

**STAFF REPORT  
40**

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02/28/20  
PRC 8079.9  
D. Simpkin

**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 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 ([Item C06, June 14, 1999](#)). Since that time, the Commission has authorized 23 amendments to the lease for the construction, operation, and maintenance of additional components of dust control. Exhibit B provides a summary of these amendments. The lease was set to expire on April 30, 2019. On February 5, 2019, the Commission authorized the 23rd Amendment to the Lease to extend the term to April 30, 2024 ([Item C50, February 5, 2019](#)).

**PROPOSED AMENDMENT:**

Section 1, Land Use or Purpose, Authorized Improvements, and Section 3 of the Lease would be amended to authorize the continued use and maintenance of 2.5 miles of water diversion ditches adjacent to dust control area T36.

**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 communities including the area's original Native American residents depended on and benefited from the Lake, which covered approximately 110 square miles and was up to 50 feet deep in places. Tribes have occupied the area for thousands of years, moving as the historical shoreline fluctuated 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

## STAFF REPORT NO. 40 (CONT'D)

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 of dust from the lakebed each year, causing respiratory problems for residents in the Owens Valley. The U.S. Environmental Protection Agency 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.

The Commission's lease with the City has authorized the City to conduct dust control measures on the Lake over the years to comply with regulatory orders by the District. These dust control activities have occurred over multiple phases.

### **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:**

On April 19, 2019, staff issued a Letter of Non-Objection to the City to install, operate, maintain, monitor and restore approximately 2.5 miles of water diversion ditches adjacent to Dust Control Area (DCA) T36. In March 2019, the City determined that the implementation of emergency measures was necessary to mitigate snowpack runoff and the potential of flooding damage to Phase 8 gravel and DCA T36. The City determined that water diversion ditches would direct water flows to the Owens Lake brine pool and away from DCAs and other critical infrastructure. The letter of non-objection expired on December 31, 2019. The City submitted an application for the continued use and maintenance of the water diversion ditches on December 2, 2019.

## STAFF REPORT NO. 40 (CONT'D)

The City is requesting authorization for the continued use and maintenance of the diversion ditches in the event that future runoff or storm events threaten DCAs or infrastructure.

### **Climate Change:**

As stated in *Safeguarding California Plan: 2018 Update* (California Natural Resources Agency 2018), climate change is projected to increase the frequency and severity of natural disasters related to flooding, drought, and storms. The lease area is open land with low vegetation fuels, and is vulnerable to the above events, including dust storms, flooding during above average snowmelt and precipitation, and flash flooding from thunderstorms. The leased land and surrounding land may be vulnerable to these weather events; however, the purpose of the proposed amendment is to maintain storm runoff diversion ditches to protect dust control infrastructure on Owens Lake from such flooding.

### **Conclusion:**

The continued use and maintenance of the water diversion ditches will require no additional ground-disturbing activities adjacent to DCA T36. Staff believes the proposed amendment will not significantly impair Public Trust resources and values, including wildlife habitat, public access, recreation, and aesthetic enjoyment on this portion of the Lake at this time.

### **OTHER PERTINENT INFORMATION:**

1. Approval or denial of the application is a discretionary action by the Commission. Each time the Commission approves or rejects a use of sovereign land, it exercises legislatively delegated authority and responsibility as trustee of the State's Public Trust lands as authorized by law. Upon expiration or prior termination of the lease, the lessee has no right to a new lease or to renewal of any previous lease.
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. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

**STAFF REPORT NO. 40 (CONT'D)**

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

**EXHIBITS:**

- A. Land Description
- B. Site and Location Map
- C. Summary of Lease Amendments

**RECOMMENDED ACTION:**

It is recommended that the Commission:

**CEQA FINDING:**

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

**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 is in the best interests of the State.

**AUTHORIZATION:**

1. Authorize the amendment of Lease No. PRC 8079.9, a General Lease – Public Agency Use, to allow 2.5 miles of existing water diversion ditches adjacent to DCA T36 and to replace the Land Description for DCA T36 in Section 3 of the Lease, with the revised description attached as Exhibit A, and as shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; all other terms and conditions of the lease will remain in effect without amendment.

## EXHIBIT A

PRC 8079.9

### LAND DESCRIPTION

(T36 DCA REVISED)

**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 South 89°11'41" East, a distance of 20,381.29 feet; thence along the following described courses:

