

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT



GOVERNING BOARD REGULAR MEETING INFORMATION

Meeting Date & Time

Thursday, July 13, 2017 at 10:00 am

Meeting Location

Alpine County Administrative Center
99 Water Street (State Hwy 89)
Markleeville, California 96120

District Board

John Wentworth, Town of Mammoth Lakes, Chair

David Griffith, Alpine County, Vice Chair

Ron Hames, Alpine County

Dan Totheroh, Inyo County

Fred Stump, Mono County

Matt Kingsley, Inyo County

Larry Johnston, Mono County

Phillip L. Kiddoo, Air Pollution Control Officer
157 Short Street, Bishop, California 93514
(760) 872-8211 E-mail: pkiddoo@gbuapcd.org



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537

Tel: 760-872-8211 www.gbuapcd.org

GOVERNING BOARD REGULAR MEETING AGENDA

THURSDAY, JULY 13, 2017 AT 10:00 AM

Alpine County Administrative Center

99 Water Street (State Hwy 89), Markleeville, California 96120.

Assistance for those with disabilities: If you have a disability and need accommodation to participate in the meeting, please call Tori DeHaven, Board Clerk, at (760) 872-8211 for assistance so the necessary arrangements can be made.

Great Basin Unified Air Pollution Control District is a California regional government agency that works to protect the people and the environment of Alpine, Mono and Inyo Counties from the harmful effects of air pollution.

1. Call to order and pledge of allegiance
2. Public comment on matters not on the agenda (No Action)
3. Consent Items (Action)
 - a. Approval of the May 11, 2017 regular Governing Board meeting minutes1
 - b. Approval of contract with Amec Foster Wheeler Environmental & Infrastructure, Inc. for project management services of the Keeler Dunes Project for fiscal year 2017-2018 for an amount of \$86,500.12
 - c. Approve the Purchase of one (1) 2018 High-clearance, 4-door, 4-Wheel Drive Sport Utility Vehicle in the Amount of \$36,190.12 from Perry Motors of Bishop, CA19
 - d. Approval of annual sole source determinations.....30
4. United States Environmental Protection Agency (EPA) 2016 Owens Valley Planning Area (OVPA) PM10 State Implementation Plan (2016 SIP) Approval (No Action)40
5. Owens Lake and the 2017 Snowpack Runoff Emergency (No Action)67
6. Adoption of a Resolution of the Governing Board of the Great Basin Unified Air Pollution Control District to nominate Owens Lake to the National Register of Historic Places as an archaeological district (Action)92
7. Use of unexpended FY 16/17 SB 270 funds and PARS GASB 68 Trust funds to pay down CalPERS pension liabilities (Action)110
8. Update on the Keeler Dunes Dust Control Project (No Action)114
9. Informational items (No Action)
 - a. Travel report118
 - b. Contracts signed by the Air Pollution Control Officer119
10. Board member reports (No Action)

11. Air Pollution Control Officer report (No Action)120
12. Confirm date and location of next regular meeting (September 14, 2017,
in Mono County)121
13. **CLOSED SESSION** - The Board will recess into closed session for a conference call with
legal counsel regarding existing litigation in the following matters:
 - a. Russell Covington; Robert Moore; Randy Sipes; Randal Sipes, Jr.; Laborers’
International Union of North America Local Union No. 783 vs. Great Basin Unified
Air Pollution Control District; Mono County Superior Court, Case No. CV140075;
pursuant to subdivision (a) of Section 54956.9 of the California Government Code.
 - b. Mammoth Community Water District vs. Great Basin Unified Air Pollution Control
District; Mono County Superior Court, Case No. CV140076; pursuant to subdivision
(a) of Section 54956.9 of the California Government Code.
14. Adjournment

(All Meetings Are Electronically Recorded – All public records relating to an agenda item on this agenda are available for public inspection at the time the record is distributed to all, or a majority of all, members of the Board. Such records shall be available at the District office located at 157 Short Street, Bishop, California.)



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537
Tel: 760-872-8211 Fax: 760-872-6109

BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Tori DeHaven, Clerk of the Board

Subject: Approval of Minutes of the May 11, 2017 Governing Board Regular Meeting

Summary:

Attached for the Board's approval are the minutes from the May 11, 2017 regular meeting held in Bridgeport, California.

Board Action:

Staff recommends that the Board review and approve the minutes from the May 11, 2017 meeting.

Attachment: May 11, 2017 minutes

GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT
GOVERNING BOARD MINUTES
May 11, 2017

(All Meetings Are Mechanically Recorded)

The Great Basin Unified Air Pollution Control District Governing Board of the Counties of Alpine, Inyo and Mono, State of California met at 10:00 am on May 11, 2017 at the Mono County Board of Supervisors Chamber, Mono County Courthouse, Main Street (U.S. Highway 395), Bridgeport, California.

Governing Board members present:

David Griffith, Board Vice Chair, Alpine County
Fred Stump, Mono County
Larry Johnston, Mono County
Dan Totheroh, Inyo County
Bill Sauser, Town of Mammoth Lakes, Alternate
Ron Hames, Alpine County

Governing Board members absent:

John Wentworth, Board Chair, Town of Mammoth Lakes
Matt Kingsley, Inyo County

A quorum was present.

GBUAPCD staff present:

Phill Kiddoo, Air Pollution Control Officer
Ann Piersall, Deputy Air Pollution Control Officer
Susan Cash, Administrative Projects Manager
Grace Holder, Senior Scientist
Chris Lanane, Air Monitoring Specialist
Christine Holt, Air Monitoring Technician I
Tori DeHaven, Clerk of the Board

Agenda Item #1
Call to Order
Pledge of Allegiance

Board Vice Chair Griffith called to order the regular meeting of the Governing Board at 10:00 a.m.

Ms. Cash then led the Pledge of Allegiance.

Agenda Item #2
Public Comment on
Items not on the
Agenda
(No Action)

Board Vice Chair Griffith asked for public comment on items not on the agenda at 10:01 am.

Mr. Milad Taghavi and Mr. Jamie Valenzuela updated the Board regarding LADWP's emergency measures on Owens Lake to reduce damage to infrastructure that may happen due to the runoff.

Mr. Valenzuela noted that the runoff is estimated, based on models and historical data, to raise the brine pool elevation by four to seven feet which translates to inundation of anywhere between 20 to 22 square miles of dust control area. Peak flow (800-1200 cubic feet per second) projections are estimated to occur in June, July and August. Although LADWP recognizes that the entire lake and infrastructure cannot be protected, they are working toward protecting key infrastructure such as the Lower Owens River Pumpback Station (LORPS), the heart of the lake. They have started placing barriers around the station in case the water level rises up and are also starting to open up the dike next to the station to increase the flow capacity next to it. LADWP is also looking at installing a diversion structure in the river on the western bank to help protect some of the existing dust mitigation infrastructure which will involve a combination of shoring, tamping and modification to the existing bank. There will also be support added to the T29 and T36 berms. To get all of the work done that will be required, LADWP will be installing one million square feet of geoliner, 30,000 tons of rock, 35,000 sandbags and about 8,000 pieces of k-rail. The LADWP has committed approximately \$23 million to these preventative measures.

Board alternate Sauser arrived at 10:03 am.

Agenda Item #3

PUBLIC HEARING

a) Adoption of Orders to the City of Los Angeles to Pay 2017-2018 Fiscal Year Fees as Provided by Section 42316 of the California Health & Safety Code (SB 270)
b) Fiscal Year 2017-2018 Total District Budget – Approval of the District and SB 270 Sub-budgets (Second of two Required Budget Hearings)
(Action)

The public hearing was opened at 10:21 am.

Ms. Cash, Administrative Projects Manager, explained that the final fiscal year 2017-2018 budget, as presented in the Board Packet, has very little changed compared to the draft that was previously presented at the last Governing Board meeting. She noted that all changes made were typographical. The District did not receive any new public comments regarding the budget; the only comments received for the draft budget were from the LADWP indicating that they have no objection to the fee assessment.

The Board asked for public comment at 10:23 am.

No comment was offered.

The public hearing was closed at 10:23 am.

Motion (Hames/Johnston) approving the item as follows:

1. The Board conducted the scheduled public hearing for input regarding the proposed fiscal year 2017-2018 SB 270 Fee Assessment Order.
2. The Board adopted the “Fiscal Year 2017-2018 SB 270 Fee Assessment Order to Pay” for the base SB 270 costs in the amount of \$4,859,118, as presented in the Board Packet.

Ayes: Board Members – Griffith, Johnston, Totheroh, Sauser, Hames, Stump

Noes: 0

Abstain: 0

Absent: Board Members – Kingsley

Motion carried 6/0 and so ordered.

B/O #170511-01

Motion (Hames/Johnston) approving the items as follows:

1. The Board conducted the second of two public hearings on the total budget, considered all comments and testimony, and considered whatever changes were found appropriate to District or SB 270 budgets. (no changes found)
2. The Board adopted the total Great Basin Unified Air Pollution Control District budget which includes: a) the proposed final 2017-18 District budget; and b) the proposed final 2017-18 SB 270 budget.
3. The Board waived the automatic Consumer Price Index increase for District permit fees based on the adopted FY 2017-18 District budget (less special funds) for the 2017-18 fiscal year and the amount of current District (non-SB 270) reserve funds.

Ayes: Board Members – Griffith, Johnston, Totheroh, Sauser, Hames, Stump

Noes: 0

Abstain: 0

Absent: Board Members – Kingsley

Motion carried 6/0 and so ordered.

B/O #170511-03b

Agenda Item #4
Consent Items
(Action)

Motion (Stump/Hames) approving consent agenda items a through g as follows:

- a. Approval of the March 9, 2017 regular Governing Board meeting minutes
- b. Designation of Greenheart Farms INC as a sole source provider of plant material for the Keeler Dunes Project and approval of purchase order #2017-1027GH for an amount not to exceed \$48,487.50 with Greenheart Farms INC for the propagation of 25,000 plants for the Keeler Dunes Project
- c. Approve purchase order with Campbell Scientific Inc. for the amount of \$40,071.94 for the purchase of dataloggers to be used in the air-monitoring network at the Owens Lake
- d. Approve purchase of one 12' x 20' building from High Sierra Containers West Coast Barns and Sheds for the construction and delivery for the amount of \$19,044.81
- e. Approve consulting and service contracts for Fiscal Year 2017-2018
- f. Approve monitoring leases and rental agreements for Fiscal Years 2017-2018 and 2018-2019
- g. End of year transfer authority, appropriation changes and carryovers

Ayes: Board Members – Griffith, Johnston, Totheroh, Sauser, Hames, Stump

Noes: 0
Abstain: 0
Absent: Board Members – Kingsley

Motion carried 6/0 and so ordered.

B/O #170511-04

Agenda Item #5
Adoption of the 2017
Great Basin Unified
APCD Air Quality
Monitoring Network
Plan for Air
Monitoring Efforts
in the District
(Action)

Motion (Totheroh/Hames) adopting the District's 2017 Annual Air Quality Monitoring Network Plan for submission to the US EPA Region IX administrator for approval.

Ayes: Board Members – Griffith, Johnston, Totheroh, Sauser, Hames, Stump
Noes: 0
Abstain: 0
Absent: Board Members – Kingsley

Motion carried 6/0 and so ordered.

B/O #170511-05

Agenda Item #6
District and SB 270
Operating Reserves
(Action)

APCO Kiddoo explained that the District is asking that the Governing Board consider an increase to the reserve-to-budget ratio to 33.3% as outlined in the staff report and to direct staff to update the Reserve Policy, which hasn't been updated since 2012. APCO Kiddoo then went on to explain some of the background regarding the Reserve Policy. In 2012 the level of cooperation between LADWP and staff was challenging due to litigation. Staff was asked at the last Governing Board meeting to review the policy and bring back suggestions to the Board. LADWP asked for a decrease to the reserve-to-budget ratio due to the change in relationship and improvement in cooperation between the District and LADWP. APCO Kiddoo added, aside from previous litigation with LADWP, the District must be prepared to respond to the following scenarios: unexpected litigation (LADWP and non-LADWP), unexpected shortfall in revenue, unexpected demands on services, unanticipated opportunities, less than perfect judgement and insight, a change in direction, and normal day-to-day fluctuations.

Board member Johnston asked if this would apply to both budgets (SB 270 & non-SB 270 budgets).

APCO Kiddoo confirmed that it would.

Mr. Taghavi commented that the agreements made between the District and LADWP, in the 2014 Stipulated Judgment, will not allow for the contentions that were happening previous to 2014. The concerns that have been expressed as justification for the increase have been significantly, if not totally, eliminated. The key concerns that the LADWP had, regarding the dust control, have been settled. Mr. Taghavi added that it would be nice to be able to go back to the rate payers,

since the money would be coming from them, and tell them that not only are costs going down due to a reduction in legal costs but also in other things as a result of the previous legal agreements. Using past issues that have been totally resolved to increase from 20% to 33.3% is not a reasonable discussion. In light of the historic resolution of the previous dust control issues, reducing the ratio may be warranted. LADWP has proven their goodwill and commitment since the lawsuits were settled. Mr. Taghavi said that he would like the Board to have a cause prior to taking an action that would increase the ratio. Simply preparing for a situation that hasn't happened, isn't a cause for action.

Board member Hames noted that he is very happy to have such cooperation with the LADWP. He added that a change in leadership within the LADWP could change that. Also, not all of the District's lawsuits are with LADWP so we need protection for other instances as well.

Board member Johnston said that as much as things have changed in such a positive direction, he would need more time to come around to trusting that LADWP won't be suing the District at every turn which was what was happening previously. He is leaning toward going with an increase in order to prepare for the worst-case scenario which would allow the District to respond quickly to a situation.

Board member Totheroh indicated that although he is sensitive to the fact that there certainly has been a change in the relationship, if we are under a mandate that is relatively new with not being able to bill other than yearly, it seems like we have a change that we must deal with. If LADWP were to say, "you are allowed to bill us at any time" rather than the judgement which says only once a year, maybe that ratio could be reduced over time. But until that happens, Board member Totheroh would have to side with the amount that will allow us to cover our needs when we need to.

Mr. Taghavi added that the agreement is not subject to a change by a different leadership within LADWP, it's under a court's jurisdiction. So any changes to that would have to come from a court. Due to this fact, there are a lot of protections which means the Governing Board does not need the "sledgehammer" for this particular process. A decrease in legal fees and an increase in fees doesn't reduce costs. LADWP has a fiduciary responsibility to the rate payers. A reduction is a reasonable request for LADWP to make.

Board member Johnston asked if the increase to the reserve ratio would carry over to the next years' budget.

APCO Kiddoo responded yes it does and it still would have the refund of any amount over that in application toward the next years' assessment.

Board member Johnston then asked how much it would increase from what is currently in reserves to the 33.3%.

APCO Kiddoo explained that last year's wasn't much different and would be slightly smaller at \$600,000. The District actually credited over \$160,000 this year so that would be a difference of about \$450,000 more.

Board member Stump asked for clarification on what LADWP would actually be charged.

APCO Kiddoo explained that with this, after this fiscal year, 33.3% would be the reserve. If there were funds greater than 33.3%, that would be applied as a credit so next year we would have to increase our reserves to match that 33.3%.

Board member Stump asked if that would be reflected in the fee that would be charged to LADWP.

APCO Kiddoo confirmed that yes, it would.

Board member Stump clarified that the fee would actually fluctuate.

APCO Kiddoo explained that the fee is based on staff's best estimate on costs for the year.

Board Vice Chair Griffith noted that it's important to recognize that there is much more cooperation. He added that we're in the situation of the minnow and the whale: with the District being the minnow. The District should prep for something bigger than itself. He then clarified that this is not a reserve that gets added to every year. It doesn't mean there will be an increase in the budget every year.

Board alternate Sauser asked if other than legal fees, is this the operating reserves. He noted that to him a three-plus month reserve is prudent for any individual, business or organization. 33.3% is a prudent amount to have for emergencies.

APCO Kiddoo added that the District is significantly vulnerable due to its budget being 85-90% from LADWP.

Board Vice Chair Griffith asked for clarification as to what the reserve would be for four months.

APCO Kiddoo that a four-month reserve would be 33.3%.

Board Vice Chair Griffith added that the District has to continue in some way in order to maintain its staff. If there is uncertainty there may be a loss of staff.

Board member Hames stated that he agreed with the Board report. He also noted that he wants to make sure that LADWP understands that this is not a reflection on their trustworthiness, this is business.

Board member Johnston said that the Board wants to show good faith as well and

at some point, he wouldn't mind taking this up again next year.

Motion (Hames/Johnston) approving to increase the reserve-to-budget ratio to 33.3% as detailed in the staff report and direct staff to update the District's Reserve Fund Policy to reflect this change.

Ayes: Board Members – Griffith, Johnston, Totheroh, Sauser, Hames, Stump

Noes: 0

Abstain: 0

Absent: Board Members – Kingsley

Motion carried 6/0 and so ordered.

B/O #170511-06

Agenda Item #7
California Regional
Haze Plan and Rule
Revision
Implications
(No Action)

A break was taken at 12:15 pm. The Board reconvened in open session at 12:25 pm.

Ms. Tina Suarez-Murias, Air Pollution Specialist from the California Air Resources Board, gave a presentation on the California Regional Haze Plan and Rule Revision Implications. *(the presentation is available upon request)*

Presentation Overview:

- Clean Air Act – amendments of 1977 set national goal
 - i. Reasonably Attributable Visibility Impairment (RAVI) initially intended to address plume blight
 - ii. Interagency Monitoring of Protected Visual Environments (IMPROVE) measures speciated particulate matter using federally operated monitors deployed nationwide since the 1980's
 - iii. Regional Haze Rule (1999) applies to all states and requires preparation of a Regional Haze State Implementation Plan every ten years to achieve Natural Conditions in 2064
 - iv. Best Available Retrofit Technology (BART) Rule in 2005 required controls of highest polluting source types
 - v. Regional Haze Rule Revisions (2017) (SIP Implementation Guidance pending)
- Class I Areas (California & United States) – visibility depends on geography
 - i. Visual Range varies greatly across USA
 - ii. Causes of Haze varies considerably at each Class I Area
 - iii. Airshed features affect particle formation and transport, making visibility at each Class I area unique
 - iv. Controlling anthropogenic sources of haze-causing particles reaching IMPROVE monitors has challenges
- Cause of Haze (Impaired Visibility)
 - i. Highest deciview days can have very different particle compositions
 - ii. "Worst Days" (Haziest 20% each year) often due to natural causes in west
 - iii. Need metric that targets anthropogenic contributions
 - iv. Visual range easier to comprehend (cleaner air, greater distance)

- Progress in Improving Visibility
 - i. West started with better visual range (20-100+ miles); expect less dramatic visibility improvements
 - ii. Natural source emissions caused many worst haze days in west
 - iii. Anthropogenic emissions dominate all worst haze days in east (current visual range about 15-40 miles)
 - iv. Adjustments to Regional Haze Rule metrics needed to account for natural haze and to measure progress made in reducing visibility impairment specifically from anthropogenic sources
- Regulatory Considerations – issues addressed in Rule revisions
 - i. Coordinate with other program timelines; co-benefits from criteria pollutant reductions and SIP preparation resources
 - ii. Western “Worst Haze Days” caused by Natural Sources that skew averages
 - iii. International sources not under state control also impact visibility
 - iv. Wildfires increasing in west; beneficial prescribed burning considered man-made
 - v. Natural conditions estimates don’t reflect site-specific geography
 - vi. Federal Land Managers not given sufficient time for input
 - vii. Control measures should result in measurable visibility improvements
- Next Steps
 - i. Work with western states, FLM, tribes, and U.S. EPA to prepare Regional Haze SIP tasks with limited funding for regional monitoring
 - ii. Methods discussed in Proposed Guidance may not be same as Final Guidance
 - iii. Reduce anthropogenic haze precursors to improve visibility; correlates well with actions to improve health by reducing criteria pollutants

Board Vice Chair Griffith as for public comment at 12:08 pm.

Ms. Liz O’Sullivan, Mono County resident, thanked the Board and Ms. Suarez-Murias for taking the time to discuss such a complex and important issue. She noted that her concerns are within regard to the classification of wind events which actually seem to be due to an increase in human use specifically dirt roads, OHV use and an increase in grazing. She questioned how one agency such as LADWP could be held responsible for emissions from Owens Lake yet other agencies aren’t being held responsible for the human-caused emissive events. Ms. O’Sullivan expressed concern for burning and said that perhaps wild fires are a better way of dealing with forest health than prescribed burning is. Prescribed burning in the shoulder season along with wild fires means pollution issues year-round for the residents of the local communities. The Eastern Sierra is also impacted by pollution and smoke from the west side as well. She questions whether or not forest health is more important than human health which may be complex discussions that need to be taken into consideration.

Ms. Suarez-Murias added that it is important to get local input to adjust the thresholds on wind events.

Mr. Mike O’Sullivan, Mono County resident, expressed his concerns as well. Although vast improvements in dialogue between the east side and west side of the Sierra have reduced smoke issues due to prescribed burning since 2012, he wondered if the federal government is writing themselves an exemption when it comes to these burns to reduce costs. After all, the Forest Service and other

agencies do have alternative options for forest management such as chipping but that are higher in cost. Mr. O'Sullivan added that the City of Los Angeles was not afforded the same cost considerations when ordered to mitigate the dust issues on Owens Lake.

Agenda Item #8
Air Quality
Implications of the
Sustainable
Groundwater
Management Act
(SGMA) and
Groundwater
Sustainable Agency
(GSA) Formation
(No Action)

Board member Stump explained that he requested this particular item be added to the agenda. Although this issue may not affect the entire Great Basin District, there are still parts of the District that will be affected significantly. The specific area of concern in Mono County is in the tri-valley area which includes Benton, Hammil Valley, Chalfant and portions along the Sierra Crest. APCO Kiddoo gave a brief presentation on air quality implications of the Sustainable Groundwater Management Act (SGMA) and Groundwater Sustainable Agency (GSA) Formation. For compliance with SGMA, various groundwater basins within the District must form a Groundwater Sustainable Agency (GSA) by June 30, 2017 or the State will assume responsibility for managing the basins which may include imposition of fees on groundwater users. The three groundwater basins within the District boundaries are the Tri-Valley Groundwater Basin, the Owens Valley Groundwater Basin and a portion of the Indian Wells Groundwater Basin. Local agencies forming GSAs include the Indian Wells Groundwater Authority, Tri-Valley Groundwater Management District, Inyo County and Mono County which recently signed a resolution to serve as the groundwater Sustainability Agency for portions of the Owens Valley Groundwater Basin within Mono county that are not within the boundaries of the Tri-Valley Groundwater Management District. There are air quality implications of SGMA management formation that exist. For example, without GSA formation, State intervention may occur with subsequent fees imposed on groundwater users which may result in change of land use practices to the detriment of air quality. Various enforcement mechanisms are available to the District that require particulate pollution control mitigation for fugitive dust sources. These mechanisms include CA Health and Safety Code (CH&SC) 42316, and District Prohibitory Rules 400 – Ringelmann Chart, 401 – Fugitive Dust, and 402 – Nuisance. Generally the property owner is liable for emissions control and subject to District Notices of Violation. In certain circumstances, another entity may be responsible for pollution control other than the property owner as is the case at Owens Lake where the California State Lands Commission is the property owner of the lake and the Los Angeles Department of Water and Power is the liable entity to control the particulate emissions.

Agenda Item #9
Informational Items
(No Action)

APCO Kiddoo asked the Board if they had any questions regarding the informational items.

No questions were asked.

Agenda Item #10
Board Member
Reports
(No Action)

Board Vice Chair Griffith suggested a tour of Owens Lake happen soon.

No other reports were given.

Agenda Item #11
Air Pollution Control
Officers Report
(No Action)

APCO Kiddoo introduced Ms. Christine Holt as the District's new Air Monitoring Technician I.

