

**BOARD ORDER 131211-01**  
**ORDER OF THE GOVERNING BOARD OF THE**  
**GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT**  
**REVISING THE 2010 PM<sub>10</sub> MAINTENANCE PLAN FOR THE**  
**COSO JUNCTION PLANNING AREA TO MODIFY MAINTENANCE**  
**MEASURES UNDER BOARD ORDER 080128-01 RELATED TO**  
**CONTROLLING DUST FROM THE OWENS VALLEY**

*December 11, 2013*

WHEREAS, on May 17, 2010, the Governing Board of the Great Basin Unified Air Pollution Control District (“District”), an agency organized pursuant to Division 26, Part 3, Chapter 3 of the California Health and Safety Code, approved the *2010 PM<sub>10</sub> Maintenance Plan and Redesignation Request for the Coso Junction Planning Area* (“Coso Junction Maintenance Plan”).

WHEREAS, windblown dust from the Owens Lake bed and the Keeler Dunes has the potential to cause or contribute to exceedances of the National Ambient Air Quality for particulate matter less than 10 microns (federal PM<sub>10</sub> standard) in the Coso Junction Planning Area.

WHEREAS, the 2010 Coso Junction Maintenance Plan relies on Best Available Control Measures implemented at Owens Lake planning area through District Board Order 080128-01 as a maintenance measure to help ensure continued compliance with the federal PM<sub>10</sub> standard.

WHEREAS, on September 16, 2013, Board Order 080128-01 cited in Appendix C of the 2010 Coso Junction Maintenance Plan was revised as Board Order 130916-01 to amend the 2008 Owens Valley PM<sub>10</sub> Planning Area Demonstration of Attainment State Implementation Plan (SIP) to incorporate revisions to the date required for the implementation of Best Available Control Measures for the Phase 7a dust control areas and to modify certain Best Available Control Measure Descriptions. (Attachment 1)

WHEREAS, the dust control requirements for the Owens Valley SIP implemented under Board Order 080128-01 (SIP order, Attachment 1 - Exhibit 1) and approved as Appendix C of the Coso Junction Maintenance Plan were revised under Board Order 130916-01.

WHEREAS, the SIP order requires the City of Los Angeles, acting by and through its Los Angeles Department of Water and Power (“LADWP”), a municipal corporation organized under the Los Angeles City Charter and the Constitution and laws of the State of California, to construct Best Available Control Measure (“BACM”) PM<sub>10</sub> controls on various emissive areas of the dried Owens Lake bed in Inyo County, California, and the SIP Order sets forth a methodology for identifying emissive lake bed areas that require BACM PM<sub>10</sub> controls.

WHEREAS, on September 25, 2009, the LADWP requested and was granted a conditional variance by the District Hearing Board (District Hearing Board Order Number GB09-06, Attachment 1 - Exhibit 2) to extend the deadline by one year for the completion of dust control measures in an approximately 3.1 square-mile area now known as "Phase 7a," which includes the six Dust Control Areas ("DCAs") designated as T37-1, T37-2, T1A-3, T1A-4, T-32-1 and T12-1.

WHEREAS, on March 17, 2011, the District Governing Board issued Stipulated Order for Abatement Number 110317-01 ("Order 110317-01") (Attachment 1 - Exhibit 3). Order 110317-01 extended the SIP Order and Hearing Board Order GB09-06 deadlines by which the LADWP was required to construct the Phase 7a dust control project. With the exception of DCA T12-1, Order 110317-01 required Phase 7a dust controls to be BACM controls. Order 110317-01 allows LADWP to conduct a BACM test of Tillage in DCA T12-1 and to transition approximately 3.0 square miles of existing BACM control areas to other types of BACM control ("Transition Area").

WHEREAS, Order 110317-01 requires LADWP to install the Phase 7a and Transition Area BACM controls by no later than December 31, 2013, and to install BACM controls in the T12-1 tillage test area by May 1, 2016. (*See also* Governing Board Order No. 120206-07.) Under Order 110317-01, all Phase 7a Areas and Transition Areas controlled by Managed Vegetation BACM are to achieve fully-compliant BACM vegetation cover by December 31, 2015.

