

State Clearinghouse No. 2014071057



Established in 1938

**ADDENDUM TO ENVIRONMENTAL IMPACT REPORT
OWENS LAKE DUST MITIGATION PROGRAM – PHASE
9/10 PROJECT**

March 2019



Prepared by:

California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825

CEQA Lead Agency:

City of Los Angeles Department of Water and Power
111 North Hope Street
Los Angeles, CA 90012



MISSION STATEMENT

The California State Lands Commission provides the people of California with effective stewardship of the lands, waterways, and resources entrusted to its care through preservation, restoration, enhancement, responsible economic development, and the promotion of public access.

CEQA DOCUMENT WEBSITE

www.slc.ca.gov/Info/CEQA.html

Geographic Location (State Lands Commission Lease):

Latitude: N 36°26'12.80"
Longitude: W 117°57'35.50"

Cover Photo: Owens Lake, Inyo County California

1.1 SUMMARY AND PROJECT OBJECTIVES

On June 14, 1999, the California State Lands Commission (Commission) authorized the issuance of Lease No. PRC 8079.9, a 20-year General Lease – Public Agency Use (Lease), to the City of Los Angeles Department of Water and Power (City or LADWP) for the Owens Lake South Sand Sheet Air Quality and Sand Fence Effectiveness Monitoring System on Owens Lake, which is located in southwest Inyo County, approximately 200 miles north of Los Angeles. Since that time, the Commission has authorized 22 amendments to the Lease for the construction, operation, and maintenance of additional components of dust control, including the use of Best Available Control Methods (BACM) to mitigate dust emissions on Owens Lake. Approved types of BACM include Shallow Flooding, Managed Vegetation, and Gravel Cover.

On June 2, 2015, the City, as lead agency under California Environmental Quality Act (CEQA), certified an Environmental Impact Report (EIR) for the Owens Lake Dust Mitigation Program (OLDMP) — Phase 9/10 Project (State Clearinghouse No. 2014071057).

The Addendum addresses changes in the Owens Lake Dust Mitigation Program Phase 9/10 Project (Project) being proposed by the City since approval of their associated EIR and authorization by the Commission as a responsible agency under CEQA. Proposed changes to the Project described in this Addendum include constructing berms and installing irrigation pipeline necessary for the implementation of dynamic water management (DWM) in two Dust Control Areas (DCAs) T13-1 Addition and T17-2.

1.2 ADDENDUM PURPOSE

The proposed changes to the previously authorized Project and their associated Mitigation Monitoring and Reporting Programs require Commission approval and therefore CEQA compliance. Pursuant to the State CEQA Guidelines section 15164, the lead agency or a responsible agency for a project shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions requiring preparation of a subsequent EIR (as described in Pub. Resources Code, § 21166 and the State CEQA Guidelines, § 15162) are present. Pursuant to State CEQA Guidelines section 15162, a subsequent EIR is not required unless:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;

- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

To implement the proposed modifications to the previously approved Project, the City has submitted an application to the Commission for the following:

- Splitting off a 63.7-acre portion of DCA T17-1 Addition into a separately managed DCA, designated T17-1 Addition and retrofitting the sprinkler system to operate independently in the new DCA;
- Extending a berm/road from the existing road approximately 1,530 linear feet to access the laterals for the sprinkler retrofit of T17-1 Addition. Additional berm of approximately 8,490 linear feet will be added to route stormflows around the DCA and protect aboveground piping);
- Constructing 4,000 feet of east-west berm to divide T17-2 into two sub-ponds and installing infrastructure to serve water to the sub-ponds separately; and
- Constructing a spillway to carry overflow water from the north T17-2 pond to the south T17-2 pond.

Before approving such modifications, the Commission must apply the standards outlined above to ensure that a subsequent EIR is not required. As described in more

detail below, Commission staff has determined, on the basis of substantial evidence in light of the whole record, that:

- minor changes or additions to the previously certified EIR for the Owens Lake Dust Mitigation Program – Phase 9/10 Project are necessary;
- none of the conditions described in State CEQA Guidelines section 15162 calls for the preparation of a subsequent EIR; and
- an addendum is the appropriate CEQA document for analysis and consideration of the portion of the Project on lands under the jurisdiction of the Commission.