Agenda Item #12
Confirm Date and
Location of Next
Regular Meeting
(July 13, 2017 in
Markleeville, CA)

The next regular meeting of the District Governing Board will convene at 10:00 am on July 13, 2017 in Markleeville, California. The District's Clerk of the Board will find and reserve a handicap accessible meeting room and contact the District Board members as to its location.

Agenda Item #13
CLOSED SESSION

Board Vice Chair Griffith convened the Board into closed session at 12:47 pm.

CLOSED SESSION - The Board will recess into closed session for a conference call with legal counsel regarding existing litigation in the following matters:

- a. Russell Covington; Robert Moore; Randy Sipes; Randal Sipes, Jr.; Laborers' International Union of North America Local Union No. 783 vs. Great Basin Unified Air Pollution Control District; Mono County Superior Court, Case No. CV140075; pursuant to subdivision (a) of Section 54956.9 of the California Government Code.
- b. Mammoth Community Water District vs. Great Basin Unified Air Pollution Control District; Mono County Superior Court, Case No. CV140076; pursuant to subdivision (a) of Section 54956.9 of the California Government Code.

The Board reconvened into open session at 1:03 pm with no action taken.

Adjournment

The meeting was adjourned by Board Vice Chair Griffith at 1:03 pm. The Board will reconvene in open session at 10:00 am, on Thursday, July 13, 2017 in Markleeville, California.

John Wentworth, Board Chair

Attest:

Tori DeHaven, Board Clerk



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537

Tel: 760-872-8211 Fax: 760-872-6109

www.gbuapcd.org

BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Grace A. McCarley Holder, Senior Scientist

Subject: Approval of contract with Amec Foster Wheeler Environmental & Infrastructure, Inc. for project management services of the Keeler Dunes Project for fiscal year 2017-2018 for an amount of \$86,500.

Since December 2013, the District has retained the services of Amec Foster Wheeler Environmental and Infrastructure, Inc (AMEC) of San Diego, California for project management services of the Keeler Dunes Project. The 2017-2018 fiscal year mark the beginning of the fourth year of project activities. There have been many changes to the project since the original design and beginning of construction. The changes have occurred due to difficulties in getting the straw bales and plants as well as technical issues that have occurred as more is learned about the dunes. Through the last three years AMEC has helped the project move forward and has been integral in adapting to and suggesting changes to the work when problems have occurred.

The work in 2017-2018 involves project management services during one more phase of bale mound construction and planting as well as oversight of three irrigation events. The attached scope of work involves having qualified inspectors on-site during implementation to assure that the work is completed according to the specifications and permits. In addition, AMEC's services will be used for the planting effort that will occur during the winter of 2018 and for plant monitoring and evaluation to measure success of previous planting efforts.

In December 2013, and annually for the past three fiscal years, the Board has designated AMEC as a sole source provider for project management services for the Keeler Dunes Project. The continuity to the project and long-term knowledge gained by working on the project for over 3 years is important for effectively managing the continued work on the project. District staff are requesting that AMEC again be designated as a sole source provider for the 2017-2018 fiscal year (see item 3.d. in this Board Packet). For 2017-18, the amount budgeted for professional services for AMEC is \$86,500 and will be taken from the District Budget: Keeler Dunes Project (100%).

Approval of Contract with Amec Foster Wheeler Environmental & Infrastructure, Inc. for Project Management Services of the Keeler Dunes Project for Fiscal Year 2017-2018 for an Amount of \$86,500 (Action)

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Fiscal Impact:

Executing the proposed contracts will encumber \$86,500 of fiscal year 2017-18 budgeted funds. The funds will be taken from the Keeler Dunes Project of the District budget.

Board Action:

Staff recommends that the Board approve the contract with Amec Foster Wheeler Environmental and Infrastructure, Inc of San Diego, California for an amount of \$86,500.00 and authorize the Board Chair or the Air Pollution Control Officer to execute the contract.

Attachment:

Contract Front Page, Scope of Work, and Schedule of Fees.

Approval of Contract with Amec Foster Wheeler Environmental & Infrastructure, Inc. for Project Management Services of the Keeler Dunes Project for Fiscal Year 2017-2018 for an Amount of \$86,500 (Action)

July 13, 2017 – Agenda Item No. 3.b. – Page 2

**AGREEMENT BETWEEN
GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT
AND AMEC FOSTER WHEELER ENVIRONMENT & INFRASTRUCTURE, INC.
FOR THE PROVISION OF PROJECT MANAGEMENT SERVICES**

INTRODUCTION

WHEREAS, the Great Basin Unified Air Pollution Control District (hereinafter referred to as "District") has the need for the project management services of Amec Foster Wheeler Environment & Infrastructure, Inc. of San Diego, California (hereinafter referred to as "Contractor"), and in consideration of the mutual promises, covenants, terms, and conditions hereinafter contained, the parties hereby agree as follows:

TERMS AND CONDITIONS

1. SCOPE OF WORK.

The Contractor shall furnish to the District, upon its request, those services and work set forth in Attachment A, attached hereto and by reference incorporated herein. Requests by the District to the Contractor to perform under this Agreement will be made by Grace Holder, whose title is: Senior Scientist. Requests to the Contractor for work or services to be performed under this Agreement will be based upon the District's need for such services. The District makes no guarantee or warranty, of any nature, that any minimum level or amount of services or work will be requested of the Contractor by the District under this Agreement. District by this Agreement incurs no obligation or requirement to request from Contractor the performance of any services or work at all, even if District should have some need for such services or work during the term of this Agreement.

Services and work provided by the Contractor at the District's request under this Agreement will be performed in a manner consistent with the requirements and standards established by applicable federal, state, and County laws, ordinances, regulations, and resolutions. Such laws, ordinances, regulations, and resolutions include, but are not limited to, those which are referred to in this Agreement.

2. TERM.

The term of this Agreement shall be from July 1, 2017 to June 30, 2018 unless sooner terminated as provided below.

3. CONSIDERATION.

A. Compensation. District shall pay Contractor in accordance with the Schedule of Fees (set forth as Attachment B) for the services and work described in Attachment A (Scope of Work) which are performed by Contractor at the District's request.

B. Travel and per diem. District shall reimburse Contractor for the travel expenses and per diem which Contractor incurs in providing services and work requested by District under this Agreement. Contractor shall request approval by the District prior to incurring any travel or per diem expenses. Requests by Contractor for approval to incur travel and per diem expenses shall be submitted to Grace Holder, whose title is: Senior Scientist. Travel and per diem expenses will be reimbursed in accordance with the rates set forth in Attachment B. District reserves the right to deny reimbursement to Contractor for travel or per diem expenses which are either in excess of the amounts that may be paid under the rates set forth in Attachment B, or which are incurred by the Contractor without the prior approval of the District.

ATTACHMENT A

**AGREEMENT BETWEEN
GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT
AND AMEC FOSTER WHEELER ENVIRONMENT& INFRASTRUCTURE, INC.
FOR THE PROVISION OF PROJECT MANAGEMENT SERVICES**

TERM: FROM: July 1, 2017 TO: June 30, 2018

SCOPE OF WORK:

The work performed by Amec Foster Wheeler Environment and Infrastructure, Inc. (Amec Foster Wheeler) through this Agreement will be coordinated through Grace Holder (Project Manager). Invoices submitted for work under this contract shall state that the funding is to be charged to the Keeler Dunes Dust Control Project.

Task 1 – Supervision Planting

Amec Foster Wheeler will provide supervision services during planting work in the Keeler Dunes Project. Work conducted under this task will include oversight of planting efforts of the 25,000 plants to be installed in January-February 2018. It is anticipated that planting will take 3-weeks and that Amec Foster Wheeler staff will be present 2 days each week during the planting effort. Work activities will include 1) assuring that the plants are delivered to the project in good condition and that the plants are maintained in good condition during storage, 2) ensuring that the plants are planted at the specified locations, and 3) ensuring that the plants are being planted according to the specifications and with the proper method and that the pre-planting and post-planting watering delivers the appropriate volume and method of water. The sum to be paid for services under this task shall not exceed \$14,000.00.

Task 2 – Supervision Supplemental Irrigation

Amec Foster Wheeler will provide supervision services during supplemental irrigation work in the Keeler Dunes Project. Work conducted under this task will include oversight of irrigation of the plants that have been installed over the course of the project. It is anticipated that Amec Foster Wheeler will conduct 5 trips to the project to oversee irrigation work and that each trip will include 2-days on site. Irrigation events are planned for the Summer of 2017, Fall of 2017, and Spring of 2018. It is anticipated that work will include ensuring that the proper amount of water is being delivered to the plants. The sum to be paid for services under this task shall not exceed \$23,000.00.

Task 3 – Plant Monitoring

Monitoring of the survivorship, establishment and health of the plants installed of the course of the project will be completed twice during 2017-2018. The first monitoring work shall be conducted in October 2017 and the second in April-May 2018 and shall include a semi-quantitative evaluation of the plants installed to date. The results from this work will help determine the success in achieving the goal of developing a stable vegetated dune system and will help guide future work and management efforts. A report of the data and results will be prepared after each monitoring effort. The sum to be paid for services under this task shall not exceed \$17,500.00.

Task 4 – Project Management

The Project Manager for Amec Foster Wheeler (Carla Scheidlinger) and her designees will work with District staff to assure good communication amongst the project team and will engage as necessary to solve problems that may develop during the project. Activities will include: 1) continue to arrange, manage, and prepare notes for weekly team meetings to keep all team members updated and informed on project progress and issues, 2) prepare other memos and hold meetings, as needed, to assure that project implementation follows established protocols and that issues are dealt with appropriately, 3) provide on-call consultation with District staff as requested, 4) conduct nursery visits as required to assure good plant development, and 5) provide consultation, engineering expertise, and recommendations for issues that may arise with the irrigation system. The sum to be paid for services under this task shall not exceed \$8,500.00.

Task 5 – Additional Bale Placement

Amec Foster Wheeler will provide supervision and oversight of bale placement work in the Keeler Dunes. Oversight activities will include assuring that the planned bale mound construction follows approved design specifications and that the bale mounds are located correctly and oriented properly. It is anticipated that Amec Foster Wheeler will be on-site for 2-days each week during the 3-week bale mound construction work. The sum to be paid for services under this task shall not exceed \$12,500.

Task 6 – Contingency

A contingency task is included to assure that any additional work requirements that come up during the contract period can be covered. The funds in the contingency task will only be used with the approval of the District. The sum to be paid for services under this task shall not exceed \$11,000.

The total sum of all payments made by the District to Amec Foster Wheeler for services and work performed under this Agreement, including travel and per diem expenses shall not exceed Eighty Six Thousand Five Hundred Dollars (\$86,500.00).

ATTACHMENT B

**AGREEMENT BETWEEN
GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT
AND AMEC FOSTER WHEELER ENVIRONMENT & INFRASTRUCTURE, INC.
FOR THE PROVISION OF PROJECT MANAGEMENT SERVICES**

TERM: FROM: July 1, 2017 TO: June 30, 2018

SCHEDULE OF FEES:

Billing invoices shall be sent to the District approximately every month during the term of the contract along with a brief progress report on the work completed.

The schedule of fees for the work described in Attachment A is as follows:

Hourly rate

Labor Expenses (list provided on next page)direct labor costs plus 6%

Direct Expenses..... actual costs plus 15%

Mileage

Mileage will be paid at the Federal standard business rate. For 2017 this rate is 53.5 cents/mile. Miles driven in 2018 will be paid at the Federal standard business rate for 2018. No markup will be charged for mileage.

Travel and Per Diem (rates not to exceed without prior approval from District Project Manager)

Lodging (actual cost not to exceed)\$125.00/night

Per Diem \$64.00/day

Total Budget Fees and Expenses (including travel and per diem) not to exceed \$86,500.00.

Personnel to be Assigned to the Project

Project Manager	Scheidlinger, Carla	622	\$ 165.00
Biologist	Chesnut, John	615	\$ 115.00
Sr. Restoration Ecologist	Kraft, Clayton R	617	\$ 135.00
Restoration Ecologist	Santare, Anthony M	615	\$ 125.00
Admin Support	Klein, Jessica N	805	\$ 60.00
Admin Support	Lopez, Belinda S	808	\$ 70.00
Admin Support	TBD		\$ 70.00 – \$ 80.00
Irrigation System Engineer	Raymond Hamilton		\$ 175.00
Admin Support	Joyce Reeves		\$ 105.00
TEAM staff	TBD		\$ 145.00



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537

Tel: 760-872-8211 Fax: 760-872-6109

www.gbuapcd.org

BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Grace A. McCarley Holder, Senior Scientist

Subject: Approve the Purchase of one (1) 2018 High-clearance, 4-door, 4-Wheel Drive Sport Utility Vehicle in the Amount of \$36,190.12 from Perry Motors of Bishop, CA. (Action).

Summary:

Staff determined a replacement vehicle was needed for the Bishop office. Based on District guidelines for regular vehicle assessment, vehicles may be replaced after they have been driven 110,000 miles or when staff determines that significant maintenance/safety issues warrant replacement. It has been determined that the District's 1999 Toyota 4Runner with over 169,000 miles driven needs replacement.

Background:

The vehicle to be replaced is over 17 years old with over 169,000 miles and is starting to show its age. Over the life of this vehicle it has been used for off-road travel on rough non-paved surfaces at both Owens and Mono Lakes as well as general travel in the District throughout the year. A replacement vehicle is sought with the capability to perform in off-road conditions where high clearance and 4-wheel drive are needed as well as for general District travel, frequently under snowy or icy road conditions during winter months.

Formal bids were solicited according to the District's Purchasing, Bidding and Contracting Policy. A copy of the bid materials is provided as an attachment to this Board Report. The bid opening took place, as scheduled Friday, June 23, 2017 at 3:00 p.m. at the Bishop office.

The District staff ran public notices of the bid announcement with a total of 14 publications over a two-week period in three different newspapers. Additionally, the public notice was posted and the vehicle bid materials were made available for download on the District website.

The public notices requested bids for the following vehicle: 2017-V1 One new 2017 or 2018 high-clearance, 4- door, 4-wheel drive sport utility vehicle. A list of the public notice publications is provided below.

Approve the Purchase of One (1) 2018 High-clearance, 4 Door, 4 Wheel Drive Sport Utility Vehicle
in the Amount of \$36,190.12 from Perry Motors of Bishop, CA (Action)

July 13, 2017 – Agenda Item No. 3.c. – Page 1

Publication and Publication Dates:

Inyo Register, June 6, 8, 10, 13, 15, and 17, 2016

The Sheet, June 10 and 17, 2017

Tahoe Daily Tribune, June 7, 9, 10, 14, 16, and 17, 2017

In addition to publication in three newspapers, staff also contacted and sent vehicle bid materials to the following six dealerships:

Dolan Toyota, Reno, NV
Carson City Toyota, Carson City, NV*
Toyota of San Bernardino, San Bernardino, CA
Bill Wright Toyota, Bakersfield, CA
Sierra Toyota, Lancaster, CA
Perry Motors Inc., Bishop, CA*

Bids were received from the two starred (*) dealerships. The bid received from Perry Motors appeared fully compliant with bid requirements and met District specifications. The bid received from Carson City Toyota did not include one of the required items (roof rack) and had a dark grey (charcoal) interior but otherwise appeared compliant with bid requirements and specifications. The two bids are listed below:

For 2017-V1: Perry Motors Inc., 2018 Toyota 4 Runner, \$36,190.12
 Carson City Toyota, 2017 Toyota 4 Runner, \$37,896.38

The bid from Perry Motors is the low qualifying bid and it is recommended that the Board approve purchase of the vehicle per the received bid.

Fiscal Impact:

The purchase of a replacement vehicle for the 1999 Toyota 4Runner was included in the District's 2017-2018 SB 270 Budget under line Item III.B. – Vehicles and ATVs in the amount of \$50,000. Approval of the purchase order 2017-1037GH will encumber \$36,190.12 from the SB270 Budget Item III.B. for the purchase of the 2018 new high clearance, 4-door, 4-wheel drive sport utility vehicle.

Board Action:

Approve purchase order 2017-1037GH of one (1) new 2018 high – clearance 4 door, 4 wheel drive sport utility vehicle in the amount of \$36,190.12 from Perry Motors Inc., Bishop, CA.

Attachments:

- Bid Materials for vehicle bid 2017-V1
- Purchase Order 2017-1037GH with Perry Motors of Bishop, CA for one new 2018 high clearance, 4-door 4-wheel drive sport utility vehicle

Approve the Purchase of One (1) 2018 High-clearance, 4 Door, 4 Wheel Drive Sport Utility Vehicle
in the Amount of \$36,190.12 from Perry Motors of Bishop, CA (Action)

July 13, 2017 – Agenda Item No. 3.c. – Page 2



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537

Tel: 760-872-8211 Fax: 760-872-6109

www.gbuapcd.org

BID NUMBER 2017-V1: One (1) Qualifying New 2017/2018 High-Clearance 4-door 4-Wheel Drive Sport Utility Vehicle

BIDS AND MATERIALS

TO BE DELIVERED TO:

**GREAT BASIN UNIFIED
AIR POLLUTION CONTROL DISTRICT
157 Short Street, Suite 6
Bishop, CA 93514**

BIDS WILL BE OPENED: June 23, 2017 3:00 p.m.

DIRECT QUESTIONS TO: Ms. Grace Holder, (760) 872-8211

Prices will be quoted FOB Destination unless otherwise stated. Make your bid or quotations in the space provided on the attached sheets.

IMPORTANT: Bid must be sealed with bid number as indicated above on the outside of envelope. **No faxed or e-mailed bids will be accepted.** Read the Instructions and Conditions carefully before making your Bid or Quotation. References to "District" in this document shall mean the Great Basin Unified Air Pollution Control District.

INSTRUCTIONS AND CONDITIONS

1. All prices and notations must be typewritten or written in ink. No erasures are permitted. Mistakes may be crossed out with corrections made adjacent and initialed in ink by the person signing the quotation.
2. State the brand or make on each item. If you are quoting on the articles exactly as specified, the words "or equal" must be stricken out by the bidder and initialed. If you are quoting on another make, model, or brand, the manufacturer's name and catalog number must be given with descriptive information and attached to the quotations.
3. Price should be stated in units specified herein.

4. Each quotation must be in a separately sealed envelope with bid number on the outside. It must be submitted to the District's Bishop Office, not later than the hour and day specified herein, at which time it will be publicly opened and read.
5. Time of delivery is a part of the consideration and MUST BE stated in definite terms and adhered to. If the time varies on different items, the bidder shall so state.
6. All quotations must be signed with the Firm's name and by a responsible officer or employee. Obligations assumed by such signature must be fulfilled.
7. No charge for packing, shipping, or for any other purpose will be allowed over and above the prices quoted on this sheet.
8. Contracts and/or purchase orders will be made or entered into with the lowest responsible bidder meeting the specifications. Where more than one item is specified, the District reserves the right to determine the low bidder either on the basis of individual items or on the basis of all items included in the Instructions and Conditions.
9. The right is reserved, unless otherwise stated, to accept or reject any or all quotations or any part thereof, either separately or as a whole, or to waive any inconformity in a bid.
10. In case of default by the vendor, the District may procure the articles or service from other sources.
11. Cost of transportation, handling, and/or inspection on deliveries or offers for delivery which do not meet the specifications will be the responsibility of the vendor.
12. The vendor shall hold the District, its officers, agents, servants and employees, harmless from liability of any nature or kind on account of use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article, or appliance furnished or used under this quotation.
13. The vendor will not be held liable for failure or delay in fulfillment if hindered or prevented by fire, strikes, or Acts of God.
14. Verify your quotations before submission as they cannot be withdrawn or corrected, after being opened.
15. Return all sheets of the bid package whether or not you quote a price. If you do not quote, state your reason or your name may be removed from the mailing list.

16. Amounts paid for transportation of property to the District are exempt from Federal Transportation Tax. An exemption certificate is not required where the shipping papers show the consignee as the Great Basin Unified Air Pollution Control District, as such papers may be accepted by the carrier as proof of the exempt character of the equipment.

**THE FOLLOWING MUST BE FILLED IN BY THE BIDDER IN SUBMITTING
BID:**

TO THE GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT:

We (I) hereby agree to furnish the articles and/or services, at the prices and terms stated,
subject to the Instructions and Conditions set forth in this bid.

COMPANY NAME _____

STREET ADDRESS _____

CITY AND STATE _____ ZIP _____

PHONE NO. _____

BY _____

SIGNATURE _____

DATED AT _____

ON _____, 2017

**Specifications for Bid Number 2017-
V1
Great Basin Unified Air Pollution Control District
Request for Bids for One (1) Motor
Vehicle**

Vehicle type: **One (1) New High-Clearance 4-Door 4-Wheel-Drive Sport Utility Vehicle**

Model year: **2017, 2018**

General Description: **4-Wheel Drive, 4-Door, Station Wagon-type Vehicle**

Detailed Specifications:

Engine Type = V6

Minimum horsepower = 260

Minimum torque = 270 ft-lbs

Minimum ground clearance = 8 inches to transfer case and differential(s) Minimum highway range* = 300 miles

Tow specifications: Minimum trailer weight: 3500 lbs. Minimum tongue load: 350 lbs

*Note: Highway range will be calculated by multiplying the fuel tank capacity by the EPA estimated highway miles per gallon fuel efficiency.

Vehicle shall come equipped with:

4-wheel drive

4-doors

Automatic transmission

2-speed transfer case (manual or automatic) Limited slip differential

Power steering

Power brakes

Front and rear bumpers

Skid plates

Full-size spare tire

Towing package, including Class III towing hitch with 7-pin wire harness outlet

Ventilation system that allows outside air to be cut off

("recirc") Cruise control

Power windows and door locks

Tilt steering wheel

Driver's seat adjustable lumbar support

Air conditioning

Tinted glass

Intermittent windshield wipers

Rear window wiper

Roof luggage rack, 100 lbs. minimum capacity
Dash instruments/indicators: speed, tachometer, fuel level, oil pressure,
coolant temperature, voltage
Backup camera
AM/FM radio/CD player
Cloth seats
Heavy duty vinyl floor mats
Off-road mud and snow tires
Acceptable exterior colors: any light color (e.g. white, tan, silver, etc.)
Acceptable interior colors: any light color (no black or dark grey)
5-year/60,000 mile powertrain warranty

Special Requirements:

- 1) The vehicle must have a reliability summary rating of average or better for the model years 2015 and 2016 as rated on the *Consumer Reports* website (available on request) or in the April 2017 edition of *Consumer Reports* magazine.
- 2) There must be local warranty service available within 50 miles of the District's Bishop office for a vehicle to qualify for purchase.
- 3) The vehicle must meet or exceed all Federal safety standards and criteria.

The District has determined that the following vehicles meet the aforementioned criteria:

Toyota 4Runner, 4x4, V6

Great Basin Unified Air Pollution Control District has a Toyota Fleet Account: GE160
If a bidder believes a vehicle other than those listed above meet the District's criteria, they may contact the District for a determination regarding that vehicle.

All determinations made by the District regarding these special requirements shall be final

**Bid Form for Bid Number 2017-V1
Great Basin Unified Air Pollution Control District
Request for Bid for One (1) New 2017 or 2018 Qualifying High-Clearance 4-Door,
4-Wheel Drive Sport Utility Vehicle**

Vehicle No. One

Name of Bidder: _____

Vehicle Brand(s): _____

Vehicle Model(s): _____

Option or Accessory Package(s): _____

Total Vehicle Price for **ONE (1) VEHICLE** Delivered to District office in Bishop, CA,
Including Tax, License, and All Applicable Government Vehicle Fees for the vehicle.