WHEREAS, the LADWP subsequently determined that it would be unable to meet the deadlines set forth in Order No. 110317-01 and, after discussions with the District, entered into a settlement agreement with the District entitled *Phase 7a and Keeler Dunes Settlement Terms*, dated June 25, 2013 ("Term Sheet") that was approved by LADWP's Water and Power Commissioners on June 26, 2013, and the District's Governing Board on June 27, 2013. The Term Sheet is attached as Exhibit 4 in Attachment 1.

WHEREAS, the Term Sheet required the District and the LADWP to enter into a Settlement Agreement that formalized and approved the provisions of the Term Sheet. On August 19, 2013 and August 27, 2013, the District and LADWP, respectively, approved the *Settlement Agreement and Release Between the Great Basin Unified Air Pollution Control District and City of Los Angeles Acting by and Through its Department of Water and Power Concerning Modification to Phase 7a Stipulated Order for Abatement No. 110317 and Keeler Dunes Project* ("Settlement Agreement"). The Settlement Agreement is attached as Exhibit 5 in Attachment 1.

WHEREAS, the Term Sheet and Settlement Agreement required the District to modify Order 110317-01 to comply with the provisions of the Term Sheet and Settlement Agreement. On August 19, 2013, the Governing Board adopted Order No. 130819-01 – *Findings and Decision of District Governing Board Upon Hearing for Stipulated Modification to Stipulated Order for Abatement 110317-01* which modified Order 110317-01. Order 130819-01 is attached as Exhibit 6 in Attachment 1.

WHEREAS, the Term Sheet (Section II.B.1.c.) and Settlement Agreement (Section II.b.iii.) require that "The District shall amend the 2008 SIP and Board Order 080128-01 consistent with

the terms of this Agreement, ... and shall request the United States Environmental Protection Agency (“EPA”) and CARB [California Air Resources Board] to approve the amended Owens Valley SIP.”

WHEREAS, the District prepared and made available for review a written analysis of Board Order 080128-01 as required by Health & Safety Code §40727.2. (Attachment 2)

WHEREAS, the revisions to Board Order 080128-01 for PM10 control requirements in the Owens Valley are consistent with and not in conflict with or contradictory to, any existing statutes, court decisions, or State or federal regulations.

WHEREAS, the revisions to Board Order 080128-01 are written so that persons directly affected by it can easily understand its meaning.

WHEREAS, no changes have been made in the text of the revisions to Board Order 080128-01 originally made available to the public that are so substantial as to significantly affect its meaning.

WHEREAS, a proposed Notice of Exemption meeting the requirements of the California Environmental Quality Act was properly noticed and circulated, indicating the proposed revisions to Board Order 080128-01 are categorically and statutorily exempt from the requirements of CEQA.

NOW THEREFORE BE IT RESOLVED, in order to make Appendix C of the 2010 Coso Junction Maintenance Plan consistent with the requirements of Board Order 130916-01 the District Governing Board hereby amends the 2010 Coso Junction Maintenance Plan to replace Board Order 080128-01 in Appendix C with a revised Board Order 080128-01 as amended by Board Order 130916-01, and directs the Board Clerk to promptly submit the revised Board Order 080128-01 to the California Air Resources Board (“CARB”) for approval and forwarding to the U.S. Environmental Protection Agency (“EPA”) for its consideration and approval.

BE IT FURTHER RESOLVED, that the revisions to Board Order 080128-01 contained in Appendix C of the 2010 Coso Junction Maintenance Plan and shown in underline strike-out form in Attachment 3 and incorporated in a clean version in Attachment 4 are summarized as follows:

**A. PHASE 7a DUST CONTROLS**

1. **Deadline Extensions**: The deadlines for constructing dust controls in the “Moat & Row” areas (now known as the “Phase 7a” areas) are revised to be consistent with the new timeframes discussed below in subdivisions (a)-(d):
  - a. With the exceptions noted below, the deadline for LADWP to construct all infrastructure and install fully-compliant BACM PM<sub>10</sub> controls (other than Managed Vegetation BACM) in those portions of the “2008 Dust Control Area” known as the