Circulation of an addendum for public review is not required (State CEQA Guidelines, § 15164, subd. (c)); however, the decision-making body must consider the addendum in conjunction with the previously certified EIR for the project (State CEQA Guidelines, § 15164, subd. (d)).

1.3 BACKGROUND

Owens Lake was a natural and navigable waterway at the time of California's statehood and is thus sovereign land of the State under the jurisdiction of the Commission. Wildlife, waterfowl, and the nearby communities including the area's original Native American residents depended on and benefited from Owens Lake, which covered approximately 110 square miles and was 50 feet deep in places. Tribes have occupied the area for thousands of years, moving as the historical shoreline shrank and grew over time, using and stewarding the natural resources provided by the Lake, known to them as Patsiata. 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 began construction of an aqueduct to divert water from the Owens River north of Owens Lake. After completion of the Los Angeles Aqueduct in 1913, the City began transporting river water to Los Angeles, causing Owens Lake water levels to rapidly decline. By 1930, the Lake was virtually dry with only a small brine pool remaining. Since then, dust storms have carried away as much as four million tons of dust from the lakebed annually, causing respiratory problems for residents in the Owens Valley.

The U.S. Environmental Protection Agency has designated the southern part of the Owens Valley as a Serious Non-Attainment Area for PM₁₀ (suspended particulate matter [dust] less than or equal to 10 microns in mean aerodynamic diameter [about 1/10 the diameter of a human hair]). The Great Basin Unified Air Pollution Control District (GBUAPCD or 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 Owens Lake cause 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 Owens Lake to become dry and the lakebed to be in a condition that produces dust. The District has authority to issue Supplemental Control Requirements

Determinations (Orders) to the City for dust control purposes and recently approved the 2016 Owens Valley Planning Area PM₁₀ State Implementation Plan (GBUAPCD 2016).

The City constructs and operates Dust Control Measures (DCMs) on the Lake in compliance with Orders from the District under the authority of California Health and Safety Code section 42316, legal settlement agreements with the District, lease agreements for use of state lands (administered by the Commission), and other regulatory approvals. LADWP has also developed, in coordination with Commission staff and other stakeholders, a Habitat Suitability Model (HSM) for the Lake that includes various physical parameters that can be objectively measured as a means of predicting and monitoring habitat suitability and ensuring maintenance of wildlife habitat and use on the Lake (LADWP 2011).

2.0 DESCRIPTION OF PROJECT MODIFICATIONS AND ADDENDUM DETERMINATION

The following analysis was undertaken to analyze whether the modifications to the previously approved Project proposed by the City, would have any new or substantially more severe potentially significant environmental impacts that were not addressed in the EIR for Phase 9/10 certified by the City in 2015. Commission staff determined the appropriate focus of this analysis, based on CEQA issue areas most likely to be implicated, would be on aesthetics, air quality, biological resources, and cultural resources. The EIR identified these issue areas to have potentially significant impacts by the Phase 9/10 Project. Based on substantial evidence gathered through examination of the City's previously certified EIR and Commission staff's analysis of the anticipated environmental consequences of the requested lease amendments, along with consultation with CDFW, the District, and Tribal representatives, Commission staff determined that:

- Approval of the lease, as amended, would fall under the scope of the prior EIR relied on by the Commission, as a responsible agency, on August 19, 2015 (Phase 9/10); and
- While the lease amendment reflects some changes and additions that are necessary to successfully implement dust mitigation as compared to the originally certified EIR, none of the events identified in CEQA section 21166 or CEQA Guidelines section 15162 has occurred or will occur due to the proposed amendments.

As noted above, if the proposed Project modifications do not involve new or substantially increased significant impacts resulting from a change in the project or a change in the circumstances under which a project will occur, but instead reflect minor changes or additions, CEQA Guidelines section 15164 directs lead or responsible agencies to prepare an addendum to the CEQA document. Pursuant to CEQA Guidelines section 15164, subdivision (e), which states that lead or responsible agencies shall provide an explanation of their decision not to prepare additional environmental analysis in a subsequent document, Commission staff evaluated the proposed modifications to the Project and provides such explanations, below.

Dynamic Water Management

The subject DCAs were constructed as part of the Phase 7 dust control required by the 2008 SIP (GBUAPCD 2008) and analyzed in the 2008 Owens Valley PM Planning Area Demonstration of Attainment State Implementation Plan Subsequent EIR (SCH No.