Amount: \$ _____ (Figures)

_____ Dollars and _____ Cents (Words)

Delivery Date for the Vehicle: _____ (Delivery date may
be stated in terms of days after award of bid by District)

Public Notice

**GREAT BASIN UNIFIED
AIR POLLUTION CONTROL DISTRICT
REQUEST FOR BIDS**

Bid Number 2017-V1

One (1) New 2017 or 2018 High-Clearance 4-Door 4-Wheel-Drive Sport Utility Vehicle

The Clerk of the Board is requesting bids for: one (1) new 2017 or 2018 model high- clearance 4-door 4-wheel drive sport utility vehicle with high and low-range 4-wheel drive capability.

Sealed bids will be accepted until 3:00 p.m. on Friday June 23, 2017 at which time all bids received will be opened.

For detailed specifications, bid information and special requirements, contact the Clerk of the Board by telephone at (760) 872-8211, in person, or by mail at 157 Short Street, Bishop, California 93514, or at the District's website, www.gbuapcd.org, under What's New. Questions regarding this request for bids should be directed to Ms. Grace Holder at the above address and phone number.

Publication: Inyo Register,

Publication Dates: 6/6/17, 6/8/17, 6/10/17, 6/13/17, 6/15/17, and 6/17/17

Publication: The Sheet

Publication Dates: 6/10/17 and 6/17/17

Publication: Tahoe Daily Tribune

Publication Dates: 6/7/17, 6/9/17, 6/10/17, 6/14/17, 6/16/17, and 6/17/17

PURCHASE ORDER

This number must appear on all related correspondence & invoices.

Federal Tax ID No. 43-2106258

Vendor:		Ship to:	
Name		Name	
Company		Company	
Address		Address	
City/State/Zip		City / State / Zip	
Phone		Phone	
Acct. No.		Ship Via	
Reference		Terms	
P.O. Date:	7/13/17	Date Required:	90-120 days

Quantity	Units	Description	Unit Price	TOTAL
1	Vehicle	2018 Toyota 4Runner SR5 V6 4WD (8664)	\$33,499.00	\$ 33,499.00
1	Fee	Document Fee	\$80.00	\$ 80.00
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
				\$ -
			SubTotal	\$ 33,579.00
			CA Tire Fee	\$ 8.75
			Taxes: Rate: 7.75%	\$ 2,602.37
			TOTAL*	\$ 36,190.12

Is this order paid by credit card? **YES** ☐ **NO** ☒

Ordered By: _____ **Taxes: Rate:** **7.75%**

<p>Approved: _____</p> <p>Date: _____</p> <p>* Purchase Orders totaling \$500.00 or more must <u>first</u> be: (1) Submitted to the Projects Manager (original + 1 copy); and (2) Approved and signed by the APCO prior to ordering.</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;"><u>BUDGET:</u></td> <td style="width: 20%; text-align: center;">Task # or budget category:</td> <td style="width: 60%;"></td> </tr> <tr> <td>SB 270</td> <td style="text-align: center;">100.0%</td> <td>17/18 III.b. Vehicles/ATVs</td> </tr> <tr> <td>District</td> <td>_____</td> <td>_____</td> </tr> </table> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>_____ Reviewed for PBC Policy (P. Kiddoo)</p> <p>_____ Budget Log (S. Cash)</p> <p>_____ Fiscal Services (P Gilpin)</p> </div>	<u>BUDGET:</u>	Task # or budget category:		SB 270	100.0%	17/18 III.b. Vehicles/ATVs	District	_____	_____
<u>BUDGET:</u>	Task # or budget category:									
SB 270	100.0%	17/18 III.b. Vehicles/ATVs								
District	_____	_____								



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537

Tel: 760-872-8211 Fax: 760-872-6109

BOARD REPORT

Mtg. Date: July 13, 2017

Date Prepared: June 27, 2017

To: Governing Board

From: Chris Lanane, Air Monitoring Specialist

Subject: Annual Sole-Source Determinations

Summary:

Section 3.3 of the District's Purchasing, Bidding and Contracting Policy (Rule 1101) provides that "due to availability, experience or overall cost (including operating and maintenance costs), certain materials, equipment, consultant services or public construction services ... may be purchased without first conducting a formal or informal bid procedure...." The elimination of the bidding procedure can take place only after the District Board or, in some cases, the Air Pollution Control Officer makes a "sole-source determination" that the equipment or services are practically available from only one source. In the long term, this provision can save considerable money by providing consistent brands of equipment or types of services.

A discussion of all the District's sole-source justifications follows. Staff believes that it is appropriate for the District to review the sole-source determinations each year. Staff requests that the Board make these sole-source determinations at this time. This list is intended as a complete list of sole-source determinations; these determinations replace all previous determinations.

Materials and Equipment

Agilaire, LLC, for Data Management Systems and Data Acquisition Systems - The essential components of District data processing are 1) data acquisition systems, and 2) data management systems. In 2016 the former District data management system, designed in Microsoft Access, was nearing maximum storage capacity and in need of replacement. The District performed an exhaustive search for an alternative and, after much testing and many trials, decided upon a cloud-based data management system by Agilaire named AirVision. The AirVision system has been in place since September 2016 and the District now realizes the benefits of the advanced capabilities of AirVision on a daily basis, such as real-time alerts, automatic data pre-validation, and multiple-trigger health alerts. The District data validation process is now fully AirVision-based. AirVision has turned out to be very efficient managing vast amounts of data. Agilaire also provides an advanced data acquisition system, the current Model 8872, which directly integrates the District air quality monitors with AirVision. The District currently operates 8872s at two complex sites, White Mountain Research Center/NCORE and Keeler. The 8872 has been invaluable in collecting data and in controlling onsite

Approval of Annual Sole Source Determinations (Action)

July 13, 2017 – Agenda Item No. 3.d. – Page 1

calibration systems. District staff requests that the Board consider Agilaire as a sole source provider of data acquisition systems and data management systems for the District.

AlumaTower Inc. for Meteorological Towers – The District currently operates 20 meteorological monitoring towers throughout its network. All of these towers were manufactured by AlumaTower, Inc. The towers have been trouble-free and have been part of the system that enables the District to gather high-quality defensible meteorological data. The AlumaTower systems are relatively inexpensive, easy to operate, and are problem-free. Having an installed base of these systems reduces the need for the District to have spare parts available for different systems from different manufacturers, reducing the overall cost of the network. District staff recommends that the Board consider AlumaTower, Inc. as a sole-source provider of meteorological tower systems for the District.

American Honda Motor Company for All-terrain Vehicles – Since the mid-1980s the District has used Honda FourTrax all-terrain vehicles (ATVs) to work on Owens Lake. We currently have a fleet of eight Honda ATVs. We believe that the Hondas are the only ATVs designed for the rugged conditions we encounter at Owens Lake. They are 4-wheel drive and have sealed brakes, enabling them to traverse muddy areas without losing traction and less prone to problems resulting from mud and water intrusion into the braking system. We have a good inventory of maintenance parts and the parts are readily available from local dealers. Additionally, District staff has experience servicing the vehicles. It is important that when employees are working alone on remote and poorly accessible areas of Owens Lake they have a safe, reliable vehicle that they can count on. District staff recommends that the Board consider American Honda Motor Company as a sole-source provider of ATVs for the District.

Apple, Inc., for Computers and Tablets – Over the past few years, staff has procured Apple iPads that, in many ways, have streamlined the way certain activities are conducted on a daily basis at the District. For example, the iPads have become a valuable tool for electronically documenting monitoring activities conducted by technicians at the District's monitoring stations. Gathering this information electronically streamlines the data validation process and can enable a faster turnaround for validation, since the electronic documentation is immediately uploaded to the District's servers and can then be used to address data questions on the fly by the data processing personnel. Utilization of these tools has enabled staff to operate more efficiently and will continue to do so well into the future. In order to ensure compatibility among all District users and systems, staff recommends the Board consider Apple, Inc. as a sole-source provider of special-use computers and tablets for the District.

California Survey Drafting Supply, for Trimble GPS Units and Software – District staff has been using Trimble GPS equipment for over 15 years. These high-quality GPS units provide high-resolution survey measurements used most frequently to delineate dust source areas on Owens Lake and to determine locations for monitoring equipment, especially in the Dust Identification network. California Survey Drafting Supply has always provided lowest prices and the best service and support for the Trimble GPS units and corresponding software. District staff recommends the Board consider California Survey Drafting Supply as a sole-source provider of Trimble GPS units and software for the District.

Approval of Annual Sole Source Determinations (Action)
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Campbell Scientific, Inc./Western Weather Group, for Data-loggers and Radio Telemetry Equipment – The District uses electronic devices called “data-loggers” to store the wide variety of meteorological and air quality data that are collected at Owens and Mono Lakes. Based on experience with these types of devices, staff has found that the “Campbell” brand of data-logger is the only one capable of standing up to the extreme conditions found on Owens Lake. The District has used Campbell Scientific data-logging equipment for collecting data throughout the District for more than 20 years. The District currently operates over 200 Campbell data-loggers. The District’s technicians have become very adept at programming, servicing, and operating these instruments and have needed to build a comprehensive inventory of only Campbell repair parts. In addition to the data-loggers, the District uses the compatible Campbell radio telemetry equipment that allows the data collected to be transmitted via radio frequency to the Keeler field office. This ability enables staff to download data without having to physically visit the often-difficult-to-access sites. Based on its reliability record and to maintain consistency in the type of equipment used by the District, staff recommends that the Board consider Campbell Scientific as the sole source provider of data-logger and radio telemetry equipment to the District.

Campbell Scientific, Inc./Western Weather Group/R.M. Young Co./NRG Systems for Meteorological Monitoring Equipment – In 1994 the District completely overhauled all of the meteorological monitoring stations in the monitoring networks, changing to R. M. Young and NRG Systems equipment. After careful research and testing of equipment from various manufacturers, it was determined that the R.M. Young and NRG Systems equipment would be more cost-effective due primarily to the reduced maintenance frequency associated with the equipment. This equipment can be purchased either from R.M. Young, NRG Systems or from Campbell Scientific, the District’s data logger provider. Occasionally, due to inventory considerations, the equipment may be less expensive at Campbell, and therefore, the District would like the flexibility to purchase the equipment from any of the three vendors. The District staff requests the Board consider Campbell Scientific, NRG Systems and R.M. Young Co., as the sole-source providers of the District’s meteorological equipment.

Chinook Engineering Division of Intermountain Laboratories, Inc., for Flow Measuring Device Calibration and Certification Services – The District has utilized the Streamline Flow Transfer Standards (FTS), manufactured by Chinook Engineering, for the routine calibration and verification of the flow rates through the Partisol filter-based particulate monitors and the TEOM continuous particulate monitors (both from Thermo Environmental, formerly from Rupprecht & Patashnick) for over twenty years. These flow standards are very robust and have provided reliable and defensible measurements of monitor flow rates and have been a significant component of the District’s quality control/quality assurance program and of the overall defensibility of the District’s PM10 dataset over that same period. The District currently has eight (8) of these flow standards: one distributed to each of the District’s five technicians operating monitoring stations, one for the District auditor’s use, and two backup standards. These flow standards must be certified annually against a National Institute of Standards (NIST) primary or transfer standard per EPA regulation (Title 40 Code of Federal Regulations, Part 50, Appendix J, Section 7.3 and Appendix L, Sections 9.1.2, 9.2.2). Chinook Engineering has provided these services to the District effectively and efficiently over the past twenty years. The District staff requests the Board formalize that relationship and consider Chinook Engineering Division of Inter-Mountain Laboratories, Inc., as a sole-source provider of flow standard calibration and certification services to the District.

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Dell Computer, Inc. for Personal Computers (PCs) – As with most government agencies and businesses today, the District is heavily reliant on PCs for nearly all the work that is performed. In the late 1980s, the District began buying Dell Computer PCs. They are and have been consistently rated as the most reliable PCs and staff has had very good experience with them. The District's computer repair technicians understand how to repair them and have developed relationships with Dell's sales and service staff. Therefore, for the sake of maintaining consistent equipment and due to their superior reliability, staff requests that the Board consider Dell Computer as the sole source provider of PCs for the District.

Draganfly Innovations, Inc., for Unmanned Aerial Vehicles (UAVs)

The District recently purchased a Draganfly UAV after much research into these devices. The Draganfly is not just another UAV, but is part of a sophisticated comprehensive system that can follow a program based on user input, e.g. coordinates of area to be covered, resolution of photos to be taken, and automatically fly the user-defined coverage. The UAV can send the data in realtime from the camera to the user at the base station. Software provided by the manufacturer will then stitch the photos together and provide a comprehensive coverage of the area of interest. A system of this caliber is needed in order to accurately assess the compliance of the existing BACM mitigation measures that are in place as well as those measures that the LADWP and the District have agreed can be put in place, e.g. tillage with BACM backup (TWB2), brine, and vegetation cover as well. Additionally, this UAV comes with a five-band infrared sensor that allows the accurate mapping of vegetative cover. This system not only collects the data, but also performs all of the post-processing of the data collected, stitching the photos together for one seamless geo-referenced image or digital elevation model. At this point, no other UAV manufacturer offers such a comprehensive and user-friendly system. District staff recommends the Board consider Draganfly Innovations, Inc., as a sole-source provider of unmanned aerial vehicles and associated systems.

EKTO Manufacturing for Monitoring Shelters –The District has fourteen (14) EKTO walk-in shelters in the monitoring network. EKTO is the only shelter manufacturer that wraps the shelter with metal on all six sides. Other materials allow rodents to get into the shelter and, with the potential threat of Hantavirus throughout the District, could put employees at risk. A specially designed trailer was purchased with the Dirty Socks shelter in 2003 that allows staff to easily tow any EKTO shelter from place to place with District vehicles. This trailer is configured to fit only EKTO shelters. In light of the fact the shelters can be easily moved from place to place and the aforementioned feature of the shelters being entirely sheathed in metal, it is the staff's recommendation that the Board make EKTO Manufacturing the sole-source provider of monitoring shelters for the District.

ESRI, Inc. for ArcGIS GIS Software – The District uses Geographical Information Systems (GIS) software for much of its data analysis and record keeping. District staff has used ESRI-based software for this purpose since 1990 and most District contractors also use it. ESRI, Inc. is the only vendor for the ArcGIS software package. ESRI GIS software is the de facto industry standard. ESRI's product support has also been excellent. District staff recommends that the Board consider ESRI, Inc. as a sole-source provider of GIS software.

Greenhart Farms, Inc., for Plants and Plant-related Material - Due to the success of Greenheart in the grow out the plants for the fall of 2016, District staff recommends that the Great Basin Governing Board designate Greenheart as a sole source provider for plant propagation for the District. Staff makes this recommendation based on the experience in dealing with Greenheart over the past year, the high quality of plants that Greenheart has produced, their willingness to work with the District in the care and scheduling the delivery of the plants, the overall cost, and confidence that they will be able to produce plants as specified for the District's projects for the foreseeable future.

Mesa Labs for Flow Measuring Device Calibration and Certification Services

Mesa Labs has acquired BGI, Inc., and BIOS, Inc., both of whom are providers of high-accuracy flow calibrations devices that are used for audits (BGI DeltaCal) of the District's PM10 monitors and for semi-annual and annual certifications (BIOS DryCal Lite, Defender) of the PM10 monitors. The District has used these sophisticated flow-rate measuring devices for over two decades. These flow-rate measuring devices have provided reliable and defensible audit measurements of monitor flow rates and have been an important regulatory component of the District's quality control/quality assurance program. The District currently has two (2) BGI DeltaCals used for flow-rate audits and five (5) of the BIOS DryCal Lite/Defender flow standards. The District's auditor retains the two DeltaCals and one BIOS DryCal Lite/Defender is distributed to each of the District's five technicians operating monitoring stations. These flow standards must be certified annually against a National Institute of Standards (NIST) primary or transfer standard per EPA regulation (Title 40 Code of Federal Regulations, Part 50, Appendix J, Section 7.3 and Appendix L, Sections 9.1.2, 9.2.2). Mesa Labs/BGI/BIOS has provided these services to the District over the past twenty years. The District staff requests the Board formalize that relationship and consider Mesa Labs, Inc., as a sole-source provider of flow standard calibration and certification services to the District.

Sensit Inc. (Formerly The Sensit Company), for Sand Motion Monitoring Equipment - In order to determine how much fugitive dust is emitted from the exposed beds of Owens and Mono Lakes, the District uses a specialized electronic device that measures blowing soil particles that come off the lakebeds. These devices are known as "Sensits™" and count the sand grains that impact a crystal ring mounted in a rod placed a few inches above the soil surface. The devices have been invaluable in our research and monitoring at Owens Lake and Mono Lake – we currently have over 190 in operation. However, only one company, The Sensit Company, makes the device; no one else makes anything even resembling this instrument. Therefore, because the Sensit Company is the sole source of Sensits, staff requests that the Board consider the Sensit Inc. (formerly The Sensit Company) as the sole source provider of electronic sand motion monitoring devices.

Teledyne-API, Inc., through their Regional Distributor, Clipper Controls, Inc., for Continuous Particulate Matter (PM) Monitors – The Teledyne-API particulate matter monitors, especially the T640X, provides continuous particulate matter concentrations for PM10, PM2.5, and PM10-PM2.5. It is a particle-counter-based EPA-approved equivalent method monitor for particulate matter in the size ranges noted above. The District has tested two T640X monitors for comparison with the monitors currently in use throughout the District has found that the T640X produces data comparable to the District's existing monitors. The only manufacturer of this EPA-approved monitor is Teledyne-API, Inc., therefore, District staff requests the Board consider Teledyne-API, Inc., as a sole-source provider of continuous particulate matter monitors.

Thermo Fisher Scientific (formerly Rupprecht & Patashnick, Inc.) for Tapered Element Oscillating Microbalance (TEOM) PM Monitors – The Thermo (Rupprecht & Patashnick) TEOM PM monitors have been used in the District since 1992. The TEOM PM₁₀ monitor is an approved EPA equivalent method monitor for PM₁₀. The TEOM PM_{2.5} monitor with the accompanying filter dynamics measurement system (FDMS) is an EPA-approved equivalent method monitor for PM_{2.5}. The TEOMs have proven to be reliable continuous monitors and have minimal maintenance requirements. These monitors provide a continuous measurement of PM and have been utilized effectively in the District's particulate health alert system. The TEOMs have also proven to be an invaluable resource in measuring dust episodes near Owens Lake especially for the dust source identification program. Currently, the only producer of TEOM monitors is Thermo Fisher Scientific. District staff requests that the Board consider Thermo Fisher Scientific as a sole-source provider of TEOM monitors.

Thermo Fisher Scientific (formerly Rupprecht & Patashnick, Inc.) for Partisol PM Monitors - The Partisol is a filter-based sampler for particulate matter. The District currently has six Partisol samplers in operation. These samplers have been reliable and have required minimal maintenance. Rupprecht & Patashnick, Inc. had the foresight to have the Partisol approved as an EPA reference method monitor for both PM₁₀ and PM_{2.5}, thereby allowing the District to monitor for either particle-size cut with the same monitor, only requiring a change in the inlet, resulting in a significant cost savings. The District has not found any other filter-based samplers that require as little maintenance as the Partisols or are as reliable as the Partisols. District staff requests that the Board consider Thermo Fisher Scientific (formerly Rupprecht & Patashnick, Inc.), as a sole-source provider of filter-based PM monitors for the District.

Professional Services

Desert Research Institute (DRI) for Professional Services

The District has worked with experts from the Desert Research Institute (DRI) for many years. Professional services that DRI has provided to the District include the fields of remote sensing, geomorphology, aeolian processes, and fugitive dust emissions. The expertise of the staff at DRI has greatly assisted the District in the development of new methodologies for determining whether the dust control measures on Owens Lake are meeting the required performance criteria as well as in the research and development of new dust control measures.

Mr. Peter Hsaio, esq., Morrison & Foerster, LLP

Peter Hsaio at Morrison & Foerster has been providing legal services to the District specific to environmental issues surrounding Owens Lake and Mono Lake for 15 years. Mr. Hsaio, specifically, has worked on cases for the District for that entire time-period. Mr. Hsaio's legal expertise on environmental issues regarding Owens Lake and Mono Lake is unparalleled and, as evidenced most recently by his articulate defense of the District's 2011 Supplemental Control Requirement Determination before the hearing officer at the California Air Resources Board (June 2012), he is uniquely qualified to provide legal advice on these matters. That defense resulted in a decision for the District on all counts brought against it. Mr. Hsaio's depth of knowledge and intimate understanding of the District and of the legal issues surrounding the Owens Lake and Mono Lake environmental concerns makes him and his firm an invaluable asset to the District. Staff recommends that Mr. Peter Hsaio of Morrison & Foerster, LLP be determined to be a sole-source provider of legal services to the District.

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Mr. Hsiao is the only outside legal counsel with prior continuous expertise in California Health & Safety Code Section 42316, and the many prior agreements between the LADWP and the District. Morrison and Foerster attorneys have worked extensively with the District since 1998. Their expertise, knowledge and professional legal services on a vast number of Owens Lake issues, including federal and state air pollution law, the Clean Air Act, HSC Section 42316, and the California Environmental Quality Act, have been invaluable in helping to develop the necessary agreements, language and documentation to control the air pollution due to the LADWP's water diversions from Owens Lake. Morrison & Foerster, on behalf of the District, has prevailed in all legal disputes and litigation with the City to date, including within the last 12 months the dismissal of two City lawsuits against the District and the ruling from CARB rejecting all of the City's arguments to appeal the reasonableness and validity of the 2011 SCRD. Mr. Hsiao and Morrison & Foerster, have developed experience with the District that is unmatched by any other law firm, and there would be substantial cost to the District to replace them with other counsel who would lack the base of knowledge and expertise to effectively represent the District.

Mr. Ken Richmond, Ramboll ENVIRON

The District has retained the services of Mr. Ken Richmond to conduct Owens and Mono Lake air quality modeling since the 1990's. Mr. Richmond has worked for a number of consulting firms over the years and now works for Ramboll-ENVIRON. Mr. Richmond has been invaluable in assisting the District with the development of the dust monitoring and modeling program at Owens Lake and Mono Lake. Mr. Richmond and his team at Ramboll-ENVIRON assist the District with the preparation and review of particulate matter air quality modeling at Owens and Mono Lakes and they perform air quality model-related investigations needed to support the Owens and Mono Lake PM10 State Implementation Plans. Air quality modeling is used to help identify areas that cause or contribute to air quality violations at Owens and Mono Lake and is required as part of the Owens Lake Dust ID Program pursuant to District Board Order #080128-01. They will be used to perform refined air quality model analyses to investigate issues of special interest; e.g. review and analysis of results from the LADWP's BACM tillage dust control study at Owens Lake.

Ramboll ENVIRON and the team led by Mr. Ken Richmond is the only available contractor and team with the unique experience necessary to compile the meteorological, sand flux, PM10 and source area data from the Owens Lake Dust Identification Program for the purpose of running the Dust ID model. As shown by their past experience listed below, they are uniquely qualified to perform the air quality model-related work at Owens and Mono Lakes and staff recommends they be considered as a sole source provider to the District for air quality modeling and analysis services.

- Mr. Richmond first worked with the District in 1991 to model windblown dust at Mono Lake through a competitive bid awarded to TRC Environmental Corp. (contract later awarded to McCulley, Frick & Gilman, Inc. (MFG) when Mr. Richmond and his team left TRC). The Mono Lake PM10 model was used to support the 1995 Mono Basin PM10 SIP and to set the Mono Lake level at 6,391 feet to demonstrate compliance with the federal PM10 standard.
- The District retained the services of Mr. Richmond and his team at MFG to perform air quality modeling at Owens Lake in 1995. The air quality model was used to support the federally approved 1998 PM10 SIP for the Owens Valley. In an effort to improve PM10

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modeling at Owens Lake to account for the unique nature of windblown dust emissions and downwind impacts, Mr. Richmond assisted the District in creating the Owens Lake Dust ID modeling program in 1999. Mr. Richmond and his team continued working with the District through contracts issued to Geomatrix, Inc. and currently, ENVIRON International Corp.

