surveys at page 7, Official Records of the County of Inyo, State of California, bears North 08°20'30" West, a distance of 18,814.86 feet; thence along the following described courses:

North 80°45'47" East, 43.05 feet;
South 74°08'09" East, 56.12 feet;
South 83°53'53" East, 60.58 feet;
South 43°08'59" East, 61.76 feet;
South 85°05'07" East, 20.78 feet;
South 62°22'31" East, 7.98 feet;
South 73°55'05" East, 61.69 feet;
South 43°38'46" East, 77.51 feet;
South 59°57'05" East, 76.77 feet;
North 70°23'19" West, 442.71 feet;
North 07°26'39" East, 5.79 feet;
North 24°28'07" East, 24.94 feet to the point of BEGINNING

Containing 0.41 acres, more or less.

The Bearings used in this description are on the California Coordinate System, NAD83, (CCS83/92), Zone 4. The Coordinate values, in U.S. Survey Feet, of said Mineral Monument No. 58, also known as Triangulation Station "Keeler" are: Northing 2,064,076.37, Easting 6,890,187.91. All distances shown herein are grid distances in U.S. Survey Feet. To obtain ground surface distances, multiply the distances shown by 1.0002206574.

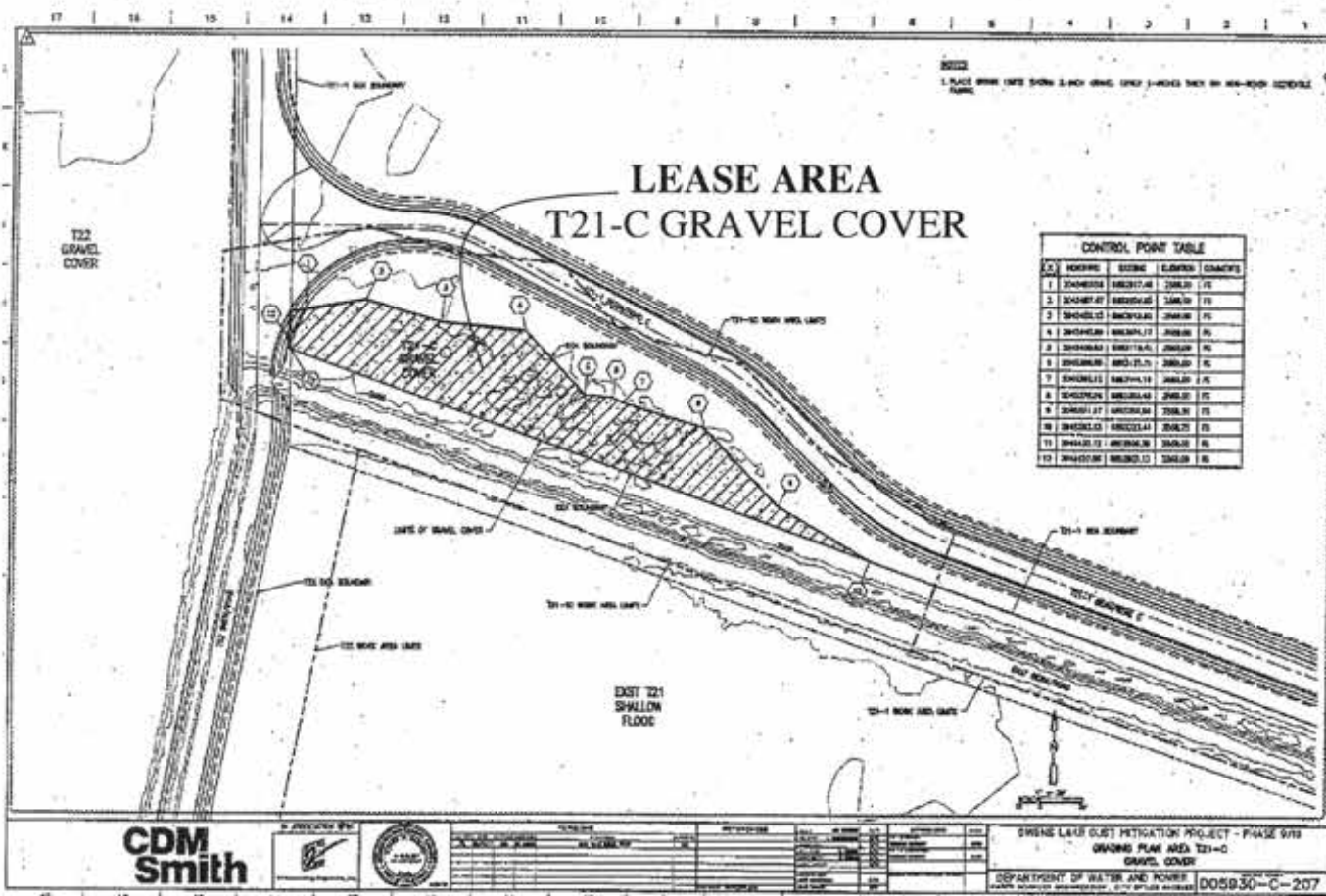
END OF DESCRIPTION

SUBJECT TO, any and all agreements covenants, conditions, easements, restrictions, reservations, right-of-way, and other matters of record.



NO SCALE

SITE



PHASE 9/10 DUST CONTROL PROJECT

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

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 C: 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](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](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](http://archives.slc.ca.gov/Meeting_Summaries/2016_Documents/08-09-16/Items_and_Exhibits/C42.pdf))