2007021127). Dust control in T13-1 Addition and T17-2 are managed with Shallow Flooding. Shallow Flooding consists of releasing fresh and/or recycled water into a DCA and allowing it to spread, wet the surface, and thereby suppress windborne dust. In order to meet the 99 percent dust control efficiency standard, generally 72 percent of the surface must be wet or have saturated soil (75 percent wetness coverage is required for areas identified in the 2003 SIP). Prior to the 2016 State Implementation Plan (SIP), the coverage requirement for the 99 percent dust control areas could be reduced progressively during the spring shoulder season (May 16 to June 30); 70 percent areal wetness cover from May 16 to May 31; 65 percent areal wetness cover from June 1 to June 15; and 60 percent areal wetness cover from June 15 through June 30. The fall shoulder season is defined as October 1 to October 15; prior to the 2016 SIP, full levels of dust control were not required until October 16.

Under the 2016 SIP, DWM modifies the dust season for certain areas on Owens Lake to conserve water. This was described in the Phase 9/10 Project Final EIR (Section 2.1.1) as:

An analysis of Owens Lake ambient air quality, meteorological and sand flux data along with lake bed field observations during the past 15 years has revealed that the Shallow Flood BACM [Best Available Control Measure] dust season may be shortened for certain areas of the lake bed that have historically shown little dust activity in the early and/or late portions of the October through June dust season. In addition, wetness cover requirements to achieve the required Minimum Dust Control Efficiency may also vary depending on seasonal conditions that may affect salinity of the surface water and the formation of erosion-resistant brine crusts. Modifications to the dust season for certain areas are currently being considered by GBUAPCD and LADWP to address the commitment in the 2014 Stipulated Judgment to implement a Dynamic Water Management Plan in order to reduce water use on the lake bed. Dynamic Water Management could include modifications to the existing ramping schedules for flow operations and could apply to existing Shallow Flooding dust control areas (DCAs) as well as new areas of Shallow Flooding proposed under the Phase 9/10 Project (T10-1-L1, T37-2-L1, T37-2-L2, T37-2-L3, and T37-2-L4).

DWM is an operational modification to BACM Shallow Flooding that allows delayed start dates and/or earlier end dates required for Shallow Flooding in specific areas that have historically had low PM₁₀ emissions with the modified time periods. DWM is included in the definition of Shallow Flooding BACM defined by the GBUAPCD in the 2016 Owens Valley Planning Area PM₁₀ State Implementation Plan (GBUAPCD 2016). The truncated dust control periods allow for water savings while achieving the required control

efficiency level. If a DWM area becomes susceptible to wind erosion outside of the modified dust control period, the area will be flooded to meet the required control efficiency for that area. Since approval of the Phase 9/10 Project (Avoidance Alternative) and its associated Final EIR in June 2015, GBUAPCD has prepared a Dynamic Water Management Plan (GBUAPCD 2016) to define DWM with greater specificity. The dust season for DWM Plan areas irrigated with sprinklers shall start two weeks earlier and end one month later than shown on Exhibit 4 of the DWM Plan. The standard dust season defined in the 2008 SIP was October 16 to June 30, with ramping of 99 percent control areas after May 15.

While DWM has been addressed in the Phase 9/10 Project EIR, in a previous Addendum to the EIR considered by the Commission on August 9, 2016, and is currently being implemented as part of the OLDMP, the project description clarification that is the focus of this Addendum is the new construction necessary to implement DWM in T13-1 Addition and T17-2. Due to specific site conditions, construction is necessary in these two DCAs in order to implement the changed timing of water application in the DWM Plan. While construction was not described for these specific DCAs, all construction methods and their associated impacts are described in the Phase 9/10 EIR, with their relevant mitigation measures.

T13-1 Addition and T17-2 are two of the existing Shallow Flooding DCAs, constructed under Phase 7 dust control, where DWM could apply, as referenced above. Modified DWM Plan dust seasons are noted by DCA and include October 16 to April 30 for T17-2 north and January 16 to April 30 for T13-1 Addition and T17-2 south.