The only other contractor that may have the required experience to perform the unique modeling tasks required by the 2008 Owens Valley SIP would be Air Sciences, Inc. in Portland, Oregon. However they are not available due to their existing contract with the City of Los Angeles to review the results from the Owens Lake Dust ID Program and perform Owens Lake-related investigations.

Ms. Carla Scheidlinger, AMEC Foster Wheeler for Project Management of the Keeler Dunes and Other Project(s)

Reasons for recommending a sole-source determination and retaining the services of AMEC Foster Wheeler (AMEC) for project management services include: the Senior Restoration Manager's (Ms. Carla Scheidlinger) previous experience with native plant establishment in the Owens Lake area and within the Owens Valley including the Keeler Dunes; AMEC's previous experience in the successful completion of similar environmental restoration projects involving large-scale establishment of native plants in desert environments; and the capability of AMEC to bring in resources and personnel, as needed, with the specific experience and knowledge necessary to conduct the work quickly and efficiently. Ms. Scheidlinger and AMEC Foster Wheeler have assisted the District with the Keeler Dunes project since Dec 2013 including the development of the project design, review of the Environmental Impact Report (EIR) and Environmental Assessment (EA), and oversight of the project construction. This knowledge and experience is invaluable to successful completion of the Keeler Dunes project.

TEAM Engineering & Management, Inc. (TEAM) for Environmental Consulting and Archaeological Services

Over the last eighteen years of dust control implementation at Owens Lake there have been multiple Settlement Agreements, court judgments, SIPs and Environmental Impact Reports (EIRs). Each of these has a unique set of conditions and requirements that need to be met. For several years, Sapphos Environmental Inc., assisted the District in tracking the environmental compliance requirements for these activities, however, for multiple reasons, in 2015 the District decided to go through a formal bid process for the remaining required work. Through that process the District selected TEAM Engineering & Management, Inc., of Bishop, CA due to their local presence, overall cost, and the services that they could provide.

Now that TEAM has been working for the District for the past two years they have gained detailed knowledge and understanding on the complex set of requirements for the dust control program and are working on developing an improved method for tracking compliance. TEAM has also provided invaluable archaeological services to the District over the past year associated with the Cultural Resource Task Force (CRTF) and the Phase 9/10 project construction. The archaeologist for TEAM has intimate knowledge of the cultural resources on the lakebed and has earned the respect of the local Tribes and other member organizations of the CRTF. The District has been pleased with the effort, quality of work, and reasonable costs associated with TEAM's efforts and would like to continue to work with them in FY 2017-18 both for environmental compliance tracking as well as archaeological consulting services.

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Fiscal Impact:

None. Each of the sole-source providers is either the only source for the product or service, or there are other compensating factors that make the sole-source provider the most economical source, when all costs are taken into consideration. These compensating factors could include a history of proven reliability, staff training and familiarity with the product or service, existing stockpiles of replacement parts and a need for continuity and consistency in the data provided.

Board Action:

Staff recommends that the Board make the following sole-source determinations as provided for in Section 3.3 of Rule 1101 (District Purchasing, Bidding and Contracting Policy):

- Agilaire, LLC, for data management systems and data acquisition systems
- AlumaTower Inc. for meteorological towers
- American Honda Motor Company for all-terrain vehicles
- Apple, Inc., for computers and tablets
- California Survey Drafting Supply, for Trimble GPS units and software
- Campbell Scientific, Inc./Western Weather Group for data loggers and telemetry equipment
- Campbell Scientific, Inc./R. M. Young Co./Western Weather Group/NRG Systems for meteorological equipment
- Chinook Engineering Division of Inter-Mountain Laboratories, Inc., for flow standard calibration and certification services
- Dell Computer, Inc. for personal computers
- Draganfly Innovations, Inc., for unmanned aerial vehicles and monitoring systems
- EKTO Manufacturing for monitoring shelters
- ESRI for GIS for ArcGIS and other GIS software
- Greenhart Farms for plants and plant-related material
- Mesa Labs (formerly BGI, Inc., BIOS, Inc.), for flow-rate measuring device calibration and certification
- Sensit, Inc. (formerly The Sensit Company) for electronic sand motion monitoring devices
- Teledyne-API, Inc., Clipper Controls, Inc., for continuous particulate matter monitors
- Thermo Fisher Scientific for TEOM and Partisol PM monitors
- Desert Research Institute for professional services

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- Mr. Ken Richmond, Ramboll ENVIRON, for air quality modeling services
- Mr. Peter Hsaio, esq., Morrison & Foerster, LLP, for legal services
- Ms. Carla Scheidlinger, AMEC Foster Wheeler, for project management services
- TEAM Engineering & Management, Inc., for Environmental Consulting and Archaeological Services

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GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

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BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Phillip L. Kiddoo, Air Pollution Control Officer

Subject: United States Environmental Protection Agency (EPA) 2016 Owens Valley Planning Area (OVPA) PM10 State Implementation Plan (2016 SIP) Approval

Summary:

On April 13, 2016, the Great Basin Governing Board (Board) approved and adopted the following Board actions:

1. Board Order #160413-01 Requiring the City of Los Angeles to Undertake Measures to Control PM10 Emissions from the Dried Bed of Owens as authorized by California Health & Safety Code Section 42316 (CHSC 42316)
2. Great Basin Unified Air Pollution Control District (District) Rule 433 - Control of Particulate Emissions at Owens Lake.
3. 2016 Owens Valley Planning Area (OVPA) PM10 Demonstration of Attainment State Implementation Plan (2016 SIP)

These actions successfully fulfilled the District's requirements under Paragraph 11 of the 2014 Stipulated Judgment (2014 SJ). As directed by the Board, the Air Pollution Control Officer (APCO) forwarded Board Order #160413-01, District Rule 433 and the 2016 SIP to the California Air Resources Board (CARB) for approval and forwarding to the U.S Environmental Protection Agency (EPA) for final approval.

District Rule 433 and the 2016 SIP were subsequently approved by CARB on May 19, 2016 and forwarded to EPA on June 9, 2016. Approval by EPA was initiated on September 13, 2016 with publication in the Federal Register of EPA's proposal to approve District Rule 433 to regulate the Owens Lake PM10 emission source under the Clean Air Act (CAA) (Attachment 1). On December 12, 2016, EPA's proposal to approve the 2016 SIP as meeting all relevant statutory and regulatory requirements was published in the Federal Register (Attachment 2). On December 28, 2016, EPA published in the Federal Register final action to approve the 2016 SIP with an effective date of January 27, 2017 (Attachment 3). One (1) day prior to the effective date, EPA published in the Federal Register a delay of effective dates in accordance with the Presidential directive as expressed in the memorandum of January 20, 2017 entitled "Regulatory Freeze

Pending Review” (Attachment 4). This action temporarily delayed the effective dates until March 21, 2017 for all 30 EPA identified regulations that had been published in the Federal Register but had not yet taken effect. The 2016 SIP (Federal Register citation 81 FR 95475) was one of these regulations. On March 13, 2017, during the thaw, EPA published in the Federal Register final action to approve the 2016 SIP with an effective date of April 12, 2017 (Attachment 5). The District’s 2016 SIP became effective April 12, 2016, one day prior to the one year anniversary of the District’s Governing Board adoption. Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must have been filed in the United States Court of Appeals for the appropriate circuit by May 12, 2017 and no said petitions were filed.

Background:

On August 7, 1987, the EPA designated the OVPA as one of the regions in California in violation of the National Ambient Air Quality Standard (NAAQS) for particulate matter less than 10 microns in diameter (PM10) and designated the OVPA as a “serious non-attainment area”. PM10 is a criteria pollutant regulated by the federal Clean Air Act, 42 U.S.C. Section 7401 et seq., as amended (CAA). Under the NAAQS adopted pursuant to the CAA, PM10 levels may not exceed an average concentration of 150 micrograms per cubic meter (µg/m³) during a 24-hour period more than one time per calendar year averaged over three years.

The serious non-attainment area designation for PM10 in the OVPA is strictly attributed to air pollution from Owens Lake located in Inyo County, California, caused as a direct result of the drying of the lake due to water diversions by the City of Los Angeles in 1913. The completion of the Los Angeles Aqueduct diverted the entire Owens River, the primary source of water for 110 square mile Owens Lake, to provide water and power to the residents of Los Angeles. This diversion resulted in the exposure of the lake bed’s saline soils to wind erosion. Prior to dust mitigation efforts, wind-borne dust pollution caused elevated concentrations of PM10 more than one hundred times higher than the federal air quality standard on the worst days with air quality violations occurring on up to one-third of the days every year.

The District is a unified district as provided by Division 26, Part 3, Chapter 3 of the California Health and Safety Code and consists of all of Inyo, Mono and Alpine counties. The District has regulatory authority over air quality issues in the OVPA where Owens Lake is situated. California Health and Safety Code Section 42316, (CHSC 42316) enacted by the California Legislature in 1983, provides in part that the District has authority to require the City to undertake reasonable measures at Owens Lake in order to address the impacts of its activities that cause or contribute to violations of air quality standards.

The District is the lead agency under federal and state law to prepare a plan for attaining the air quality standards for the OVPA. To carry out its duty under the Clean Air Act and state law, and to bring the OVPA into attainment with the federal air quality standard, the District, under authority of CHSC 42316, submitted to EPA its 1998 SIP that was approved the following year with an attainment deadline of December 31, 2001. That deadline was later extended by five years. The District Governing Board approved a revised SIP in 2003 to meet this extended attainment deadline. In 2007, the EPA issued a Finding of Failure to Attain for the Owens Valley Nonattainment Area. In response, the District Governing Board approved a 2008 SIP revision

(2008 SIP), which was implemented and enforced through District Board Order #080128-01. The 2008 SIP incorporated provisions of the 2006 Settlement Agreement (2006 SA) between the District and City. The 2008 SIP was amended in 2013 to include changes to dust control measure requirements and to initiate efforts to control dust from the Keeler Dunes.

In 2011, a dispute arose between the City and the District over the District's orders that the City implement supplemental air pollution controls at the dried Owens Lake bed. The City's many challenges were reviewed and denied by the California Air Resources Board, the U.S. District Court for the Eastern District of California and the California Superior Court for the County of Sacramento. Following these rulings, the parties settled the disputes on terms contained in a Stipulated Judgment entered by the Sacramento Superior Court against the City on December 30, 2014 in the case captioned City of Los Angeles v. California Air Resources Board, et al., Case No. 34-2013-80001451-CU-WM-GDS (2014 SJ). Under the major provisions of the Stipulated Judgment, the City agreed to implement additional dust control measures on 3.62 square miles of the lake bed (for a total of 48.6 square miles) by December 31, 2017. The District may also order the City to implement dust control measures on up to 4.8 additional square miles of the lake bed if needed to meet the NAAQS or related state standards. The Stipulated Judgment also provides for the development and use of water-saving measures for dust control.

The 2014 SJ required the District to prepare a 2016 SIP consisting of its prior 2008 SIP Order and the provisions of the 2014 SJ by December 2015 (extended by subsequent court order to April 15, 2016). On April 13, 2016, Board actions to adopt Resolutions No. 2016-02 and No. 2016-03, Board Order #160413-01, District Rule 433 and the 2016 SIP successfully fulfilled this requirement.

Board Action:

None. Informational only.

Attachments:

1. EPA Federal Register / Vol. 81, No. 177 / Tuesday, September, 2016 / Proposed Rules: Approval of California Air Plan Revisions, Great Basin Unified Air Pollution Control District
2. EPA Federal Register / Vol. 81, No. 238 / Monday, December 12, 2016 / Proposed Rules: Approval of California Air Plan; Owens Valley Serious Area Plan for the 1987 24-Hour PM10 Standard
3. EPA Federal Register / Vol. 81, No. 249 / Wednesday, December 28, 2016 / Rules and Regulations: Approval of California Air Plan Revisions, Great Basin Unified Air Pollution Control District

4. EPA Federal Register / Vol. 82, No. 16 / Thursday, January 26, 2017 / Rules and Regulations: Delay of Effective Date for 30 Final Regulations Published by the Environmental Protection Agency Between October 28, 2016 and January 17, 2017
5. EPA Federal Register / Vol. 82, No. 47 / Monday, March 13, 2017 / Rules and Regulations: Approval of California Air Plan; Owens Valley Serious Area Plan for the 1987 24-Hour PM10 Standard

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0393; FRL–9952–08–Region 9]

Approval of California Air Plan Revisions, Great Basin Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Great Basin Unified Air Pollution Control District (GBUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of particulate matter (PM) at Owens Lake, CA. We are proposing to approve a local rule to regulate this emission source under the Clean Air Act (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by October 13, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–

OAR–2016–0393 at <http://www.regulations.gov>, or via email to Andrew Steckel, Rulemaking Office Chief at Steckel.Andrew@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on

making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947–4125, vineyard.christine@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
GBUAPCD	433	Control of Particulate Emissions at Owens Lake	04/13/16	06/09/16

On July 6, 2016, the EPA determined that the submittal for GBUAPCD Rule 433 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of Rule 433 in the SIP.

C. What is the purpose of the submitted rule?

PM, including PM equal to or less than 10 microns in diameter (PM₁₀), contributes to effects that are harmful to human health and the environment, including premature mortality, aggravation of respiratory and cardiovascular disease, decreased lung function, visibility impairment, and damage to vegetation and ecosystems. Section 110(a) of the CAA requires states to submit regulations that control PM emissions, including PM₁₀ emissions. GBUAPCD Rule 433 establishes PM₁₀ emission control requirements at the dry Owens Lake bed in the Owens Valley Planning Area

(OVPA). The rule defines Best Available Control Measures (BACM) and establishes the temporal and geographic requirements of these controls at Owens Lake, with the goal of reducing PM₁₀ emissions from the dry lake bed to attain the 24-hour PM₁₀ National Ambient Air Quality Standard (NAAQS) in 2017. For example, Rule 433 requires the application of controls such as gravel blankets, managed vegetation, or shallow flooding to areas of the dry Owens Lake bed that have contributed to violations of the NAAQS. The EPA’s technical support document (TSD) has more information about this rule.

II. The EPA’s Evaluation and Action

A. How is the EPA evaluating the rule?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater

emissions reductions (see CAA section 193).

Generally, SIP rules must implement BACM, including Best Available Control Technology (BACT), in areas classified as serious nonattainment (see CAA section 189(b)(1)(B)) for PM₁₀. The GBUAPCD regulates the OVPA, which is a PM₁₀ nonattainment area classified as serious. A BACM and BACT evaluation is generally performed in context of a broader plan.¹

The dry Owens Lake bed is the predominant source of PM₁₀ emissions in the OVPA.² Rule 433 requires the City of Los Angeles to implement a number of PM₁₀ control measures, including shallow flooding, managed vegetation, installation of gravel blankets, application of brine, or surface roughening (tillage) over a large portion of the dry Owens Lake bed. The control

¹ CARB submitted the GBUAPCD’s 2016 OVPA PM₁₀ SIP on June 9, 2016. We intend to evaluate and propose action on the 2016 OVPA PM₁₀ SIP, including BACM, in a separate action in the near future.

² OVPA 2016 SIP BACM Assessment at p. 1.

measures required by Rule 433 will result in a substantial reduction of PM₁₀ emissions in the OVPA from the Owens Lake bed.³

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).
4. "State Implementation Plans for Serious PM₁₀ Nonattainment Areas, and Attainment Date Waivers for PM₁₀ Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994).
5. "PM₁₀ Guideline Document," EPA 452/R-93-008, April 1993.
6. "Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures," EPA 450/2-92-004, September 1992.

B. Does the rule meet the evaluation criteria?

The PM₁₀ emission controls and other requirements in Rule 433 are clear and adequately enforceable. The requirements clearly strengthen the SIP and are consistent with CAA sections 110(l) and 193. We intend to address BACM for this area in the near future when we act on the OVPA 2016 SIP. Therefore, we find that Rule 433 is consistent with the relevant policy and guidance regarding enforceability and does not result in a SIP relaxation. The TSD has more information on our evaluation.

C. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule because it fulfills all relevant requirements. We will accept comments from the public on this proposal until October 13, 2016. If we take final action to approve the submitted rule, our final action will

incorporate this rule into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the GBUAPCD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: August 24, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2016-21872 Filed 9-12-16; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

RIN 0648-BG15

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Crab Rationalization Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of fishery management plan amendment; request for comments.

SUMMARY: The North Pacific Fishery Management Council submitted Amendment 47 to the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP) to NMFS for review. If approved, Amendment 47 would exempt eastern *Chionoecetes bairdi* Tanner (EBT) and western *C. bairdi*

³ OVPA 2016 SIP at p. 87 and Figure 10-1.

respectively, and adding a new paragraph (g)(1)(i) to read as follows:

§ 1310.04 Maintenance of records.

* * * * *

(g) * * *
(1) * * *

(i) Alpha-phenylacetoacetonitrile and its salts, optical isomers, and salts of optical isomers (APAAN)

* * * * *

■ 4. Amend § 1310.09 by adding new paragraph (n) to read as follows:

§ 1310.09 Temporary exemption from registration.

* * * * *

(n)(1) Each person required under Sections 302 and 1007 of the Act (21 U.S.C. 822, 957) to obtain a registration to manufacture, distribute, import, or export regulated alpha-phenylacetoacetonitrile (APAAN) and its salts, optical isomers, and salts of optical isomers, including regulated chemical mixtures pursuant to Section 1310.12 of this part, is temporarily exempted from the registration

requirement, provided that the DEA receives a properly completed application for registration or application for exemption for a chemical mixture containing alpha-phenylacetoacetonitrile (APAAN) and its salts, optical isomers, and salts of optical isomers, pursuant to Section 1310.13 of this part on or before (30 days after publication of a Final Rule implementing regulations regarding APAAN). The exemption will remain in effect for each person who has made such application until the Administration has approved or denied that application. This exemption applies only to registration; all other chemical control requirements set forth in the Act and parts 1309, 1310, 1313, and 1316 of this chapter remain in full force and effect.

(2) Any person who manufactures, distributes, imports or exports a chemical mixture containing alpha-phenylacetoacetonitrile (APAAN) and its salts, optical isomers, and salts of optical isomers whose application for

exemption is subsequently denied by the DEA must obtain a registration with the DEA. A temporary exemption from the registration requirement will also be provided for those persons whose applications for exemption are denied, provided that the DEA receives a properly completed application for registration on or before 30 days following the date of official DEA notification that the application for exemption has been denied. The temporary exemption for such persons will remain in effect until the DEA takes final action on their registration application.

■ 5. Amend § 1310.12 paragraph (c) by adding in alphabetical order an entry “Alpha-phenylacetoacetonitrile, and its salts, optical isomers, and salts of optical isomers. (APAAN)” in the table “Table of Concentration Limits” to read as follows:

§ 1310.12 Exempt chemical mixtures.

* * * * *

(c) * * *

TABLE OF CONCENTRATION LIMITS

	DEA chemical code No.	Concentration	Special conditions
Alpha-phenylacetoacetonitrile, and its salts, optical isomers, and salts of optical isomers. (APAAN).	8512	Not exempt at any concentration.	Chemical mixtures containing any amount of APAAN are not exempt.
* * * * *	* * * * *	* * * * *	* * * * *

* * * * *

Dated: December 2, 2016.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2016–29523 Filed 12–9–16; 8:45 am]

BILLING CODE 4410–09–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0660; FRL–9956–27–Region 9]

Approval of California Air Plan; Owens Valley Serious Area Plan for the 1987 24-Hour PM₁₀ Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of California and

Great Basin Unified Air Pollution Control District (GBUAPCD or “District”) to meet Clean Air Act (CAA or “Act”) requirements applicable to the Owens Valley PM₁₀ nonattainment area (NA). The Owens Valley PM₁₀ NA is located in the southern portion of the Owens Valley in Inyo County, California. It is classified as a Serious nonattainment area for the national ambient air quality standards (NAAQS) for particulate matter of ten microns or less (PM₁₀). The submitted SIP revision is the “Great Basin Unified Air Pollution Control District 2016 Owens Valley Planning Area PM₁₀ State Implementation Plan” (“2016 PM₁₀ Plan” or “Plan”). The GBUAPCD’s obligation to submit the 2016 PM₁₀ Plan was triggered by the EPA’s 2007 finding that the Owens Valley PM₁₀ NA had failed to meet its December 31, 2006, deadline to attain the PM₁₀ NAAQS. The CAA requires a Serious PM₁₀ nonattainment area that fails to meet its attainment deadline to submit a plan providing for attainment of the PM₁₀

NAAQS and for an annual emission reduction in PM₁₀ of not less than five percent until attainment of the PM₁₀ NAAQS. The EPA is proposing to approve the 2016 PM₁₀ Plan as meeting all relevant statutory and regulatory requirements.

DATES: Any comments on this proposal must arrive by January 11, 2017.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2016–0660, at <http://www.regulations.gov>, or via email to Vagenas.Ginger@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.regulations.gov). For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia

submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the Web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the EPA's full public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:
Ginger Vagenas, EPA Region IX, 415–972–3964, Vagenas.Ginger@epa.gov.

SUPPLEMENTARY INFORMATION:
Throughout this document, the terms “we,” “us,” and “our” mean EPA.

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I. Background: PM₁₀ Air Quality Planning in the Owens Valley PM₁₀ Nonattainment Area

A. Planning History

The NAAQS are standards for certain ambient air pollutants set by the EPA to protect public health and welfare. PM₁₀ is among the ambient air pollutants for which the EPA has established health-based standards. By penetrating deep in the lungs, PM₁₀ causes adverse health effects including lung damage, increased respiratory disease, and premature death. Children, the elderly,

and people with asthma and heart conditions are the most vulnerable.

On July 1, 1987, the EPA revised the health-based national ambient air quality standards, replacing the standards for total suspended particulates with new standards applying only to PM₁₀.¹ At that time, the EPA established two PM₁₀ standards, annual and 24-hour. Effective December 18, 2006, the EPA revoked the annual PM₁₀ standard but retained the 24-hour PM₁₀ standard.² The 24-hour PM₁₀ standard of 150 micrograms per cubic meter (µg/m³) is attained when the expected number of days with a 24-hour average concentration above 150 µg/m³ per calendar year averaged over a three-year period, as determined in accordance with appendix K to 40 CFR part 50, is equal to or less than one.³

On the date of enactment of the 1990 CAA Amendments, the Owens Valley (along with many other areas meeting the qualifications of section 107(d)(4)(B) of the amended Act) was designated nonattainment by operation of law.⁴ The Owens Valley PM₁₀ NA is located in Inyo County in east-central California. The EPA codified the boundaries of the Owens Valley PM₁₀ NA at 40 CFR 81.305.

Once an area is designated nonattainment for PM₁₀, section 188 of the CAA outlines the process for classifying the area as Moderate or Serious and establishes the area's attainment deadline. In accordance with section 188(a), at the time of designation, all PM₁₀ nonattainment areas, including the Owens Valley PM₁₀ NA, were initially classified as Moderate. A Moderate PM₁₀ nonattainment area can subsequently be reclassified as Serious either before the applicable attainment date if the EPA determines the area cannot practicably attain the PM₁₀ NAAQS by this attainment date, or after the passage of the applicable Moderate area PM₁₀ attainment date if the EPA determines that the area has failed to attain the standard. In accordance with section 188(b)(1) of the CAA, on February 8, 1993, the EPA determined the Owens Valley PM₁₀ NA could not practicably attain the PM₁₀ NAAQS by December 31, 1994 and reclassified the area as Serious.⁵

As a Serious area, the Owens Valley PM₁₀ NA acquired a new attainment deadline of no later than December 31, 2001. CAA section 188(c)(2). However,

CAA section 188(e) authorizes the EPA to grant up to a 5-year extension of that attainment deadline if certain conditions are met by the state. In order to obtain the extension, the state must make a SIP submission showing that: (1) Attainment by the applicable attainment date would be impracticable; (2) the state complied with all requirements and commitments pertaining to the area in the implementation plan for the area; and (3) the plan for the area includes the most stringent measures (MSM) that are included in the implementation plan of any state or are achieved in practice in any state and can feasibly be implemented in the specific area.