- “Phase 7a” areas, which total approximately 3.1 square miles, shall be December 31, 2015. All infrastructure and plant materials for Phase 7a areas controlled with Managed Vegetation BACM will be installed by December 31, 2015. The Phase 7a areas are a portion of the 2008 Dust Control Area previously referred to in Board Order 080128-01 as “Moat & Row Dust Control Areas” and are shown and described in Exhibit 1 of the amended order.
- b. The deadline to achieve fully-compliant BACM vegetation cover for those Phase 7a areas controlled by the Managed Vegetation BACM shall be December 31, 2017.
  - c. The extensions of the deadlines set forth in sections A.1.a. and A.1.b. shall be contingent upon all of the following:
    - (1) LADWP timely receiving from California State Lands Commission (“CSLC”) and all other agencies all of the required permits, approvals, or leases necessary to allow LADWP to construct BACM controls within the deadlines set forth in sections A.1.a. and A.1.b..
    - (2) The timely removal from the Phase 7a areas of all California Register of Historical Resources (“CRHR”)-eligible areas plus necessary buffer areas, referred to as the “Eligible Cultural Resource (“ECR”) areas.” The ECR areas initially consist of 277 acres of the Phase 7a areas (the “Initial Phase 7b Areas”). The Initial ECR areas and any newly discovered CRHR-eligible and necessary buffer areas shall comprise the “Phase 7b” areas. The Phase 7b Areas are not limited to the initial 277 acres.
    - (3) Order 110317-01 being revised to state explicitly that any newly discovered potential ECRs in the Phase 7a areas are considered a condition of force majeure under paragraph 5(d) of that Order.
  - d. If any one of the above contingencies is not met, LADWP may seek further extensions of time under the provisions of paragraph 5 of Order 110317-01, as modified by Order 130819-01, and paragraphs 6 and 22 of Order 110317-01, which shall not be unreasonably denied by the District.
2. **Removal of Phase 7b Areas:** LADWP shall not be required to install dust controls in the Phase 7b areas (initially, 277 acres) under the provisions of the 2008 Owens Valley SIP, Order 080128-01 (adopted 1/28/2008) or Order 130819-01, and the following is added to amended Order 080128-01:

If the District Governing Board subsequently decides to order LADWP to install dust controls in Initial Phase 7b Areas, the District Governing Board will do so by issuing a new Board order or orders. The new Board order or orders shall include deadlines for constructing dust controls that accommodate project circumstances. Any future order or orders issued by the District for Phase 7b will give due consideration to the shared goal of the District and LADWP to control

air pollution and decrease the use of water as a dust control measure at Owens Lake. LADWP is not waiving its right to contest the new Board order or orders.

3. **Figure Revisions:** Board Order 080128-01, Exhibit 1 is revised to identify:
  - a. The Moat & Row Areas as “Phase 7a”
  - b. The location of “Brine Shallow Flooding” BACM
  - c. The existing shallow flooding areas to be transitioned to other BACM as part of the Phase 7a project, and
  - d. The completed BACM controls in the Phase 8 area.

**B. BEST AVAILABLE CONTROL MEASURE (BACM) MODIFICATIONS**

1. **Reduced Thickness Gravel:** As an alternative to the use of a gravel blanket at least four inches thick in 17.A. [of Board Order 080128-01], the Governing Board approves “Reduced Thickness Gravel” as an approved type of Gravel Blanket BACM. For Reduced Thickness Gravel the gravel thickness is reduced from a minimum of four inches (4”) to two inches (2”) and all reduced thickness gravel areas shall be underlain with geotextile fabric. One hundred percent of the control area shall be covered with a layer of gravel and all gravel material placed must be screened to a size greater than one-half inch (½ inch) in diameter. All geotextile fabric shall be Class I woven or nonwoven geotextile fabric meeting the minimum specifications set forth in the National Standard Materials Specification “Material Specification 592—Geotextile” (National Engineering Handbook, Chapter 3, Part 642), or equivalent as approved by the Air Pollution Control Officer. The gravel shall have resistance to leaching and erosion. It shall be no more toxic than the gravel from the Keeler fan site analyzed by the District in the Final Environmental Report prepared for the 1997 SIP. To minimize visual impacts, all gravel used shall be comparable in coloration to the existing lake bed soils.
2. **Brine Shallow Flood:** The Governing Board approves “Brine Shallow Flooding BACM” as a subcategory of Shallow Flooding BACM. Brine Shallow Flooding is defined per the “Shallow Flooding BACM” in the 2008 Owens Valley SIP except that the water used for dust control may contain elevated levels of dissolved salts. The Air Pollution Control Officer will develop a Brine Shallow Flood BACM compliance methodology with input from the LADWP. The District and LADWP acknowledge and agree that the District’s approval of Brine Shallow Flooding BACM shall not make LADWP liable for maintenance of the existing natural Brine Pool on Owens Lake. The existing “natural Brine Pool” is defined as those areas at Owens Lake below elevation 3,553.55 feet.
3. **BACM Testing and Approval:** The District shall work with LADWP on accelerated testing schedules and BACM approval, if warranted, for Engineered Roughness Elements and Tillage in soil type areas where these controls can be applied. The District Governing Board shall consider BACM approval of these candidate measures by September 28, 2014. If the accelerated testing does not result in approved BACM for the candidate measures, the District’s and LADWP’s respective Boards shall jointly assess why the accelerated testing did not result in the District Board’s BACM approval. The District and