North 60°40'07" West, 838.12 feet:  
North 69°22'19" West, 1414.90 feet:  
South 85°25'37" West, 1819.68 feet:  
North 70°32'37" West, 9932.71 feet:  
North 48°59'08" West, 2876.17 feet:  
North 51°18'54" East, 5093.77 feet:  
South 69°47'43" East, 3558.66 feet:  
North 89°39'36" East, 2630.95 feet:  
South 77°50'55" East, 393.04 feet:  
South 43°53'32" East, 155.63 feet:  
South 43°53'35" East, 1473.41 feet:  
South 43°49'54" East, 691.23 feet:  
South 32°00'25" East, 2071.06 feet:  
South 49°38'36" West, 196.46 feet:  
South 11°36'48" West, 80.03 feet:  
South 30°13'03" East, 247.45 feet:  
North 80°30'36" East, 515.15 feet:  
South 83°46'08" East, 186.05 feet:  
North 73°34'30" East, 43.01 feet:  
North 43°34'30" East, 40.00 feet:  
North 73°34' 30" East, 169.44 feet:  
North 78°35'07" East, 59.25 feet:  
South 26°03'42" East, 83.49 feet:  
South 26°08'58" East, 1500.33 feet:  
South 02°59'54" West, 515.25 feet:

South 41°15'08" East, 242.03 feet:  
South 33°47'01" East, 370.32 feet:  
South 29°25'34" East, 403.24 feet:  
South 18°48'57" East, 207.44 feet:  
South 05°59'16" East, 1197.65 feet: to The POINT OF BEGINNING

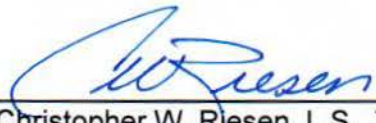
Containing 1623.91 acres, more or less.

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 1.000228742.

#### END OF DESCRIPTION

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

This legal description prepared by me or under my direction.