Since 2010, T13-1 and T13-1 Addition have been evaluated jointly for shallow flood compliance. Modifications are required to operate T13-1 Addition separately from T13-1, and to improve water distribution in the DCA. Challenges to achieving Shallow Flooding criteria in T13-1 Addition result from channeling of surface flows and soft soil conditions that prevent surface grading to correct drainage issues. To improve Shallow Flooding coverage in this DCA, a sprinkler system retrofit is proposed. The modifications include the conversion of 63.7 acres (out of a total 79.6-acre DCA) of existing lateral Shallow Flood with poor coverage to sprinkler Shallow Flood with improved water coverage through installation of above-ground whip-lines and sprinklers. The sprinkler layout is designed such that 25 percent of the DCA will be completely dry, with blocks of that dry area located throughout the DCA and immediately up-gradient outside of the DCA. This type of layout was designed to enable Snowy Plover to nest in the dry area outside of the proposed sprinklers while providing increased foraging habitat in the area with sprinklers. In order to access the laterals for the sprinkler retrofit, a berm/road will extend the existing road approximately 1,530 linear feet. Additional berm of approximately 8,490 linear feet will be added to route stormflows around the DCA and protect aboveground piping.

Commission staff determined the appropriate focus of this analysis, based on CEQA issue areas most likely to be implicated, would be on aesthetics, air quality, biological resources, and cultural resources. Based on substantial evidence gathered through examination of the City's previously certified EIR and Commission staff's analysis of the anticipated environmental consequences of the requested lease amendments, along with consultation with CDFW, the District, and Tribal representatives, Commission staff determined that these proposed changes would require only minor physical changes to the existing DCAs, will not degrade habitat values, and would not increase the severity of potential significant impacts identified in the EIR related to aesthetics, air quality, biological resources, and cultural resources. The project will not change the visual characteristics of the site and will keep dust emissions on these DCAs at or below their current emission levels. It will not substantially reduce migratory waterfowl habitat and will increase snowy plover nesting and foraging habitat. The areas were surveyed for cultural resources prior to the initial construction and are currently actively managed DCAs so no impacts to cultural resources are anticipated.

As a result, the proposed amendment would not create any new significant environmental effects or an increase in the severity of previously identified significant effects in the EIR, including aesthetics, air quality, biological resources, and cultural resources, as indicated in section 15162 of the CEQA Guidelines.

3.0 CONCLUSION

Commission staff prepared this Addendum pursuant to Public Resources Code section 21166 and State CEQA Guidelines sections 15162 through 15164 (see Section 1.2, *Addendum Purpose*). As detailed in the explanations and facts presented in Section 2.0 above, this Addendum to the Phase 9/10 EIR certified by the City on June 2, 2015, supports the conclusion that the changes to the Project would not result in any new or substantially more severe significant environmental effects and do not represent a substantial change to the circumstances under which the Phase 9/10 Project is being carried out. In addition, Commission staff believes that no new information exists that would give rise to a new or substantially more severe significant environmental effect or that would affect the implementation or effectiveness of the previously adopted mitigation measures. In particular, the Project is consistent with State CEQA Guidelines section 15164 in that only minor changes have been made to the Project, and none of the conditions described in Public Resources Code section 21166 or State CEQA Guidelines section 15162 has occurred. Therefore, Commission staff recommends the Commission find that no subsequent or supplemental document is required.

4.0 ADDENDUM PREPARATION SOURCES AND REFERENCES

4.1 ADDENDUM PREPARERS

California State Lands Commission

Sarah Mongano, Senior Environmental Scientist, Division of Environmental Planning and Management (DEPM)

Eric Gillies, Acting Chief, DEPM

Jennifer Mattox, Science Advisor/Tribal Liaison, Executive Office

Jamie Garrett, Staff Attorney, Legal Division

4.2 REFERENCES

Great Basin Unified Air Pollution Control District. 2008. Great Basin Unified Air Pollution Control District (GBUAPCD). Owens Valley PM10 Planning Area Demonstration of Attainment State Implementation Plan Final Subsequent Environmental Impact Report. Prepared by Sapphos Environmental, Inc.

Great Basin Unified Air Pollution Control District. 2016. 2016 Owens Valley Planning Area PM10 State Implementation Plan.

Los Angeles Department of Water and Power (LADWP). 2015. Owens Lake Dust Mitigation Program – Phase 9/10 Project. Draft and Final Environmental Impact Report. SCH# 2014071057.