In its 1998 Owens Valley PM₁₀ Plan (submitted to the EPA on September 10, 1998), California requested an attainment date extension under CAA section 188(e) for the Owens Valley PM₁₀ NA from December 31, 2001 to December 31, 2006. On September 3, 1999, the EPA approved the Serious area 1998 PM₁₀ Plan for the Owens Valley PM₁₀ NA as meeting the requirements for such areas in CAA sections 189(b) and (c), including the requirements for implementation of best available control measures (BACM) in section 189(b)(1)(B) and MSM in section 188(e). In the same action, the EPA approved the submission with respect to the requirements of section 188(e) and granted California's request to extend the attainment date for the area to December 31, 2006. This final action and the proposal preceding it provide a more detailed discussion of the history of PM₁₀ planning in the Owens Valley PM₁₀ NA.⁶

On June 6, 2007, the EPA found that the Owens Valley PM₁₀ NA failed to attain the 24-hour PM₁₀ NAAQS by the applicable attainment date of December 31, 2006.⁷ Accordingly, the State was required to submit a new plan meeting the requirements of section 189(d) by December 31, 2007.

The Governing Board of the GBUAPCD adopted the “2008 Owens Valley PM₁₀ Planning Area Demonstration of Attainment State Implementation Plan” (“2008 Plan”) on February 1, 2008. The 2008 Plan, which included a request for an attainment date extension, was submitted by the State to the EPA on June 11, 2009. The 2008 Plan was subsequently updated and superseded by the submittal of the 2016 PM₁₀ Plan, which reiterates the request for an attainment date extension and incorporates agreements reached between the GBUAPCD and the City of

¹ 52 FR 24672.

² 71 FR 61144 (October 17, 2006).

³ 40 CFR 50.6 and 40 CFR part 50, appendix K.

⁴ 56 FR 11101 (March 15, 1991).

⁵ 58 FR 3334 (January 8, 1993).

⁶ See 64 FR 34173 (June 25, 1999) and 64 FR 48305 (September 3, 1999).

⁷ 72 FR 31183.

Los Angeles, and is the subject of this action.⁸

B. Description of the Owens Valley PM₁₀ Nonattainment Area

Owens Lake is located in Inyo County in east central California in the southern portion of the Owens Valley. It is part of a chain of lakes formed over 140,000 thousand years ago.⁹ In 1913, the Los Angeles Department of Water and Power (LADWP) completed an aqueduct system and began diverting the waters of the Owens River to the City of Los Angeles. By 1930, these diversions from the Owens River had drained the Owens Lake almost completely dry.¹⁰

Strong winds blowing over the surface of the dry, alkaline bed of the Owens Lake have produced among the highest measured concentrations of PM₁₀ ever recorded, including a monitored reading that exceeded 12,000 µg/m³—more than 80 times over the federal 24-hour standard.¹¹ Past data from the EPA's approval of the 1998 PM₁₀ Plan indicated that during days when violations were recorded, 94 percent of the PM₁₀ concentrations came from the Owens Lake bed and another five percent came from re-entrained Owens Lake dust already deposited in the area.¹² Since our approval of the 1998 PM₁₀ Plan, PM₁₀ emissions occurring directly from the Owens Lake bed and those attributable to re-entrained Owens Lake dust deposited in the two-kilometer area surrounding the Owens Lake bed, particularly the Keeler and Olancho Dunes, have declined. Despite this reduction, the predominant source of PM₁₀ emissions contributing to nonattainment in the Owens Valley PM₁₀ NA continues to be the dry Owens Lake bed and the two-kilometer perimeter surrounding it.¹³

Approximately 40,000 permanent residents live in the area affected by the Owens Lake PM₁₀ emissions.¹⁴ Some of these residents are members of four Tribes: The Lone Pine Paiute/Shoshone Tribe, the Fort Independence Tribe, the Big Pine Tribe, and the Bishop Tribe. Residents and visitors to the area suffer

the adverse health effects from high PM₁₀ concentrations.¹⁵

As noted previously, the State of California and the GBUAPCD submitted a PM₁₀ Plan in 1998 that the EPA approved in 1999.¹⁶ The EPA recognized in approving the 1998 PM₁₀ Plan that the Owens Valley PM₁₀ NA presented one of the most challenging air quality problems nationally, requiring a reduction of PM₁₀ concentrations from almost 4000 µg/m³ to the 24-hour NAAQS of 150 µg/m³. The EPA also recognized that while the origin of the PM₁₀ problem was well understood—the draining of Owens Lake by the City of Los Angeles in the early part of this century and continued LADWP withdrawals from the Owens River—the solution to the problem remained controversial.¹⁷ The EPA's evaluation of the 1998 PM₁₀ Plan noted the unique complexities of the Owens Valley PM₁₀ planning process, including the competing authorities and responsibilities of the GBUAPCD to protect Owens Valley residents from the harmful effects of air pollution and those of the City of Los Angeles to provide its residents with an adequate water supply.¹⁸

Historically, there have been significant disputes between the GBUAPCD and the City of Los Angeles concerning the appropriateness, location, and extent of control measures to reduce PM₁₀ emissions from the Owens Lake bed and surrounding areas, which interfered with the adoption of a fully approvable plan. The legal history between the GBUAPCD and the City of Los Angeles is described in some detail in the EPA's proposed approval of the 1998 PM₁₀ Plan and in the 2016 PM₁₀ Plan.¹⁹ In summary, California legislation followed by litigation in state and federal courts resulted in a series of agreements requiring the City of Los Angeles to implement a variety of control measures to mitigate PM₁₀ emissions from the dry Owens Lake bed. The most recent iteration of these agreements, reached after extensive

negotiations, is the 2014 Stipulated Judgment between the City of Los Angeles and the GBUAPCD.²⁰ It is our understanding that the 2014 Stipulated Judgment resolves all disputes between the District and the City of Los Angeles and it appears to clearly articulate the responsibilities of both parties, providing certainty and eliminating the risk of further litigation regarding the Owens Lake bed controls required for attainment and contingency measures. The 2014 Stipulated Judgment adds to and incorporates prior agreements between the parties and constitutes the foundation for the 2016 PM₁₀ Plan that we are proposing to approve in this action.²¹

The EPA is proposing to approve the 2016 PM₁₀ Plan because it meets the CAA requirements for Serious area plans. As was true of the 1998 PM₁₀ Plan, this 2016 PM₁₀ Plan is an important blueprint for clean air in one of the most unique and challenging PM₁₀ nonattainment areas in the United States.²² Successful implementation will require continued joint efforts by the GBUAPCD and the City of Los Angeles.²³

The establishment of controls on the lake bed has resulted in significant improvements to air quality in the Owens Valley. Between 1993 and 2014, the number of NAAQS exceedances decreased substantially at monitors located in the Owens Valley PM₁₀ NA. For example, the peak three-year average number of exceedances at the Dirty Socks monitor declined from 41 to 9 in 2014, at the Keeler monitor from 20 to 8, and at the Shell Cut monitor from 19 to 5.²⁴ As shown in Table 1, the 2016 PM₁₀ Plan demonstrates that PM₁₀ design concentrations are predicted to be below the NAAQS when all required controls are implemented by the City of Los Angeles and the GBUAPCD.²⁵ Through the continued efforts of the GBUAPCD and the City of Los Angeles, the 2016 PM₁₀ Plan demonstrates attainment of the 24-hour PM₁₀ NAAQS within the attainment year of 2017.

reductions of 75,000 tons. See the EPA's Web site: <https://www.epa.gov/caaac/clean-air-excellence-awards>.

²³ In 2016, the EPA bestowed its Clean Air Excellence Award for Regulatory and Policy Innovations on the GBUAPCD in recognition of the District's development of leading methods to identify pollution source areas, analyze particulate emissions, and determine suitable pollution control measures. The EPA noted the Owens Lake project constitutes the world's largest PM₁₀ emission control project and has led to annual air pollution reductions of 75,000 tons. See the EPA's Web site: <https://www.epa.gov/caaac/clean-air-excellence-awards>.

²⁴ 2016 PM₁₀ Plan, Appendix III–2, Table 1.

²⁵ *Id.*, Table 7–5.

⁸ See Chapter 8 of the 2016 PM₁₀ Plan and letter from Phillip L. Kiddoo, Air Pollution Control Officer, GBUAPCD to Elizabeth Adams, Acting Air Division Director, U.S. EPA, Region 9, dated October 26, 2016.

⁹ 2016 PM₁₀ Plan, p. 7.

¹⁰ *Id.*, p. 8.

¹¹ *Id.*, p. S–2.

¹² 64 FR 34173 at 34174.

¹³ 2016 PM₁₀ Plan, page S–4, Table S–2, and Chapter 8.

¹⁴ *Id.* at S–2.

¹⁵ *Id.*

¹⁶ 64 FR 48305.

¹⁷ 64 FR 34173 at 34174.

¹⁸ *Id.*

¹⁹ 2016 PM₁₀ Plan, pp. 9–12.

²⁰ *Id.*, Appendix II–1.

²¹ *Id.*, p.12 (“The judgment requires the City of Los Angeles to implement the dust control measures ordered in 2011 and 2012 and provides for additional dust control measures up to 53.4 square miles in total for all ordered dust control areas.”)

²² In 2016, the EPA bestowed its Clean Air Excellence Award for Regulatory and Policy Innovations on the GBUAPCD in recognition of the District's development of leading methods to identify pollution source areas, analyze particulate emissions, and determine suitable pollution control measures. The EPA noted the Owens Lake project constitutes the world's largest PM₁₀ emission control project and has led to annual air pollution

TABLE 1—DECLINE IN OWENS VALLEY PM₁₀ CONCENTRATIONS
[µg/m³]

Monitoring site	July 2009–June 2014 maximum PM ₁₀	Hybrid model 2017 design concentration predictions
Dirty Socks	1,437	93
Flat Rock	871	94
Keeler	2,994	67
Lizard Tail	4,571	142
Mill Site	754	125
North Beach	1,536	67
Olancho	779	41
Shell Cut	2,149	105
Stanley	286	39

Source: 2016 PM₁₀ Plan, Tables 7–1 and 7–5.

C. Public Notice, Public Hearing, and Completeness Requirements for SIP Submittals

CAA section 110(a)(1) and (2) and 110(l) require each state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submission of a SIP or SIP revision to the EPA. To meet this requirement, every SIP submission should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

Both the GBUAPCD and the California Air Resources Board (CARB) satisfied applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption of the 2016 PM₁₀ Plan. The District provided a public comment period and conducted a public hearing on April 13, 2016, before its Board adopted the 2016 PM₁₀ Plan.²⁶ CARB provided the required public notice and opportunity for public comment prior to its May 19, 2016 public hearing.²⁷ The submission provides proof of publication of notices for the respective public hearings. We find, therefore, that the 2016 PM₁₀ Plan meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l).

CAA section 110(k)(1)(B) requires the EPA to determine whether a SIP submission is complete within 60 days of receipt. This section of the CAA also provides that any plan that the EPA has not affirmatively determined to be complete will become complete by operation of law six months after the date of submission. The EPA's completeness criteria are found in 40

CFR part 51, Appendix V. The EPA determined the SIP submission dated June 9, 2016, to be complete on November 21, 2016.²⁸

D. CAA Requirements for PM₁₀ Serious Area Plans

As a Serious PM₁₀ nonattainment area that failed to meet its applicable attainment date of December 31, 2006, the Owens Valley PM₁₀ NA is subject to CAA sections 188 and 189. Section 188 establishes attainment dates for Serious PM₁₀ nonattainment areas. However, when an area such as the Owens Valley PM₁₀ NA fails to attain the PM₁₀ NAAQS within the time prescribed in section 188, a new attainment date may be approved. The new attainment date is established by section 179(d)(3), which establishes that the attainment date applicable to the revision required under paragraph (1) of section 179(d) shall be the same as provided in the provisions of section 172 of the CAA. That section of the statute requires the area attain as expeditiously as practicable, but no later than five years from the date of designation.²⁹ It also includes a provision that allows the EPA to extend the attainment date for up to an additional five years (*i.e.*, a period of no greater than 10 years) to the extent the Administrator determines appropriate, considering the severity of nonattainment and the availability and

feasibility of pollution control measures.³⁰

Section 189(d) provides that the state shall submit within 12 months after the applicable attainment date, plan revisions that provide for attainment of the PM₁₀ air quality standard and, from the date of such submission until attainment, for an annual reduction of PM₁₀ or PM₁₀ precursor emissions within the area of not less than five percent of the amount of such emissions as reported in the most recent inventory prepared for the area.

The general planning and control requirements for all nonattainment plans are found in CAA sections 110 and 172. More specific planning and control requirements relevant to the PM₁₀ NAAQS are found in Part D, Subpart 4, in CAA sections 188 and 189, as noted above. The EPA has issued a General Preamble³¹ and Addendum to the General Preamble³² to provide guidance to states for meeting the CAA's requirements for the PM₁₀ NAAQS. The General Preamble mainly addresses the requirements for moderate nonattainment areas and the Addendum addresses requirements for Serious nonattainment areas. The EPA has also issued other guidance documents related to PM₁₀ plans that are discussed and cited below. The specific PM₁₀ plan requirements addressed by this proposed action are summarized below.

³⁰ 42 U.S.C. 7502(a)(2)(A). See also *Ass'n of Irrigated Residents v. United States EPA*, 423 F.3d 989, 993–94 (9th Cir. 2015).

³¹ "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992) (General Preamble) and 57 FR 18070 (April 28, 1992).

³² "State Implementation Plans for Serious PM₁₀ Nonattainment Areas, and Attainment Date Waivers for PM₁₀ Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 59 FR 41998 (August 16, 1994) (Addendum).

²⁸ See letter from Elizabeth Adams, Acting Air Division Director, U.S. EPA Region 9 to Richard Corey, Executive Officer, California Air Resource Board.

²⁹ In accordance with CAA section 179(d)(3) and 172(a)(2)(A), the attainment deadline applicable to an area that misses the Serious area attainment date is as soon as practicable, but no later than five years from the publication date of the nonattainment finding notice. The EPA's finding that the Owens Valley PM₁₀ NA failed to attain by the Serious area nonattainment date was published on June 6, 2007.

²⁶ *Id.*, Chapter 13—Declaration of Clerk of the Board and Resolutions Certifying the EIR and Approving the SIP.

²⁷ State of California Air Resources Board Resolution 16–3, May 19, 2016.

1. Emissions Inventories

CAA section 172(c)(3) requires that an attainment plan include a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutants.

2. Attainment Demonstration and Five Percent Requirement

For Serious PM₁₀ nonattainment areas that do not attain the PM₁₀ NAAQS by the applicable attainment date, CAA section 189(d) requires the state to submit plan revisions that provide for attainment of the NAAQS and provide for an annual five percent reduction in PM₁₀ or PM₁₀ precursor emissions for each year from the date of submission until attainment.³³ Section 189(d) specifies that the state must submit these plan revisions within 12 months of the applicable attainment date that the area failed to meet.

3. Best Available Control Measures for Sources of PM₁₀

CAA section 189(b)(1)(B) requires provisions to assure that BACM, including the best available control technology (BACT) for stationary sources, for the control of PM₁₀ shall be implemented no later than four years after the date a nonattainment area is reclassified as Serious.

When a Moderate area is reclassified to Serious, the requirements to implement reasonably available control measures (RACM), including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT), in CAA sections 172(c)(1) and 189(a)(1)(C) remain applicable. Thus, a Serious area PM₁₀ plan must also provide for the implementation of RACM and RACT to the extent that the RACM and RACT requirements have not been satisfied in the area's Moderate area plan.

CAA section 189(e) requires that control requirements applicable to major stationary sources of PM₁₀ shall also apply to major stationary sources of PM₁₀ precursors, except where the Administrator determines that such sources do not contribute significantly to PM₁₀ levels that exceed the standards in the area.

³³ The EPA has previously determined that PM₁₀ precursors are not significant contributors to PM₁₀ levels in the Owens Valley PM₁₀ NA. See 64 FR 34173 at 34716 (June 25, 1999). In that rulemaking notice, the EPA noted that the contribution from secondary aerosols is insignificant. Inventory information submitted by the GBUAPCD in association with the 2016 PM₁₀ Plan also demonstrates that precursors do not contribute significantly to PM₁₀ levels that exceed the standard. See section II.D.2.b of this notice.

4. Reasonable Further Progress and Quantitative Milestones

CAA section 172(c)(2) requires that implementation plans demonstrate reasonable further progress (RFP) as defined in section 171(1). Section 171(1) defines RFP as such annual incremental reductions in emissions of the relevant air pollutant as are required by part D of title I or may reasonably be required by the Administrator for the purpose of ensuring attainment of the applicable national ambient air quality standard by the applicable date. The general RFP requirement of section 172(c)(2) applies to SIP submissions necessary to meet CAA section 189(d) for the PM₁₀ NAAQS.

In addition, CAA section 189(c)(1), which is specifically applicable to the PM₁₀ NAAQS, requires that an implementation plan contain quantitative milestones that will be achieved every three years and that will demonstrate that RFP is being met.

5. Contingency Measures

CAA section 172(c)(9) requires that implementation plans provide for the implementation of specific measures to be undertaken if the area fails to make RFP or to attain the NAAQS by the attainment date applicable under part D of title I. Such measures are to take effect in any such case without further action by the State or the Administrator. The contingency measure requirement of CAA section 179(c)(9) applies to the SIP submissions necessary to meet CAA section 189(d) for the PM₁₀ NAAQS.

6. Transportation Conformity and Motor Vehicle Emissions Budgets

Transportation conformity is required by CAA section 176(c). Our conformity rule (40 CFR part 93, subpart A) requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do so. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestone. Once a SIP that contains motor vehicle emissions budgets has been submitted to the EPA, and the EPA has found them adequate, these budgets are used for determining conformity (*i.e.*, emissions from planned transportation activities must be less than or equal to the budgets).

II. Evaluation of the Owens Valley PM₁₀ Plan's Compliance With CAA Requirements

A. Review of the Owens Valley PM₁₀ Nonattainment Area Emissions Inventories

The 2016 PM₁₀ Plan includes PM₁₀ emissions inventories for the Owens Valley PM₁₀ NA for the years 1999 through 2019. For the most part, the emissions data presented in the Plan were derived from the CARB 2012 and 2015 emission inventories for Inyo County and apportioned to the Owens Valley PM₁₀ NA using factors such as population, roadway miles, and land area.³⁴ The GBUAPCD calculated fugitive windblown dust emissions using a combination of modeling and data collected at monitors located around the Owens Lake bed. The unpaved road dust emissions were calculated using the GBUAPCD's emission factors. These calculations are included in Tables 3 and 4 of Appendix IV-1 of the 2016 PM₁₀ Plan.

The District has also provided an inventory of emissions of PM₁₀ precursors (*i.e.*, sulfur oxides, nitrogen oxides, volatile organic compounds, and ammonia) for a 2015 exceedance day.³⁵ In this inventory, ammonia emission estimates "were derived from Inyo County emissions that were queried from the USEPA's 2014 National Emissions Inventory." Estimates for the other precursors "were derived from Inyo County emissions that were queried from the CARB CEPAM Standard Emissions Tool (2013 Almanac)." In all cases, emissions were apportioned to the Owens Valley PM₁₀ NA using various factors.³⁶ The EPA previously determined that PM₁₀ precursors are not significant contributors to PM₁₀ levels in the Owens Valley PM₁₀ NA.³⁷ At that time, the EPA noted that the contribution from secondary aerosols is insignificant. The EPA proposes to find again that precursors do not play a significant part in the PM₁₀ problem in the Owens

³⁴ An overview of the 2016 PM₁₀ Plan emissions inventory is provided here. For detailed results and a complete discussion of the methodologies used to produce the emissions inventories, see the following sections of the 2016 PM₁₀ Plan: Summary, S.1; Chapter 4, "PM₁₀ Emissions Inventory and Determination of Significant Sources;" and Appendix IV-1, "2016 SIP Inventory."

³⁵ See attachment to letter from Phillip L. Kiddoo, Air Pollution Control Officer, GBUAPCD to Elizabeth Adams, Acting Air Division Director, U.S. EPA, Region 9, dated October 26, 2016.

³⁶ *Id.* The metrics used to ratio emissions from Inyo County to the Owens Valley PM₁₀ NA are specified in the attachment.

³⁷ See 64 FR 34173 at 34716 (June 25, 1999).

Valley PM₁₀ NA. We discuss this in more detail in Section II.D., below.

The emissions inventories provided in the Plan show that fugitive dust emissions resulting from wind erosion on the exposed Owens Lake bed, off-lake deposits of lake bed dust such as the Keeler Dunes, and open desert are by far the largest sources of PM₁₀ in the Owens Valley PM₁₀ NA. Other, much smaller sources of windblown dust include small mining facilities and the Lone Pine Landfill. The remaining sources of PM₁₀ within the Owens Valley PM₁₀ NA include wood stoves, fireplaces, unpaved and paved road dust, and vehicle tailpipe emissions. The District also notes that prescribed burning is a source of PM₁₀ in the nonattainment area. There are no large

industrial sources of PM₁₀ in the Owens Valley PM₁₀ NA.

The GBUAPCD also grouped emissions into three location-based categories: “lake bed emissions,” “near-lake emissions,” and “remaining Owens Valley NA emissions.” Emissions originating from the lake bed are included in the lake bed category. The near-lake category consists of emissions generated within a two-kilometer zone surrounding the lake bed and includes fugitive windblown dust emissions from paved and unpaved roads and open desert, emissions from other sources within two kilometers of the lake bed such as the Lone Pine Dump, and the Keeler and Olancha dunes. Emissions generated outside the two-kilometer zone are grouped in the remaining

Owens Lake NA emissions category. The “Owens Lake Subarea” encompasses the lake bed and the near-lake emissions. Emissions from unpaved roads and open desert areas generated within the two-kilometer zone surrounding the lake were used in the District’s analysis of which sources contribute significantly to nonattainment, thereby allowing the District to factor in the impact of the distance between emission sources and affected monitors.

Table 2 provides a summary of the annual emissions forecast for all PM₁₀ emission source categories in the Owens Valley PM₁₀ NA for 2006, 2007, and for 2016 through 2019 (tons per year).

TABLE 2—SUMMARY OF PM₁₀ ANNUAL EMISSIONS IN THE OVPA

Year end ³⁸	Lake bed emissions	Near-lake emissions			Remaining Owens Valley NA emissions			Total
		Keeler Dunes	Olancha Dunes	2-km buffer (excluding dunes) ³⁹	Windblown dust unpaved roads	Windblown dust open desert ⁴⁰	Misc. sources ⁴¹	
2006	789	5,324	6,395	4,217	416	19,617	854	37,613
2007	7,448	4,476	5,011	3,143	416	19,617	854	40,964
2016	1,222	172	1,506	1,358	416	19,617	747	25,038
2017	355	41	1,093	1,180	416	19,617	747	23,450
2018	355	41	798	1,053	416	19,617	747	23,027
2019	355	41	586	962	416	19,617	750	22,726

Source: 2016 PM₁₀ Plan, Table 4–3.

The EPA is proposing to find that the 2016 PM₁₀ Plan’s emissions inventories for 2006 through 2019 are comprehensive, accurate, and current inventories of actual emissions from all sources in the Owens Valley PM₁₀ NA and that these emissions inventories meet the requirements of section 172(c)(3) of the CAA and EPA guidance.⁴² The GBUAPCD has provided a 2006 base year and future year emissions inventories to 2019, comprehensively addressing all source categories in the Owens Valley PM₁₀ NA. Consequently, we are proposing to find that the emissions inventories provided by the GBUAPCD meet the requirements of section 172(c)(3) and provide an adequate basis for the attainment demonstration as well as for the BACM and RFP demonstrations.