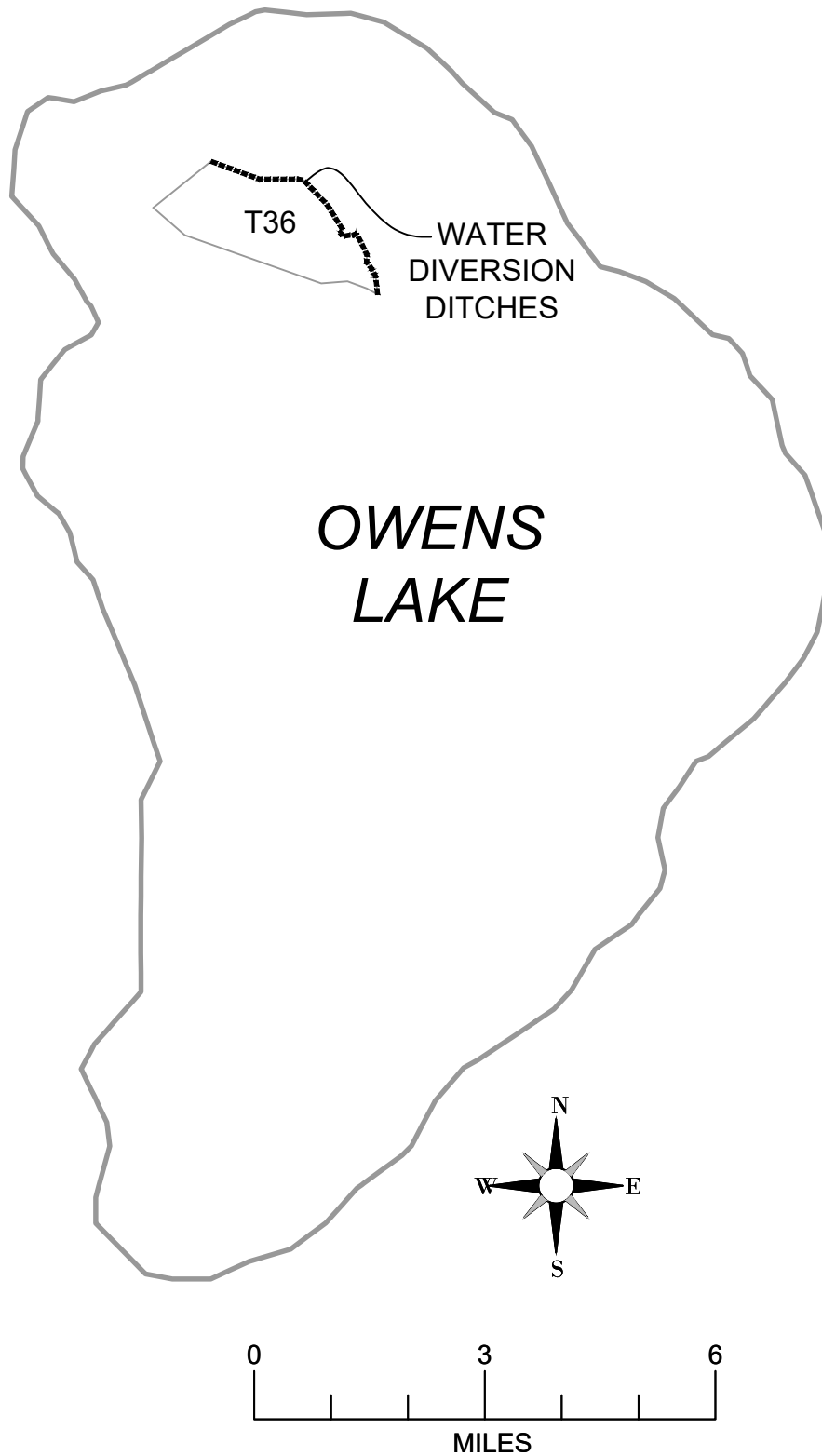
  
Christopher W. Riesen, L.S. 7894

1.16.2020  
Date



NO SCALE

## SITE



### **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.

TS 01/16/2020



## 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/Meeting\\_Summaries/1999\\_Documents/06-14-99/Items/061499C06.pdf](http://archives.slc.ca.gov/Meeting_Summaries/1999_Documents/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/Meeting\\_Summaries/2000\\_Documents/06-27-00/Items/062700C15.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2000_Documents/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](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/Meeting\\_Summaries/2002\\_Documents/06-18-02/Items/060802C05.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2002_Documents/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](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/ITEMS\\_AND\\_EXHIBITS/C05.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2008_Documents/08-22-08/ITEMS_AND_EXHIBITS/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/ITEMS\\_AND\\_EXHIBITS/C23.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2009_Documents/06-01-09/ITEMS_AND_EXHIBITS/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/2009\\_Documents/10-22-09/ITEMS\\_AND\\_EXHIBITS/C17.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2009_Documents/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/ITEMS\\_AND\\_EXHIBITS/41.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2009_Documents/12-17-09/ITEMS_AND_EXHIBITS/41.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/ITEMS\\_AND\\_EXHIBITS/C33.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2010_Documents/06-28-10/ITEMS_AND_EXHIBITS/C33.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/2010\\_Documents/12-10-10/Items\\_and\\_Exhibits/50.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2010_Documents/12-10-10/Items_and_Exhibits/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/2013\\_Documents/06-21-13/Items\\_and\\_Exhibits/C61.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2013_Documents/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/Meeting\\_Summaries/2014\\_Documents/04-23-14/Items\\_and\\_exhibits/C55.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2014_Documents/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/Meeting\\_Summaries/2014\\_Documents/09-02-14/Items\\_and\\_exhibits/02.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2014_Documents/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 6/28/2016; 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))

**Nineteenth Amendment.** Approved placement of gravel cover for dust control for the 0.41-acre parcel west of Mainline, between existing DCAs T21 and T21-L3. (Approved 6/22/17; Available at:

[http://archives.slc.ca.gov/Meeting\\_Summaries/2017\\_Documents/06-22-17/Items\\_and\\_exhibits/C58.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2017_Documents/06-22-17/Items_and_exhibits/C58.pdf))

**Twentieth Amendment.** Approved staff's emergency authorization of emergency measures taken between April 2017 and June 2017 and authorized the Executive Officer to amend the lease to allow for the placement of 0.45 acre of gravel cover in Dust Control Area (DCA) T37-2-L-1/T37-2a. (Approved 11/29/17); Available at:

[http://archives.slc.ca.gov/Meeting\\_Summaries/2017\\_Documents/11-29-17/Items\\_and\\_Exhibits/C54.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2017_Documents/11-29-17/Items_and_Exhibits/C54.pdf))

**Twenty-first Amendment.** Approved the deadline to develop a Tribal Consultation Policy, including adoption of the Policy and the appointment of an official Tribal Liaison, from June 22, 2018 to December 23, 2018. (Approved 6/21/18; Available at:

[http://archives.slc.ca.gov/Meeting\\_Summaries/2018\\_Documents/06-21-18/Items\\_and\\_Exhibits/C58.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2018_Documents/06-21-18/Items_and_Exhibits/C58.pdf))

**Twenty-second Amendment.** Approved use of barn owl boxes, extended use of sand fences, the redesignation of 353 acres of managed vegetation dust control measures to sprinkler shallow flooding, the continued use and maintenance of two previously unauthorized access roads, installation of flood control system in DCA T2-1b (C2-L1), and the continued use and maintenance of 0.81 acre of previously

unauthorized gravel cover. (Approved 2/4/19; Available at:  
[http://archives.slc.ca.gov/Meeting\\_Summaries/2019\\_Documents/02-04-19/Items\\_and\\_Exhibits/C58.pdf](http://archives.slc.ca.gov/Meeting_Summaries/2019_Documents/02-04-19/Items_and_Exhibits/C58.pdf))

**Twenty-third Amendment:** Approved removal of gravel in T37-2d and installation of sprinkler shallow flooding, modifications to T13-1 and T17-2, and extended the term of the lease to April 30, 2024. (Approved April 5, 2019; Available at:  
[http://www.slc.ca.gov/wp-content/uploads/2019/03/04-05-19\\_C50.pdf](http://www.slc.ca.gov/wp-content/uploads/2019/03/04-05-19_C50.pdf))