LADWP shall also work on accelerated testing schedules and BACM approvals for other forms of BACM controls.

BE IT FURTHER RESOLVED, that the Governing Board of the Great Basin Unified Air Pollution Control District hereby finds and determines to be true, on the basis of substantial evidence, each statement of fact, and hereby adopts on the basis of the record of this proceeding each conclusion of law, set forth in the recitals to this resolution.

BE IT FURTHER RESOLVED, that on the basis of the foregoing, the Governing Board of the Great Basin Unified Air Pollution Control District hereby authorizes and directs the Air Pollution Control Officer to execute on behalf of the District a Notice of Exemption for these rule revisions, and to file or record the notice reflecting that action as provided by applicable law.

BE IT FURTHER RESOLVED, that the District shall prepare and maintain a record of this SIP amendment and Board Order revision in accordance with Health & Safety Code §40728.

BE IT FURTHER RESOLVED, that the effective date of this Order to amend the Coso Junction PM10 Maintenance Plan and revise Board Order 080128-01 as contained in Appendix C of the 2010 Coso Junction PM10 Maintenance Plan shall be December 11, 2013.

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APPROVED, ADOPTED and ORDERED by the Governing Board of the Great Basin Unified Air Pollution Control District this 11<sup>th</sup> day of December, 2013 by the following vote:

Yes:

No:

Abstain:

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John Eastman, Chair of the Governing Board

Attest:

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Tori DeHaven, Clerk of the Governing Board

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Attachment 1 – Governing Board Order 130916-01 with Exhibits 1 – 8.

Exhibit 1 *2008 Owens Valley PM<sub>10</sub> Planning Area Demonstration of Attainment State Implementation Plan* Board Order Number 080128-01 (“SIP Order”)

Exhibit 2 District Hearing Board Order GB09-06, *Findings and Order Granting Regular variance from Requirements set Forth in Governing Board Order 080128-01*, September 25, 2009.

Exhibit 3 Stipulated Order for Abatement Number 110317-01

Exhibit 4 *Phase 7a and Keeler Dunes Settlement Terms* dated June 25, 2013 (“Term Sheet”)

Exhibit 5 *Settlement Agreement and Release Between the Great Basin Unified Air Pollution Control District and City Of Los Angeles Acting by and Through its Department of Water and Power Concerning Modification to Phase 7a Stipulated Order for Abatement No. 110317 and Keeler Dunes Project*, dated August 19, 2013 (“Settlement Agreement”)

Exhibit 6 District Governing Board Order Number 130819-01 – *Findings and Decision of District Governing Board Upon Hearing for Stipulated Modification to Stipulated Order for Abatement 110317-01*, dated August 19, 2013

Exhibit 7 Map of Phase 7a areas

Exhibit 8 Map of Keeler and Other Dune Areas

Attachment 2 – Analysis of BO 080128-01 as Amended by BO 130916-01 Under CH&SC § 40727.2 (a)

Attachment 3 – Underline-strikeout Version of Revised Board Order 080128-01

Attachment 4 – Clean Version of Revised Board Order 080128-01