B. Demonstration of Attainment

The 2016 PM₁₀ Plan must provide a detailed demonstration (including air quality modeling) that the specified control strategy will reduce PM₁₀ emissions so that the 24-hour NAAQS will be attained as soon as practicable but no later than June 6, 2017, assuming final approval of the attainment deadline extension discussed above. CAA section 189(b)(1)(A).

1. Attainment Deadline

In 2007, the EPA notified the GBUAPCD that it had failed to attain the PM₁₀ NAAQS by the attainment date at the end of 2006.⁴³ The GBUAPCD has requested that the EPA extend the attainment date for the Owens Valley PM₁₀ NA for an additional 10 years.⁴⁴ The EPA is proposing to approve the requested attainment date extension

because, considering the severity of nonattainment and the availability and feasibility of pollution control measures, the EPA believes such an extension to June 6, 2017 is warranted based on various factors, including the following.

First, the EPA acknowledges the severity of the PM₁₀ problem. As discussed above, prior to the application of controls, the Owens Valley PM₁₀ NA experienced dust storms of unprecedented magnitude that originated from the dry Owens Lake bed under certain meteorological conditions. The magnitude of these dust storms from the dry lake bed were unique within California and the United States.

Second, the factors creating the dry Owens Lake bed, specifically the diversion of water in the early 20th century to the City of Los Angeles, resulted in complex legal and technical

³⁸ Values presented represent the emissions at the end of the calendar year, after all scheduled controls are in place.

³⁹ Includes PM₁₀ emissions from Lone Pine Landfill, which equal on average approximately 60 tons per year.

⁴⁰ Emissions assumed constant over time.

⁴¹ Miscellaneous sources include: Manufacturing and industrial, service and commercial, mineral processes, metal processes, residential fuel combustion, construction and demolition, paved

and unpaved road dust (activity related), windblown dust from agricultural lands, managed burning and disposal, on-road mobile, and wildfires.

⁴² Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations. U.S. EPA, September 29, 2016 (draft).

⁴³ See 72 FR 31183 (June 6, 2007).

⁴⁴ As discussed above, CAA section 188 and 179 allow up to a 10-year extension of the attainment date after the EPA issues a finding that a Serious PM₁₀ nonattainment area has failed to attain the NAAQS. CAA section 172(a) authorizes the EPA to extend the attainment deadline to the extent it deems appropriate for a period of no greater than 10 years from the publication of the nonattainment finding, considering the severity of nonattainment and the availability and feasibility of pollution control measure.

agreements for installation of control measures that were untested in kind and scope. Since approval of the 1998 PM₁₀ Plan, the GBUAPCD and City of Los Angeles have worked consistently to refine and optimize the complex set of control measures leading to substantial reductions of PM₁₀ from the dry Owens Lake bed and surrounding near-lake sources. The culmination of decades of work on this problem by the GBUAPCD and the City of Los Angeles is the Stipulated Judgment leading to the District's adoption and the EPA's approval of Rule 433 into the SIP in 2016.⁴⁵ Rule 433 will ensure that the mitigation measures leading to the final reductions in PM₁₀ will occur and lead to attainment of the NAAQS.

For these reasons, the EPA concurs that an extension of the attainment deadline to June 6, 2017 is warranted.

2. PM₁₀ Attainment Demonstration Approaches

A key part of a PM₁₀ attainment plan is the attainment demonstration. This is a demonstration by the state that the existing and planned emission control measures, in this case, the controls that have been incorporated into Rule 433 and the Keeler Dunes Project, are sufficient to result in attainment of the PM₁₀ NAAQS by the required attainment date (*i.e.*, 2017). Under CAA section 189(b)(1)(A), the attainment demonstration for a Serious nonattainment area must include air quality modeling. Please see the EPA's accompanying Technical Support Document (TSD), located in the docket for this action, for our detailed analysis of the air quality modeling supporting the District's demonstration of attainment. In summary, the EPA's preferred PM₁₀ attainment demonstration approach is dispersion modeling, with receptor modeling or emissions inventory approaches as adjuncts. However, emissions from fugitive dust sources such as the dry Owens Lake bed are uncertain and variable in comparison with the typical industrial point sources to which dispersion modeling is usually applied. Also, in a fugitive dust-dominated area there are few if any chemical differences between the various emitting source regions within the area, so receptor modeling is of limited use. Therefore,

emissions inventory-based modeling approaches have been used in fugitive dust and other PM₁₀ nonattainment areas. These include the "rollback" of monitored concentrations in proportion to emissions, sometimes in conjunction with a dispersion model in order to account for the spatial and temporal variation of emissions and their various distances from the monitor(s). In all of the approaches, projected emissions reductions due to control measures are applied to the emission source contributions, and attainment is demonstrated if the resulting concentrations are below the NAAQS.⁴⁶

3. Modeling in Submittal

The District used a hybrid modeling approach combining the CALPUFF ("California Puff") dispersion model⁴⁷ with a monitored component. CALPUFF is used to model the effect of emissions from sources on the Owens Lake bed and the Keeler Dunes. The monitored component is used to represent the effect of other sources off the lake bed ("out-of-network"), which are not otherwise included in the CALPUFF modeling; it is a time-varying background concentration that declines over time as lake bed emissions are controlled. The District's hybrid model and its inputs are discussed in more detail in our TSD.

The District's model performance evaluation⁴⁸ of the hybrid model, which checked model predictions against monitored observations during the five-year period of July 2009 to June 2014, showed a high correlation between them and acceptable model performance.

The attainment demonstration also examined the effect of the controls through implementation of Rule 433 and controls on the Keeler Dunes that would be in place by the end of 2017, the attainment year. Each of the five meteorology years was modeled, and for

a given receptor the highest sixth-high concentration taken as the design concentration. The design concentration results for each monitor site for 2014 through 2019 are shown in Table 7–5 of the 2016 PM₁₀ Plan. For 2017, the highest design concentration is 142 µg/m³ and all concentrations are less than 150 µg/m³, demonstrating attainment of the PM₁₀ NAAQS.

4. Evaluation of Modeled Attainment Demonstration

The dry Owens Lake bed presents a unique situation for which unconventional modeling approaches may be appropriate. The EPA has consulted with the District and CARB on the modeling approach numerous times over the past decade, including during the year prior to the current Plan submittal. As discussed in detail in our TSD and in the summary below, the District's air quality modeling analysis is appropriate for this area.

a. Model Emissions Input

The District's Dust Identification (ID) Program, described in detail in the TSD, provides estimates of PM₁₀ emissions based on real-time measurements at numerous locations. It provides a level of detail and accuracy that is unique, and is a considerable refinement over standard emission factors, and even over locale-specific emission factors that account for soil type and wind speed. It provides a strong foundation for the emission estimates needed for a modeled attainment demonstration.

b. Model Choice

The District's method for estimating PM₁₀ emission factors (*i.e.*, back-calculation from monitored concentrations, also discussed in detail in the TSD), depends on good characterization of source-receptor relationships (emitting source square and monitor receptor) to determine which particular emitting areas are contributing to a given monitored concentration. A Lagrangian puff model like CALPUFF, which allows PM₁₀ emissions to follow a realistic curved trajectory between the source area and the monitor and allows different wind direction to vary by location at any given time, is appropriate for this demonstration. CALPUFF is preferable to a steady-state Gaussian model like AERMOD, which has "straight-line" trajectories along a single wind direction within any given hour for all sources.

⁴⁵ Because some of the controls required in the 2016 PM₁₀ Plan are required to be installed prior the end of 2017, this leaves open the possibility that some of the required controls will not be completed by June of 2017. We do not believe this will be an impediment to reaching attainment due to the seasonal nature of PM₁₀ emissions in the Owens Lake NA, which are generally elevated in the winter and spring months.

⁴⁶ Monitored concentrations meet the 24-hour PM₁₀ NAAQS when the "design value," the expected number of daily exceedances of the NAAQS level of 150 µg/m³, is no more than one per year, 40 CFR 50.6. However, for a modeled attainment demonstration, when five years of meteorology are modeled, the 6th highest concentration is used as the "design concentration" to compare to the NAAQS level; at most five exceedances of that level are acceptable for attainment, one per modeled year. *Guideline on Air Quality Models*, 40 CFR 51 Appendix W, section 7.2.1.1, "Design Concentrations for SO₂, PM₁₀, CO, Pb, and NO₂." The design concentration is sometimes referred to as the "design value," but strictly speaking, the PM₁₀ design value is the expected number of exceedances per year.

⁴⁷ Model code and documentation are available at no cost for download from <http://www.src.com/calpuff/calpuff1.htm>.

⁴⁸ 2016 PM₁₀ Plan, Appendix VII–1: Air Quality Modeling Report, sec. 5.

c. Modeling Domain and Background Concentration

The District's monitoring and modeling network is focused on the lake bed and the immediately surrounding area. In order for the attainment demonstration to account for all the PM₁₀ emission sources contributing to NAAQS violations, off-lake sources must be adequately represented in the background concentration that is added to the model prediction. The District's procedure for determining background concentration is discussed in detail in the TSD. The EPA finds the District's reasoning and supporting documentation for the assumptions convincing.

d. Modeling Receptors

By default, a grid of model receptors is used to cover much of a nonattainment area, to ensure that the NAAQS is attained everywhere in the area. In the 2016 PM₁₀ Plan, receptors are placed only along the lake bed shoreline, and further, only at monitor locations. As stated in the 2016 PM₁₀ Plan, the monitoring sites were chosen to be downwind of the largest PM₁₀ source areas, *i.e.* the lake bed, and so are representative of the highest expected impacts.⁴⁹ Because concentrations necessarily decline with distance from a non-buoyant source like fugitive dust, the EPA agrees that the highest PM₁₀ concentrations would be expected at the shoreline.

5. The EPA's Proposed Action

In summary, the attainment demonstration is based on a unique modeling approach that incorporates real-world measurements and is well-suited to the special conditions at Owens Lake. The EPA is proposing to find that the attainment demonstration in the 2016 PM₁₀ Plan is approvable.

C. Five Percent Requirement

Section 189(d) of the CAA requires a state with a Serious PM₁₀ nonattainment area that fails to attain the PM₁₀ NAAQS by the applicable attainment deadlines to submit within 12 months after the attainment applicable attainment date, a plan showing an annual five percent reduction in emissions of PM₁₀ in the area from the date of the submission until attainment, based on the most recent inventory.

Table 4–3 in the 2016 PM₁₀ Plan provides a summary of the annual emissions forecast for sources of emissions in the nonattainment area for the years 1999 through 2019. The inventory values are derived using a

combination of modeling data, monitoring results, CARB emissions inventories and control measure efficiencies.⁵⁰

The 2016 PM₁₀ Plan includes a demonstration of annual five percent reductions in Chapter 8. As noted, fugitive windblown emissions, "which are tied to meteorology and are highly irregular year-to-year,"⁵¹ account for most of the emissions in the Owens Valley PM₁₀ NA.⁵² To accommodate this variability for a more stable and realistic assessment of reductions, the District used a three-year rolling average to calculate the annual reductions. Using average annual emissions from 2005–2007 (62,734 tpy) as the starting point for the required five percent per year reductions, the District is required to reduce emissions by 31,367 tons per year by the attainment year (2017) to 32,367 tons per year. The GBUAPCD projects three-year annual average emissions in 2017 to be 24,783 tons per year, which *exceeds* the required amount of required reductions by 7,584 tons per year. Figure 8–1 in the 2016 PM₁₀ Plan illustrates emissions trends for various sources in the nonattainment area from 1999 through 2019 along with the three-year average total, and compares these values with a five percent reduction line.⁵³

Although annual emissions increase in the first few years of the planning period, a steady decline begins in 2009.⁵⁴ The average emissions

⁵⁰ *Id.*, at 34–35.

⁵¹ For example, emissions totaled 109,635 tons in 2005, dropped to 37,613 tons in 2006, then rose to 73,999 tons in 2009 before beginning to consistently decline. Emissions in 2010 totaled 70,343 tons and by 2017 when attainment will be reached, emissions are projected to be 23,450 tons per year. 2016 PM₁₀ Plan, Table 4–3.

⁵² *Id.*, p. 81.

⁵³ The EPA believes the use of 2007 as the baseline for five percent reductions is reasonable and consistent with Congress' intent. Section 189(d) states that plans are due *within 12 months of the missed attainment deadline* and that the plans should provide for annual five percent reductions *from the date of the submission until attainment*. The attainment deadline for the Owens Valley PM₁₀ NA was December 31, 2006. 64 FR 48305 (September 3, 1999). Accordingly, a submittal to fulfill section 189(d) was due by December 31, 2007. Arguably, some of the reductions in the RFP demonstration occurred outside the literal time frame specified by Congress (*i.e.*, "the date of the submission" of the Plan) because the 2016 PM₁₀ Plan was not submitted until June 9, 2016. The EPA believes that it is appropriate and consistent with Congress's intent for expeditious attainment of the NAAQS that we consider reductions that occurred prior to the submittal of the 2016 PM₁₀ Plan.

⁵⁴ The District notes that a substantial portion of the total reductions achieved beginning in 2006 and forecast through 2017 occur from 2010 to 2014 with the implementation of the 2008 SIP Control Areas and Phase 8 Control Area, which are described in Sections 6.2.1.4 and 6.2.1.5 of the Plan. 2016 PM₁₀ Plan, p. 85.

reductions catch up with the five percent per year reduction target in 2013, and subsequently exceed the required reductions beyond the projected attainment year. The EPA recognizes the unprecedented challenges faced by the District in achieving this target. In light of the unique nature of the source of emissions in the Owens Valley PM₁₀ NA, the groundbreaking technical efforts needed to characterize and control emissions from the lake bed, and the unavoidable delays in implementing controls on the lake bed caused by litigation, and in recognition of the achievement of reductions beyond those required under CAA section 189(d) after 2013, we are proposing to approve the five percent demonstration in the 2016 PM₁₀ Plan.

D. BACM/BACT and Adopted Control Strategy

1. Background

Section 189(b)(1)(B) of the CAA requires areas designated as Serious nonattainment for PM₁₀ to implement BACM and BACT⁵⁵ on all significant sources of direct PM₁₀ and PM₁₀ precursors. The CAA does not define a BACM-level of control for specific sources. In our guidance for Serious PM₁₀ nonattainment area plans, the EPA defined BACM to be, among other things, the maximum degree of emission reduction achievable from a source or source category which is determined on a case-by-case basis, considering energy, economic and environmental impacts.⁵⁶ Consistent with the General Preamble Addendum, a BACM analysis should include the following elements for the Owens Valley PM₁₀ NA:

- Preparation of an inventory of PM₁₀ sources;
- Identification of source categories having a greater than *de minimis* impact on ambient PM₁₀ concentrations;
- Comparative analysis of the controls implemented in the Owens Valley PM₁₀ NA and BACM in other Serious nonattainment areas for significant source categories; and
- Evaluation of reducing emissions from a particular source category and costs associated with controls.

2. Analysis

The GBUAPCD BACM analysis, which addresses the four elements described in the General Preamble Addendum,⁵⁷ is summarized below. The GBUAPCD's Rule 433 contains the BACM control measures for the Owens

⁵⁵ BACT, which applies to stationary sources, is a subset of BACM.

⁵⁶ See 59 FR 41998, 42010 (August 16, 1994).

⁵⁷ 2016 PM₁₀ Plan, page 38.

Lake bed. The EPA approved Rule 433 into the SIP on November 10, 2016.⁵⁸ In addition, the GBUAPCD is directly implementing controls at the Keeler Dunes as discussed further below.

a. Inventory

The emissions inventories included in the 2016 PM₁₀ Plan and in additional information submitted on October 26, 2016 are summarized and evaluated in section II.A, above. As noted previously, the EPA is proposing to find that the 2016 PM₁₀ Plan's emissions inventories for 2006 through 2019 are comprehensive, accurate, and current inventories of actual emissions from all sources in the Owens Valley PM₁₀ NA and that these emissions inventories meet the requirements of Section 172(c)(3) of the CAA and the EPA.

b. Identification of Source Categories

The General Preamble Addendum provides that BACM are required for all categories of sources in Serious areas unless the State adequately demonstrates a particular source category does not contribute significantly to nonattainment of the NAAQS. A source category is presumed to contribute significantly to a violation of the 24-hour PM₁₀ NAAQS if its PM₁₀

impact at the location of expected violation would exceed 5 µg/m³.⁵⁹

To determine which sources contribute significantly to PM₁₀ violations and are therefore subject to BACM level controls, the GBUAPCD selected a day on which measured levels of particulate approached the level of the standard and the predominant source of emissions was characterized as "non-lake." The District noted that its choice is conservative because it "produces a small *de minimis* emissions level and makes it feasible for non-lake sources to be considered significant."⁶⁰ By dividing the threshold value for a significant contribution (*i.e.*, 5 µg/m³) by ambient level of PM₁₀ on the chosen day (150.1 µg/m³), Great Basin calculated a *de minimis* factor of 3.33 percent.

The GBUAPCD provided an inventory of sources of precursor emissions that we used to determine if sources of precursors contribute significantly to ambient levels of PM₁₀ exceeding the standard in the Owens Valley PM₁₀ NA. Because of the gaseous nature of precursor emissions, these compounds would have the potential for long distance transport, so emissions from the entire nonattainment area are considered. Adding together emissions

of PM₁₀ from within the near-lake area on a near exceedance day and precursor emissions from throughout the nonattainment area results in a total of 535.37 tons per day of emissions. Multiplying this number by 3.33 percent yields a *de minimis* threshold of 17.8 tons per day.

In determining whether sources of precursors contribute significantly to PM₁₀ levels, we made two conservative assumptions. First, we assumed that all precursor emissions would result in the formation of PM₁₀. Second, we compared the total emissions for all precursors (*i.e.*, 4.7 tons per day), rather than emissions of each precursor from each source category, to the *de minimis* threshold of 17.8 tons per day. Given total precursor emissions are far below the *de minimis* threshold, we conclude precursors do not contribute significantly to PM₁₀ levels in the Owens Valley.

To determine which sources of direct PM₁₀ are significant, the District multiplied the near-exceedance day PM₁₀ emissions inventory (530.65 tons per day⁶¹) by the *de minimis* factor, yielding a *de minimis* emissions threshold of 17.7 tons per day.⁶²

Table 3 below summarizes the sources of PM₁₀ emissions in the Owens Lake subarea, on the analyzed day.⁶³

TABLE 3—PM₁₀ EXCEEDANCE DAY INVENTORY FOR OWENS LAKE SUBAREA
[2 km buffer]

Category	2015 (tons per day) ⁶⁴
Fugitive Windblown Dust from Exposed Lake Beds	45.30
Fugitive Windblown Dust from Keeler Dunes	169.20
Fugitive Windblown Dust from Olancho Dunes	312.00
Other sources within the Owens Lake Subarea, including mineral processing, paved and unpaved road dust, and the Lone Pine Landfill ⁶⁵	4.15
Total	530.65

Using the 17.7 tons per day threshold, the GBUAPCD identified three significant PM₁₀ source categories in the OVPA:

- Fugitive windblown dust from exposed lake bed.
- Fugitive windblown dust from Keeler Dunes.

- Fugitive windblown dust from Olancho Dunes.

Based on this analysis, the District focused its BACM demonstration on the controls required on the lake bed and on the Keeler Dunes.⁶⁶ According to the GBUAPCD, the Olancho dunes are primarily natural. If PM₁₀ violations are

attributed to these dunes, the violations will be treated as natural events and a Natural Events Action Plan will be developed and implemented in accordance with the EPA's guidance and rules on Exceptional Events.⁶⁷ Further, emissions from the Olancho Dunes are expected to be reduced by

⁵⁸ Acting Regional Administrator Alexis Strauss signed the EPA's final action approving Rule 433 on November 10, 2016. It will be published in the **Federal Register** in the near future.

⁵⁹ 59 FR 41998, 42011.

⁶⁰ 2016 PM₁₀ Plan, page S-3.

⁶¹ This number does not include precursor emissions, which is acceptable because precursors do not significantly contribute and excluding precursor emissions results in a slightly lower (more conservative) threshold for significance.

⁶² 2016 PM₁₀ Plan, p. 4.

⁶³ The GBUAPCD notes that "monitoring and modeling analyses indicate that emissions from off-lake sources more than two kilometers away do not have an impact on achieving attainment" and cites a similar approach taken in the "Five Percent Plan for PM₁₀ for the Maricopa County Nonattainment Area." *Id.* Page 56.

⁶⁴ *Id.* Table S-2.

⁶⁵ BACT, which applies to stationary sources, is generally not applicable within the Owens Valley

PM₁₀ NA where all PM₁₀ sources except for wind erosion from the dry Owens Lake bed and the dune systems are *de minimis*.

⁶⁶ The GBUAPCD has investigated the history and morphology of the Keeler Dunes and determined that the drying of the Owens Lake bed resulted in the expansion of the pre-existing, natural dune area. 2016 PM₁₀ Plan, page 61.

⁶⁷ *Id.* See Appendix V-1, "OVPA 2016 SIP BACM Assessment," Appendix E, "2013 GBUAPCD Board Order No. 130916-01," p. 7.

about 2090 tons per year as the result of lake bed controls, which will reduce sand migration from nearby areas and allow redeposited lake bed particulate to winnow away until emissions are those of a natural dune system.⁶⁸

c. Comparative Analysis

To fulfill the requirement for a comparative analysis, the GBUAPCD searched for requirements for analogous lake bed and dune sources in other PM₁₀ nonattainment areas including Imperial County, the San Joaquin Valley, Maricopa County (Phoenix area), the South Coast, and Clark County (Las Vegas area). However, the District was unable to identify any analogous active controls for these kinds of sources in other areas. The District concludes that “these measures are unique in the US and are, by definition, the most stringent requirements for these sources.”⁶⁹ A description of the lake bed and dune controls follows.

i. Lake Bed Controls

Lake bed controls are set forth in the GBUAPCD’s Rule 433, which is included in the 2016 PM₁₀ Plan. The EPA has approved Rule 433 into the SIP in a separate action.⁷⁰ Rule 433 requires the control measures described in Chapter 6 of the 2016 PM₁₀ Plan and

summarized in our TSD to be implemented by the City of Los Angeles on various portions of the dry Owens Lake bed.⁷¹ In brief, Rule 433 requires the City of Los Angeles to conduct shallow flooding through application of water, install managed vegetation or a gravel blanket, or in some cases use tillage with a brine back-up. These control measures typically result in a 99 to 100 percent control efficiency. Beginning in 2001, lake bed controls have been constructed in phases as modeling and empirical evidence have demonstrated the need for additional controls. Rule 433 requires ongoing implementation of previously established control requirements and includes an enforceable implementation schedule for the most recent phase of controls, with all controls in place in the attainment year of 2017.

ii. Dune Controls

The District is in the process of implementing a dust control project on Keeler Dunes that involves the placement of approximately 82,000 straw bales and planting of approximately 246,000 native shrubs.⁷² The goal of the project is to create a stable, non-emissive, low-impact vegetated dune system that requires

minimal resources to maintain. The placement of the straw bales was completed in 2015 and plantings are scheduled to be complete by the end of 2016. At full build-out, the GBUACPD projects the project will reduce PM₁₀ emissions by approximately 95 percent and bring the community of Keeler into compliance with state and federal PM₁₀ standards.⁷³ Implementation of this project is made federally enforceable by approval of the 2016 PM₁₀ Plan, which includes Resolution 2016–03 wherein the Governing Board of the GBUAPCD authorizes and commits the District to complete the Keeler Dunes Project as set forth in the Plan.

In the context of its environmental review of the Keeler Dunes Project, the District considered alternatives for reducing the windblown dust from the Keeler Dunes, such as covering with geotextile fabric and gravel or excavation and removal of the dunes, but found them to be infeasible.⁷⁴

d. Evaluation of Reducing Emissions From Windblown Dust and Associated Costs

The GBUAPCD estimated cost and emission impacts of the exposed lake bed and Keeler Dune controls as shown in Table 4 below:

TABLE 4—IMPACT ANALYSIS: CONTROL EFFECTIVENESS, COST INFORMATION, AND COST EFFECTIVENESS⁷⁵

Source category (and windblown dust controls)	Average annual emissions (tons)	Control effectiveness	Costs	Cost effectiveness (tons)
Dry Lake Bed (varied controls, including shallow flooding, gravel blanket, and managed vegetation. See Rule 433.).	2006: 73,174; 2010: 43,325; 2014: 1,936	Up to 99 percent depending on control and location.	\$145.8M (annualized) for 2016 SIP.	\$2,390
Off-Lake Dunes (straw bales and re-vegetation).	3,309	95 percent based on straw bales with future shrub establishment.	\$700,000 (annualized) for straw bales and revegetation with watering.	222

3. EPA Evaluation and Proposed Action

In the 2016 PM₁₀ Plan, the GBUAPCD has provided documentation on Rule 433 and on the Keeler Dunes Project, quantifying the cost of construction, materials, operation, and maintenance, and examining other factors such as energy and environmental impacts. The EPA agrees that adequate time must be allowed to fully implement Rule 433 successfully because the control

measures in the Rule are uniquely vast in scale, materials, and required construction activity. Rule 433 establishes an aggressive, phased, implementation schedule that we are proposing to find is as expeditious as practicable. We also find that the implementation schedule for the Keeler Dunes project is as expeditious as practicable.

The EPA concludes that the 2016 PM₁₀ Plan demonstrates:

(1) Wind erosion from the dry Owens Lake bed (and secondarily, from the Keeler Dunes, which have expanded as a result of redeposited particles transported from the dry lake bed⁷⁶), is the predominant source of PM₁₀ emissions that cause or contribute to PM₁₀ violations in the Owens Valley PM₁₀ NA and that applying BACM to

⁶⁸ *Id.*, pp. 34 and 56.

⁶⁹ *Id.* See Appendix V–1, “OVPA 2016 SIP BACM Assessment,” p. 22.

⁷⁰ 81 FR 62849 (September 13, 2016); final approval signed November 10, 2016.

⁷¹ For more detail on the Owens Lake bed controls, see Chapter 6 of the 2016 PM₁₀ Plan and our TSD. Some of these control measures are also described in our proposed approval of the 1998 Plan (64 FR 34173, June 25, 1999).

⁷² As noted above, no additional active controls are anticipated for the Olancha Dunes.

⁷³ 2016 PM₁₀ Plan, pp. 19 and 50–53

⁷⁴ *Id.* See Appendix V–1, “OVPA 2016 SIP BACM Assessment,” pp. 16–17.

⁷⁵ *Id.* See Appendix V–1, “OVPA 2016 SIP BACM Assessment,” p. 21.

⁷⁶ *Id.*, page 61.

other source categories would not contribute significantly to achieving the NAAQS as expeditiously as practicable;

(2) Rule 433's control measures to reduce windblown dust from the dry Owens Lake bed and area immediately surrounding the bed of Owens Lake are unique and satisfy the requirement for BACM.

(3) The goal of the Keeler Dunes Project is to create a stable self-sustaining low-impact vegetated dune system to reduce wind erosion. Implementation of these controls represents BACM since there are no analogous dust control projects or alternative controls for this type of source; and

(4) No analogous source has been identified to support the economic and technological feasibility of any alternative or additional measures for the control of significant sources of wind erosion emissions in the Owens Valley PM₁₀ NA.

E. Reasonable Further Progress/Quantitative Milestones

CAA section 189(c) requires that PM₁₀ nonattainment areas must include quantitative milestones that are to be achieved every three years and that show RFP toward attainment by the applicable attainment deadline. Quantitative milestones may be met in a variety of ways, including by establishing a percent implementation of various control strategies, by percent compliance with implemented control measures, or adherence to a compliance schedule.⁷⁷ Prior to submittal of the 2016 PM₁₀ Plan, lake bed controls were established that yielded significant emissions reductions, as reflected in the annual emissions inventory⁷⁸ and illustrated in Figure 8–1 of the Plan. Unsurprisingly, given the variable nature of the emissions sources and the periodic delays due to disputed control measures, the decline is not linear; however, as noted previously, reductions sufficient to provide for attainment will be achieved within the required timeframe. Under the circumstances, we find that the progress achieved prior to the 2016 adoption of the Plan is reasonable.

The GBUAPCD's Rule 433 and the Keeler Dunes Project establish requirements for additional controls that will be completed in 2017 and that provide for additional emissions reductions. Under Rule 433, the City of Los Angeles must continue to implement all control measures that are

already in place,⁷⁹ and must implement Phase 9/10, which requires the control of an additional 3.62 square miles of the Owens Lake bed by December 31, 2017. These control requirements include enforceable schedules for implementation of the specified control measures, and the Plan includes quantification of the emissions reductions that will be achieved by implementation of the control measures.

In its discussion of the requirement for quantitative milestone reports, the District noted that the remaining milestone for the 2016 PM₁₀ Plan is the completion of the Phase 9/10 dust controls, which are enforceable through Rule 433. In other words, the final quantitative milestone for the 2016 PM₁₀ Plan is 100 percent implementation of the required controls. The GBUAPCD commits to submitting a report to the EPA by April 1, 2018, as required by Section 189(c)(2) of the Act, that demonstrates RFP thorough the achievement of the December 31, 2017 quantitative milestone.

The EPA proposes to approve the enforceable schedule in Rule 433 and commitment for completion of the Keeler Dunes Project in 2016 as meeting the RFP requirements of CAA section 189(c).

F. Contingency Measures

The CAA requires that the 2016 PM₁₀ Plan include contingency measures to be implemented if the area fails to meet progress requirements or fails to attain the NAAQS by the applicable deadline. These contingency measures should take effect without requiring further action by the state or the EPA and should be fully implemented as expeditiously as practicable.⁸⁰ Contingency measures should also provide for emissions reductions equivalent to one year's average increment of RFP.⁸¹

Because it is not possible to predict which areas of the lake bed may become emissive and cause a failure to meet progress requirements or to attain the NAAQS, Rule 433 requires the District to evaluate at least once per calendar year whether additional areas of the lake bed require controls. If the GBUAPCD determines that the Owens Valley PM₁₀ NA has not met progress requirements or will not timely attain, Rule 433 requires the implementation of BACM control measures on up to an additional 4.78 square miles of the Owens Lake

bed as expeditiously as practicable. The implementation of the contingency measure in Rule 433 does not require additional rulemaking actions or public hearings. The EPA has concluded, therefore, that the contingency measure included in the 2016 PM₁₀ Plan through adopted Rule 433 provides for the implementation of contingency measures as expeditiously as practicable.

The GBUAPCD has demonstrated that the dry lake bed is the overwhelming contributor to the exceedances of the PM₁₀ NAAQS, both through PM₁₀ originating directly from the lake bed, or from lake bed particles that have been deposited nearby, which then become a secondary source of particulate (*e.g.*, the Keeler Dunes).⁸² Therefore, we have focused our analysis on the control of emissions emanating from the lake bed in assessing whether the contingency measure in the 2016 PM₁₀ Plan provides a year's worth of average RFP increment.

Determining the amount of emissions reductions needed for contingency measures (*i.e.*, a year's worth of reductions) presents a unique challenge in the Owens Valley PM₁₀ NA due to the nature of the lake bed and the meteorological influence on emissions, which leads to a degree of variability in annual emissions that is somewhat independent of the application of controls. For this reason, we have used the annual average area of the lake bed on which controls are required for the period of 2007 (the year the EPA made a finding of failure to attain) through 2017 (the attainment year) as a surrogate for the annual amount (tons) of emissions reductions required. This results in an annual average area of 1.8 square miles.⁸³ Rule 433 provides for the implementation of controls on an additional 4.78 square miles of lake bed, which is more than double the annual average. We therefore conclude the contingency measure provisions in Rule 433 satisfy the contingency measure requirements under CAA section 172(c)(9).

G. Transportation Conformity

Transportation conformity is required by CAA section 176(c). Our conformity rule (40 CFR part 93, subpart A) requires that transportation plans, programs, and

⁷⁷ 59 FR 41998 at 42016.

⁷⁸ 2016 PM₁₀ Plan, Table 4–3.

⁷⁹ These areas consist of the 2003 Dust Control Area (29.8 square miles), the 2006 Dust Control Area and Channel Area (13.2 square miles), and the Phase 8 area (2.0 square miles).

⁸⁰ 59 FR 41998 at 42015.

⁸¹ *Id.*

⁸² For additional discussion, see Chapter 7 of the 2016 PM₁₀ Plan and the attainment demonstration analysis in the TSD for this action.

⁸³ A total of 18.2 square miles will be controlled in 10-year period of 2007 through 2017 (the 2006 Dust Control and Channel Area encompasses 13.2 square miles; the Phase 8 Area encompasses 2.0 square miles; the Phase 9/10 Area encompasses 3.62—the provisionally excluded Cultural Resource Areas encompass approximately 0.6 square miles).

projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do so. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or the timely achievement of interim milestones. However, if the EPA determines that a SIP demonstrates that motor vehicle emissions are an insignificant contributor to the air quality problem, states are not required to establish motor vehicle emissions budgets or perform a regional emissions analysis for transportation conformity purposes.⁸⁴

In section 6.1.2 of the Plan, the GBUAPCD provides its argument for why motor vehicle emissions are insignificant contributors to the PM₁₀ problem in the Owens Valley PM₁₀ NA. First, the District noted that motor vehicle tailpipe emissions and re-entrained roadway dust contribute just 1.4 percent of the 2016 PM₁₀ emissions. The District also observed that the State estimates the annual population growth (about 0.7 percent) and increase in vehicle miles traveled (about 1.2 percent annually) and argued that it is unlikely that “these emissions would grow to such an extent as to cause a NAAQS violation in the future.” Finally, the District pointed out the absence of measures in the SIP that control motor vehicle emissions. In light of these factors, the EPA concurs with the District’s conclusion that motor vehicle emissions are insignificant contributors to the PM₁₀ problem in the Owens Valley. Accordingly, the GBUAPCD is not required to establish motor vehicle budgets in this plan or to perform regional emissions analyses for transportation conformity.

III. Summary of the EPA’s Proposed Action

The EPA is proposing to approve the Serious area 2016 PM₁₀ Plan submitted by the State of California for the Owens Valley PM₁₀ nonattainment area. Specifically, the EPA is proposing to approve the 2016 PM₁₀ Plan with respect to the CAA requirements for public notice and involvement under section 110(a)(1); emissions inventories under section 172(c)(3); the control measures in Rule 433 under section 110(k)(3), as meeting the requirements of sections 110(a) and 189(b)(1)(B); RFP and quantitative milestones under section 189(c); the contingency measure in Rule 433 under section 172(c)(9); and

demonstration of attainment under section 189(b)(1)(A). The EPA is also proposing to approve the State’s request for an extension of the attainment date to June 6, 2017 pursuant to CAA sections 188 and 179.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). We intend to offer to consult with local tribes during the comment period.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 1, 2016.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2016–29758 Filed 12–9–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[OAR–2004–0091; FRL–9956–07–Region 9]

Outer Continental Shelf Air Regulations; Consistency Update for California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to update portions of the Outer Continental Shelf (“OCS”) Air Regulations. Requirements applying to OCS sources located within 25 miles of States’ seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (“COA”), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (“the Act”). The portions of the OCS air regulations that are being updated pertain to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (“Santa Barbara County APCD”) and Ventura County Air Pollution Control District (“Ventura County APCD”) are the designated COAs. The intended effect of approving the OCS requirements for the Santa Barbara County APCD and Ventura County APCD is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to

⁸⁴ 40 CFR 93.109(f).

51.5, the EPA is finalizing the incorporation by reference of the SCAQMD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 27, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: November 21, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

- 2. Section 52.220 is amended by adding paragraphs (c)(379)(i)(A)(7), (c)(428)(i)(D)(2), and (c)(461)(i)(C)(3) to read as follows:

§ 52.220 Identification of plan—in part.

(c) * * *
(379) * * *
(i) * * *
(A) * * *

(7) Previously approved on August 4, 2010 in paragraph (c)(379)(i)(A)(4) of this section and now deleted with replacement in paragraph (c)(428)(i)(D)(2), Rule 1147, "NO_x Reductions from Miscellaneous Sources," adopted on December 5, 2008.

* * * * *
(428) * * *
(i) * * *
(D) * * *

(2) Rule 1147, "NO_x Reductions from Miscellaneous Sources," amended on September 9, 2011.

* * * * *
(461) * * *
(i) * * *
(C) * * *

(3) Rule 1153.1, "Emissions of Oxides of Nitrogen from Commercial Food Ovens," adopted on November 7, 2014.

* * * * *

[FR Doc. 2016-31226 Filed 12-27-16; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0393; FRL-9955-62-Region 9]

Approval of California Air Plan Revisions, Great Basin Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a revision to the Great Basin Unified Air Pollution Control District (GBUAPCD) portion of the California State Implementation Plan (SIP). This revision concerns emissions of particulate matter at Owens Lake, CA.

We are approving a local rule that regulates these emissions under the Clean Air Act (CAA or the Act).

DATES: This rule will be effective on January 27, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2016-0393. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute.

Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, (415) 947-4125, vineyard.christine@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. Proposed Action

On September 13, 2016 (81 FR 62849), the EPA proposed to approve the following rule into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
GBUAPCD	433	Control of Particulate Emissions at Owens Lake	04/13/16	06/09/16

We proposed to approve this rule because we determined that it complied with the relevant CAA requirements. Our proposed action contains more information on the rule and our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. During this period, we received one comment that was submitted anonymously.

Comment: The comment begins, “I don’t see why this would not be approved right away,” and generally supports the EPA’s proposal to approve Rule 433. The comment also includes general statements and questions such as “the fact that ‘Indian’ is still the term being used in this proposed rule is troublesome,” “it would be nice to see them go above and beyond the EPA’s suggested guidelines,” “what does this mean for the Indigenous land,” “who is in charge of regulation,” “how will this alter the particle [sic] matters given off by this lakebed,” “what happened to cause this lakebed to behave in such a way . . . shouldn’t that be looked into instead of altering the way nature is now,” and “instead of being a reactive society we should be more proactive and investigate into ‘unintended consequences’ more so than we do now.”

Response: The comment generally supports EPA’s proposed approval of Rule 433. The comment does not provide specific information related to the basis for EPA’s proposed approval and does not request any changes to our proposed action. In addition, most of the statements and questions in the comment are not relevant to EPA’s action approving Rule 433 or are outside of the scope of this action. For those reasons, the EPA is finalizing its

proposed approval of Rule 433 without change based on the comment.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving this rule into the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the GBUAPCD rule described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through www.regulations.gov and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of

Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);

- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of

Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 27, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 10, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(483) to read as follows:

§ 52.220 Identification of plan—in part.

(c) * * *
(483) A new regulation was submitted on June 9, 2016 by the Governor's Designee.

(i) Incorporation by Reference.

(A) Great Basin Unified Air Pollution Control District.

(1) Rule 433, "Control of Particulate Emissions at Owens Lake," adopted on April 13, 2016.

[FR Doc. 2016-31225 Filed 12-27-16; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0502; FRL-9955-89-Region 5]

Air Plan Approval; Illinois; Volatile Organic Compounds Definition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Under the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is approving a state submission as a revision to the Illinois State Implementation Plan (SIP). The revision amends the Illinois Administrative Code (IAC) by updating the definition of volatile organic material (VOM), otherwise known as volatile organic compounds (VOC), to exclude 2-amino-2-methyl-1-propanol (AMP). This revision is in response to an EPA rulemaking in 2014 which exempted this compound from the Federal definition of VOC on the basis that the compound makes a negligible contribution to tropospheric ozone formation.

DATES: This direct final rule will be effective February 27, 2017, unless EPA receives adverse comments by January 27, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0502 at <http://www.regulations.gov> or via email to aburano.douglas@epa.gov. For comments submitted at *Regulations.gov*, follow the online instructions for

submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Michelle Becker, Life Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3901, becker.michelle@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the background for this action?
- II. What is EPA's analysis of the SIP Revision?
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. What is the background for this action?

The Illinois Environmental Protection Agency (IEPA) submitted a revision to the Illinois SIP to EPA for approval on August 9, 2016. The SIP revision excludes the chemical compound 2-amino-2-methyl-1-propanol (AMP) from the definition of VOM or VOC at 35 IAC Part 211, Subpart B, Section 211.7150(a).

The Illinois Pollution Control Board (IPCB) held a public hearing on the proposed SIP revision on January 8, 2015. There were no public comments received at the public hearing. IPCB received one comment from the American Coatings Association in a letter dated December 16, 2014, supporting the exemption of AMP from

Rules and Regulations

Federal Register

Vol. 82, No. 16

Thursday, January 26, 2017

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

RIN 3245-AG67

Small Business Investment Companies: Passive Business Expansion and Technical Clarifications

AGENCY: U.S. Small Business Administration.

ACTION: Final rule; delay of effective date and opportunity for public comment.

SUMMARY: On December 28, 2016, the Small Business Administration (SBA) published a final rule to expand permitted investments in passive businesses and provide further clarification with regard to investments in such businesses for the Small Business Investment Company (SBIC) Program, with an effective date of January 27, 2017. In the meantime, a memorandum dated January 20, 2017 from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review" calls for agencies to temporarily postpone the effective date of rules not yet effective and invite new public comment. In view of this development, SBA is delaying the effective date of this rule until March 21, 2017, and is inviting additional public comment on the final rule. Any timely public comments received will be considered and any changes to the final rule will be published in the **Federal Register**.

DATES: The effective date of the SBA final rule published December 28, 2016 (81 FR 95419) is delayed until March 21, 2017. Comments must be received on or before February 19, 2017.

ADDRESSES: You may submit comments, identified by RIN 3245-AG67, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail, Hand Delivery/Courier: Theresa Jamerson, Office for Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

SBA will post comments on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit the information to Theresa Jamerson, Office of Investment and Innovation, 409 Third Street SW., Washington, DC 20416. Highlight the information that you consider to be CBI and explain why you believe this information should be held confidential. SBA will review the information and make the final determination of whether it will publish the information or not.

FOR FURTHER INFORMATION CONTACT:

Theresa Jamerson, Office of Investment and Innovation, (202) 205-7563 or sbic@sba.gov.

SUPPLEMENTARY INFORMATION: The U.S. Small Business Administration (SBA) is revising the regulations for the Small Business Investment Company (SBIC) program to expand permitted investments in passive businesses and provide further clarification with regard to investments in such businesses. SBICs are generally prohibited from investing in passive businesses under the Small Business Investment Act of 1958, as amended (Act). SBIC program regulations provide for two exceptions that allow an SBIC to structure an investment utilizing a passive small business as a pass-through. The first exception provides conditions under which an SBIC may structure an investment through up to two levels of passive entities to make an investment in a non-passive business that is a subsidiary of the passive business directly financed by the SBIC. The second exception, prior to this final rule, enabled a partnership SBIC, with SBA's prior approval, to provide financing to a small business through a passive, wholly-owned C corporation (commonly known as a blocker corporation), but only if a direct financing would cause the SBIC's investors to incur Unrelated Business Taxable Income (UBTI). This final rule clarifies several aspects of the first exception and in the second exception eliminates the prior approval requirement and expands the purposes for which a blocker corporation may be

formed. The final rule also adds new reporting and other requirements for passive investments to help protect SBA's financial interests and ensure adequate oversight and makes minor technical amendments. Finally, this rule makes a conforming change to the regulations regarding the amount of leverage available to SBICs under common control. This change is necessary for consistency with the Consolidated Appropriations Act, 2016, which increased the maximum amount of such leverage to \$350 million.

Dated: January 23, 2017.

Michele Schimpp,

Deputy Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2017-01809 Filed 1-25-17; 8:45 am]

BILLING CODE 8025-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 22, 51, 52, 61, 68, 80, 81, 124, 147, 171, 239, 259, 300, and 770

[FRL-9958-87-OP]

Delay of Effective Date for 30 Final Regulations Published by the Environmental Protection Agency Between October 28, 2016 and January 17, 2017

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; delay of effective dates.

SUMMARY: In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled "Regulatory Freeze Pending Review," this action temporarily delays until March 21, 2017, the effective date of the regulations listed in the table below. EPA identified 30 regulations that meet those criteria.

DATES: This regulation is effective January 26, 2017. The effective date of each regulation listed in the table below is delayed to a new effective date of March 21, 2017.

FOR FURTHER INFORMATION CONTACT:

Sarah Rees, Director, Office of Regulatory Policy and Management, Office of Policy, Mail code 1804, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave NW., Washington, DC

20460; (202) 564–1986; *rees.sarah@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA bases this action on the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled “Regulatory Freeze Pending Review.” That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for sixty days from the date of the memorandum the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect. The memorandum also noted certain exceptions that do not apply here. EPA identified 30 regulations that meet those criteria. Those regulations are listed in the table below. The new effective date for all 30 regulations is March 21, 2017.

The Agency’s implementation of this action without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The

temporary delay in effective dates until March 21, 2017, is necessary to give Agency officials the opportunity for further review and consideration of new regulations, consistent with the memorandum of the Assistant to the President and Chief of Staff, dated January 20, 2017. Given the imminence of these effective dates, seeking prior public comment on this temporary delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. In addition, to the extent any regulation below is a procedural rule, it is exempt from notice and comment under 5 U.S.C. 553(b)(A).

Some of the regulations listed below would not have taken effect until late February or March. For those regulations, the length of today’s delay is necessarily shorter than the delay established for regulations that would have taken effect in January or early February. The good cause exception applies here as well, because soliciting comment would be contrary to the

public interest. First, by announcing today that all eligible regulations would be delayed until a single fixed date (March 21, 2017), the Agency provides immediate notice of its intention to further review and consider those regulations in addition to the others that would have taken effect sooner. This allows the later-published regulations to be considered more easily in context of the earlier-published regulations. Second, by focusing its attention on the substance of those later regulations rather than soliciting comment on a decision to delay their effective date until March 21, 2017, the Agency can minimize or obviate the need for further temporary delays beyond March 21. Third, as a practical matter, the new effective date for these regulations would extend by only a few weeks their original effective dates.

For the foregoing reasons, the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3) also apply to EPA’s decision to make today’s action effectively immediately.

Federal Register citation	Title	Publication date	Original effective date	New effective date
81 FR 74927 ..	State of Kentucky Section 1425 Underground Injection Control (UIC) Program Primacy Approval.	10/28/16	1/26/2017	3/21/2017
81 FR 95047 ..	Approval and Promulgation of Implementation Plans; New York Prevention of Significant Deterioration of Air Quality and Nonattainment New Source Review; Infrastructure State Implementation Plan Requirements.	12/27/16	1/26/2017	3/21/2017
81 FR 95041 ..	Air Plan Approval; KY; RACM Determination for the KY Portion of the Louisville Area 1997 Annual PM _{2.5} .	12/27/16	1/26/2017	3/21/2017
81 FR 95043 ..	Air Plan Approval; Wisconsin; Infrastructure SIP Requirements for the 2012 PM _{2.5} NAAQS.	12/27/16	1/26/2017	3/21/2017
81 FR 95051 ..	Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Louisiana; Redesignation of Baton Rouge 2008 8-Hour Ozone Nonattainment Area to Attainment.	12/27/16	1/26/2017	3/21/2017
81 FR 95480 ..	State of Kentucky Underground Injection Control (UIC) Class II Program; Primacy Approval.	12/28/16	1/27/2017	3/21/2017
81 FR 95475 ..	Air Plan Approval; Illinois; Volatile Organic Compounds Definition	12/28/16	1/27/2017	3/21/2017
81 FR 95473 ..	Approval of California Air Plan Revisions, Great Basin Unified Air Pollution Control District.	12/28/16	1/27/2017	3/21/2017
81 FR 95472 ..	Approval of California Air Plan Revisions, South Coast Air Quality Management District.	12/28/16	1/27/2017	3/21/2017
82 FR 729	Partial Approval and Partial Disapproval of Attainment Plan for the Idaho Portion of the Logan, Utah/Idaho PM _{2.5} Nonattainment Area.	1/4/17	2/3/2017	3/21/2017
82 FR 2760	Addition of a Subsurface Intrusion Component to the Hazard Ranking System.	1/9/17	2/8/2017	3/21/2017
82 FR 2237	Approval and Promulgation of Implementation Plans; Rhode Island; Clean Air Act Infrastructure State and Federal Implementation Plans.	1/9/17	2/8/2017	3/21/2017
81 FR 89746 ..	Renewable Fuel Standard Program: Standards for 2017 and Biomass-Based Diesel Volume for 2018.	12/12/16	2/10/2017	3/21/2017
81 FR 89674 ..	Formaldehyde Emission Standards for Composite Wood Products	12/12/16	2/10/2017	3/21/2017
82 FR 3171	Approval and Promulgation of Implementation Plans; Texas; Control of Air Pollution from Visible Emissions and Particulate Matter.	1/11/17	2/10/2017	3/21/2017
81 FR 89868 ..	Determination of Attainment of the 2012 Annual Fine Particulate Matter Standard; Pennsylvania; Delaware County Nonattainment Area.	12/13/16	2/13/2017	3/21/2017
82 FR 3639	Air Plan Approval; TN Infrastructure Requirements for the 2010 NO ₂ NAAQS.	1/12/17	2/13/2017	3/21/2017
82 FR 3637	Approval and Promulgation of Implementation Plans; Alabama; Infrastructure Requirements for the 2010 Sulfur Dioxide National Ambient Air Quality Standard.	1/12/17	2/13/2017	3/21/2017
82 FR 5182	Revisions to the Guideline on Air Quality Models: Enhancements to the AERMOD Dispersion Modeling System and Incorporation of Approaches to Address Ozone and Fine Particulate Matter.	1/17/17	2/16/2017	3/21/2017

Federal Register citation	Title	Publication date	Original effective date	New effective date
81 FR 91839 ..	Air Plan Approval; Michigan; Part 9 Miscellaneous Rules	12/19/16	2/17/2017	3/21/2017
81 FR 94262 ..	National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the North Penn Area 6 Superfund Site.	12/23/16	2/21/2017	3/21/2017
81 FR 93624 ..	Determination of Attainment of the 2008 Ozone National Ambient Air Quality Standards; Mariposa County, California.	12/21/16	2/21/2017	3/21/2017
81 FR 85438 ..	Adequacy of Washington Municipal Solid Waste Landfill Permit Program—Direct Final Rule.	11/28/16	2/27/2017	3/21/2017
81 FR 95477 ..	Approval and Promulgation of Implementation Plans; Louisiana; State Boards.	12/28/16	2/27/2017	3/21/2017
82 FR 952	Pesticides; Certification of Pesticide Applicators	1/4/17	3/6/2017	3/21/2017
82 FR 1206	Air Plan Approval; Georgia: Procedures for Testing and Monitoring Sources of Air Pollutants.	1/5/17	3/6/2017	3/21/2017
82 FR 2230	Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation/Termination or Suspension of Permits; Procedures for Decisionmaking.	1/9/17	3/10/2017	3/21/2017
82 FR 2239	Approval of Arizona Air Plan Revisions; Ajo and Morenci, Arizona; Second 10-Year Sulfur Dioxide Maintenance Plans and Technical Correction.	1/9/17	3/10/2017	3/21/2017
82 FR 4594	Accidental Release Prevention Requirements: Risk Management Programs Under the Clean Air Act.	1/13/17	3/14/2017	3/21/2017
82 FR 5142	Revisions to National Emission Standards for Radon Emissions from Operating Mill Tailings.	1/17/17	3/20/2017	3/21/2017

Where appropriate, the Agency may consider delaying the effective dates of the above-referenced regulations beyond March 21, 2017. If the Agency were to do so, consistent with the memorandum of the Assistant to the President and Chief of Staff, the Agency would propose any later effective date for public comment.

Dated: January 23, 2017.

Catherine McCabe,
Acting Administrator.

[FR Doc. 2017-01822 Filed 1-24-17; 11:15 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-HQ-ES-2015-0171;
FF09E40000 167 FXES11150900000]

RIN 1018-BB25

Endangered and Threatened Wildlife and Plants; Revisions to the Regulations for Candidate Conservation Agreements With Assurances

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with a January 20, 2017, memo from the White House, we, the U.S. Fish and Wildlife Service, are delaying the effective date of a rule we published on December 27, 2016.

DATES: The effective date of the rule that published on December 27, 2016, at 81 FR 95053, is delayed from January 26, 2017, to March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Jeff Newman, Chief, Division of Recovery and Restoration, U.S. Fish and Wildlife Service Headquarters, MS: ES, 5275 Leesburg Pike, Falls Church, VA 22041-3803; telephone 703-358-2171.

SUPPLEMENTARY INFORMATION: On December 27, 2016, we published a rule to revise the regulations concerning enhancement-of-survival permits issued under the Endangered Species Act of 1973, as amended, associated with Candidate Conservation Agreements with Assurances. We added the term “net conservation benefit” to the Candidate Conservation Agreements with Assurances regulations, and eliminated references to “other necessary properties” to clarify the level of conservation effort we require each agreement to include in order for us to

approve a Candidate Conservation Agreement with Assurances. The rule was to be effective on January 26, 2017.

On January 20, 2017, the White House issued a memo instructing Federal agencies to temporarily postpone the effective date for 60 days after January 20, 2017, of any regulations that have published in the **Federal Register** but not yet taken effect, for the purpose of “reviewing questions of fact, law, and policy they raise.” We are, therefore, delaying the effective date of our rule published on December 27, 2016, at 81 FR 95053 (see **DATES**, above).

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

Dated: January 23, 2017.

Tina A. Campbell,
Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2017-01841 Filed 1-25-17; 8:45 am]

BILLING CODE 4333-15-P

PART 73—SPECIAL USE AIRSPACE

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.72 [Amended]

■ 2. § 73.72 is amended as follows:

R–7201 Farallon De Medinilla Island, Mariana Islands [Amended]

By removing “Using agency. Commander, Naval Forces, Marianas,” and adding in its place “Using agency. Commander, Joint Region, Marianas.”

R–7201A Farallon De Medinilla Island, Mariana Islands [New]

Boundaries. That airspace between a 3 NM radius and a 12 NM radius of lat. 16°01′04″ N., long. 146°03′31″ E.

Designated altitudes. Surface to FL 600.

Time of designation. By NOTAM 12 hours in advance.

Controlling agency. FAA, Guam CERAP.

Using agency. Commander, Joint Region Marianas.

Issued in Washington, DC, on March 7, 2017.

Gemechu Gelgelu,

Acting Manager, Airspace Policy Group.

[FR Doc. 2017–04892 Filed 3–10–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 12

Safety of Water Power Projects and Project Works

CFR Correction

■ In Title 18 of the Code of Federal Regulations, Parts 1 to 399, revised as of April 1, 2016, the term “Energy Projects Licensing” is replaced by the term “Energy Projects” in the following locations: Page 214, § 12.2(a) and (b) and § 12.3(b)(3); page 218, § 12.22(a)(1) introductory text and (a)(2) introductory text; and page 221, § 12.31(e), § 12.33(a), and § 12.34.

[FR Doc. 2017–04952 Filed 3–10–17; 8:45 am]

BILLING CODE 1301–00–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0660; FRL–9958–80–Region 9]

Approval of California Air Plan; Owens Valley Serious Area Plan for the 1987 24-Hour PM₁₀ Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve a state implementation plan (SIP) revision submitted by the State of California to meet Clean Air Act (CAA or “Act”) requirements applicable to the Owens Valley PM₁₀ nonattainment area (NA). The Owens Valley PM₁₀ NA is classified as a “Serious” nonattainment area for the national ambient air quality standards (NAAQS) for particulate matter of ten microns or less (PM₁₀). The submitted SIP revision is the “Great Basin Unified Air Pollution Control District 2016 Owens Valley Planning Area PM₁₀ State Implementation Plan” (“2016 PM₁₀ Plan” or “Plan”). The State’s obligation to submit the 2016 PM₁₀ Plan was triggered by the EPA’s 2007 finding that the Owens Valley PM₁₀ NA had failed to meet its December 31, 2006, deadline to attain the PM₁₀ NAAQS. The CAA requires a Serious PM₁₀ nonattainment area that fails to meet its attainment deadline to submit a plan providing for attainment of the PM₁₀ NAAQS and for an annual reduction in PM₁₀ emissions of not less than five percent until attainment of the PM₁₀ NAAQS. The EPA is approving the 2016 PM₁₀ Plan because it meets all relevant statutory and regulatory requirements.

DATES: This rule is effective on April 12, 2017.

ADDRESSES: The EPA has established a docket for this action, identified by Docket ID Number EPA–R09–OAR–2016–0660. The index to the docket is available electronically at <http://www.regulations.gov> or in hard copy at the EPA Region IX office, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., confidential business information). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed below.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, 415–972–3964, vagenas.ginger@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms “we,” “us,” and “our” mean EPA.

Table of Contents

- I. Summary of Proposed Action
- II. Public Comments and the EPA’s Response to Comments
- III. EPA’s Final Action
- IV. Statutory and Executive Order Reviews

I. Summary of Proposed Action

On December 12, 2016, the EPA proposed to approve the Owens Valley 2016 PM₁₀ Plan, which the State of California submitted on June 9, 2016, as meeting all relevant statutory and regulatory requirements under the CAA.¹ As discussed in our proposed rule, the Owens Valley PM₁₀ NA is a Serious PM₁₀ nonattainment area that is located in the southern portion of the Owens Valley in Inyo County, California.²

California’s obligation to submit the 2016 PM₁₀ Plan was triggered by the EPA’s June 6, 2007 finding that the Owens Valley PM₁₀ NA had failed to meet its December 31, 2006 deadline to attain the PM₁₀ NAAQS.³ The CAA requires a Serious PM₁₀ NA that fails to meet its attainment deadline to submit a plan providing for attainment of the PM₁₀ NAAQS and for an annual emission reduction in PM₁₀ or PM₁₀ precursors of not less than five percent per year until attainment. Our December 12, 2016 proposed rule provides the background and rationale for this action.

II. Public Comments and the EPA’s Response to Comments

The EPA provided a 30-day public comment period on our proposed action. The comment period ended on January 11, 2017. We received two public comment letters: One from the Timbisha Shoshone Tribe and one from the Big Pine Paiute Tribe of the Owens Valley. The submitted comment letters, which we have summarized and responded to below, are in our docket.

Comment 1: The Timbisha Shoshone Tribe expressed its support for our approval of the 2016 PM₁₀ Plan.

Response 1: The EPA appreciates the Timbisha Shoshone Tribe’s support of our approval.

Comment 2: The Big Pine Paiute Tribe’s (“Tribe”) comment letter acknowledged the effectiveness of the

¹ 81 FR 89407.

² The boundary of the Owens Valley PM₁₀ nonattainment area is defined in 40 CFR 81.305 as Hydrologic Unit #18090103.

³ 72 FR 31183.

dust control measures that have been required under the 2016 PM₁₀ Plan and the progress that has been made in improving air quality in the Owens Valley over the past 20 years. The Tribe's comment letter did not raise any objections to our determination that the Plan meets the CAA requirements or to our approval of the 2016 PM₁₀ Plan. The Tribe articulated a number of concerns regarding the broader context of the historical events resulting in the desiccation of the Owens Lake bed, which are discussed in our specific responses below.

Response 2: The EPA appreciates the Tribe's acknowledgement of the effectiveness of the dust control measures and agrees that the air quality in the Owens Valley has improved significantly over the past 20 years.

Comment 3: The Tribe considers the EPA's action in this rulemaking to be too narrow to address all of the environmental and cultural issues caused by Los Angeles Department of Water and Power's (LADWP) historic and on-going diversion of water from the Owens Valley. The Tribe states that the diversion of water from the Owens Lake bed should be defined as a "project" and therefore subject to the California Environmental Quality Act (CEQA).

Response 3: The EPA understands the Tribe's concern with LADWP's diversion of water from the Owens Valley. The EPA's role under the CAA, however, is to review attainment plans to determine their compliance with the applicable provisions of the Act. If a plan meets those provisions, the CAA requires that we approve it so that it becomes enforceable under the Act. Such approval ensures the control measures adopted by a state will be implemented so that air quality will be improved and the NAAQS will be attained. The EPA is finalizing our proposed approval of the 2016 PM₁₀ Plan because it meets the requirements of the CAA.

We also recognize the Tribe's comment concerning the scope of the definition of a "project" under CEQA. CEQA is a state law, and the EPA does not have a role in implementing it.

Comment 4: The Tribe commented that mitigation measures that have been implemented on the Owens Lake bed may have resulted in the disruption or destruction of cultural sites and artifacts. The Tribe states that "sites previously regarded as not significant (or "eligible" for the national or California register of historic resources) were undoubtedly destroyed before they were seen in their true context." The Tribe notes that "relatively recently, the

Owens Lake Cultural Resources Task Force (CRTF) was formed to address cultural resources affected by the dust control effort and make recommendations on protection." While the Tribe views the formation of the CRTF as "too little too late," it acknowledges that "at least it is now an attempt to protect what remains and to pursue adequate compensatory mitigation." The Tribe recommends continuation of the CRTF and expansion of its scope beyond the Owens Lake bed. Finally, the Tribe requests the EPA's participation on the CRTF.

Response 4: The EPA agrees that the CRTF has a significant role to play in the preservation of cultural resources. We encourage all parties to continue these efforts. In consultation with the CRTF, the EPA will consider the Tribe's invitation to participate.

Comment 5: The Tribe states that the laws that "are supposed to protect the environment and allow for tribal consultation are not always effective in practice and thus often fail to truly protect the environment and foster meaningful government to government consultation." The Tribe views the law protecting air quality as "strong" but states that the law is "weaker when it comes to tribal consultation and protecting cultural resources." The Tribe notes that it appreciated the EPA's consultation teleconference on December 21, 2016, but that the consultation was "too little too late." Finally, the Tribe notes that "resources important to tribes (and all people) should be protected under the public trust doctrine the same as air quality."

Response 5: The EPA acknowledges the Tribe's concerns and encourages all stakeholders to work together to address the environmental and cultural issues highlighted by the Tribe. We take our role in implementing the CAA and our role in fostering timely and meaningful consultation seriously. We consider our approval of the 2016 PM₁₀ Plan as a critical step in protecting human health and the environment. We also believe that, given the scope of this action, consultation was timely and appropriate. We invited the Tribe to consult with us on December 1, 2016, and consultation was held on December 21, 2016. In this particular instance, we consulted with the Tribe regarding our specific proposed action to approve the Owens Valley PM₁₀ Plan as meeting all requirements of the CAA. We understand the Tribe's view that because the water diversions and subsequent impacts began "decades before the state or the nation had environmentally protective laws" in place, consultation is "too little, too

late." As we expressed during our consultation teleconference, we appreciate the concerns the Tribe explained in consultation and in its comment letter. We also note that the Tribe generally supports our approval of the 2016 PM₁₀ Plan and its effect of improved air quality and attainment of the PM₁₀ NAAQS.

III. EPA's Final Action

The EPA is approving the Serious area 2016 PM₁₀ Plan submitted by the State of California for the Owens Valley PM₁₀ nonattainment area. Specifically, the EPA is approving the 2016 PM₁₀ Plan with respect to the following CAA requirements: Public notice and involvement under section 110(a)(1); emissions inventories under section 172(c)(3); the control measures in Rule 433 under section 110(k)(3) as meeting the requirements of sections 110(a) and 189(b)(1)(B); reasonable further progress and quantitative milestones under section 189(c); the contingency measure in Rule 433 under section 172(c)(9); and the demonstration of attainment under section 189(b)(1)(A). The EPA is also approving the State's request for an extension of the attainment date to June 6, 2017, pursuant to CAA sections 188 and 179.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this final action merely approves State law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this final action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). We notified local tribes of our proposed approval and held two tribal consultations during the comment period.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 12, 2017. Filing a petition for reconsideration by

the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: January 13, 2017.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

■ 2. Section 52.220 is amended by revising paragraph (c)(483) introductory text and by adding paragraph (c)(483)(ii) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *

(483) The following plan was submitted on June 9, 2016, by the Governor's designee. * * *

(ii) Additional materials.

(A) Great Basin Unified Air Pollution Control District (GBUAPCD).

(1) "2016 Owens Valley Planning Area PM₁₀ State Implementation Plan," adopted April 13, 2016, excluding all of the following: Section 10.1 ("Proposed Rule 433"); Appendix I-1 ("2006 Settlement Agreement"); Appendix II-1 ("2014 Stipulated Judgement"); Appendices D ("2008 GBUAPCD Board Order No. 080128-01"), E ("2013 GBUAPCD Board Order No. 130916-01"), and F ("GBUAPCD Fugitive Dust Rules (400, 401, 402)") of Appendix V-1 ("Owens Valley Planning Area 2016 State Implementation Plan BACM Assessment"); Appendix VI-2 ("Owens Lake Dust Mitigation Program Phase 9/10 Project—Final Environmental Impact

Report (May 2015)"); and Appendix X-1 ("Proposed Rule 433").

[FR Doc. 2017-04804 Filed 3-10-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2016-0772; FRL-9958-21-Region 9]

Determination of Attainment and Approval of Base Year Emissions Inventories for the Imperial County, California Fine Particulate Matter Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is determining that the Imperial County, California Moderate nonattainment area ("the Imperial County NA") has attained the 2006 24-hour fine particulate matter (PM_{2.5}) national ambient air quality standard (NAAQS or "standard"). This determination, also known as a clean data determination (CDD), is based upon complete, quality-assured, and certified ambient air monitoring data showing that the area has monitored attainment of the 2006 24-hour PM_{2.5} NAAQS based on the 2013–2015 data available in the EPA's Air Quality System database. As a consequence of this determination of attainment, certain Clean Air Act (CAA) requirements that apply to the Imperial County Air Pollution Control District (ICAPCD or "District") shall be suspended for so long as the area continues to meet the 2006 24-hour PM_{2.5} NAAQS. The area remains nonattainment for the 2012 annual PM_{2.5} NAAQS. The EPA is also approving a revision to California's state implementation plan (SIP) consisting of the 2008 emissions inventory for the Imperial County NA submitted by the California Air Resources Board (CARB or "State") on January 9, 2015. This action is being taken under the CAA. Elsewhere in this issue of the **Federal Register**, we are proposing approval and soliciting written comment on these actions. If we receive adverse comments on this direct final rule that result in withdrawal of the entire rule or any part(s) of it, we will address those comments when we finalize the proposal. The EPA does not plan to institute a second comment period on this action. Any parties interested in commenting must do so at this time.



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

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BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Phillip L. Kiddoo, Air Pollution Control Officer

Subject: Owens Lake and the 2017 Snowpack Runoff Emergency

Summary:

This Board report provides the Great Basin Unified Air Pollution Control District (District) Governing Board (Board) an update on Owens Lake and the 2017 Snowpack Runoff Emergency. Updates include:

- Owens Lake activities related to the runoff
- BACM compliance
- Water spreading in existing compliance areas
- Upcoming compliance deadlines for Phase 7a Best Available Control Measure (BACM) Managed Vegetation, Phase 9/10 BACM Gravel Blanket and Phase 9/10 BACM Shallow Flooding
- Recent Eastern Sierra runoff conditions

2017 Snowpack Runoff Emergency:

On March 20, 2017 the Mayor of Los Angeles issued an emergency declaration for areas adjacent to the City of Los Angeles' Aqueduct, its water gathering facilities, its water delivery facilities and its air quality control facilities located within Mono, Inyo, Kern, Los Angeles Counties and the City of Los Angeles in anticipation of threats posed by the predicted runoff from the above average snowpack for the 2016-2017 winter. Inyo County Board of Supervisors followed suit on March 28, 2017 adopting a resolution proclaiming the existence of a local emergency for Inyo County resulting from the 2017 precipitation and projected spring runoff conditions.

In previous exceptional runoff years (1969 and 1983) excess water beyond that which can be handled in the aqueduct was largely sent down the lower Owens River onto Owens Lake. However, both of these two large years happened before the Lower Owens River Project (LORP) and dust controls on Owens Lake were in place. Infrastructure in both of these two projects could be damaged by large uncontrollable flows in the lower Owens River.

The City of Los Angeles Department of Water and Power (LADWP) has taken active precautionary measures since late winter to protect infrastructure throughout the Owens Valley and on Owens Lake. Throughout the Owens Valley work included cleaning and repairing of canals, sand traps, diversion structures, intakes and ponds. Flows were maximized out of reservoirs to create addition storage

capacity for runoff waters. When the snowpack runoff started, focus shifted from preparation of waterways to water spreading and maintenance. As of June 18, 2017, LADWP had spread a total of 120,872 acre-feet from Pleasant Valley to the Los Angeles Aqueduct Filtration Plant in Sylmar. The widespread spreading efforts are expected to replenish groundwater, enhance vegetation on the valley floor and along waterways, and reduce the amount of water sent onto Owens Lake thereby protecting dust control infrastructure on the lake bed.

Preparation for potential impacts on Owens Lake can be divided into two types of work. The first type of work has taken place at the north end of the lake and includes activities to improve the water flow path of the Owens River through the Lower Owens River Pump-back Station (LORPS) and through the Owens Lake delta. Work associated with improved river flow include installation of a river flow diversion structure to prevent water from going down the west river channel on the delta, vegetation tamping along the main channel in the delta, opening up of the forebay at the LORPS and protection of the infrastructure at the LORPS. The second type of work has occurred on the dust control project and has included armoring of berms along the delta-facing edges of T29 and T36 dust control areas (DCAs), protection of the western submains that deliver water to the T37-2 DCA, and lining about 12 miles of the mainline to protect from damage associated with wave action. Construction activities were scheduled to be completed by June 23, 2017. LADWP has been using Shallow Flooding areas as water spreading basins by applying greater amounts of water to Shallow Flood DCAs than is required to meet wetness cover compliance to provide more water storage capacity. To date, runoff flows through the Owens Lake delta have not impacted dust control areas and have not damaged any infrastructure.

Owens Lake Compliance Update (2016-2017 Dust Year):

On June 30, 2017 the 2016-2017 dust year concluded and LADWP successfully achieved compliance in all existing BACM DCAs without damage to existing infrastructure from the 2017 Snowpack Runoff Emergency.

BACM Shallow Flooding:

During the 2016-2017 dust year, BACM Shallow Flooding areas generally met or exceeded the required wetness cover requirements. Since March 20, 2017, LADWP has been operating the mainline water supply at full capacity and storing water in many of the BACM Shallow Flooding DCAs to help with water spreading from the high spring runoff. Water delivery and spreading in these existing DCAs is such that in the wet-call evaluation conducted from a LandSat image acquired on 6/25/2017 the overall wetness cover was over 86% when the required wetness level was 60%. *(Note that wetness cover typically needs to be 72-75% of a Shallow Flooding DCA but is allowed to be ramped down at the end of a dust year in 5% steps with the last step at 60%.)*

Dynamic Water Management (DWM):

Prior to LADWP's declaration of the 2017 Snowmelt Runoff Emergency, the T5-3 DWM area was issued a reflood order due to sand flux activity. The order was issued on November 29, 2017 and compliance for BACM Shallow Flooding criteria was confirmed by the District in the January 16, 2017 Shallow Flood Compliance Report. After LADWP's declaration of the 2017 Snowmelt Runoff Emergency, the District was informed by LADWP that DWM areas would be used for water spreading. Developed and intended strictly as a water conservation measure as required per the 2014 Stipulated Judgement, these DWM areas provided LADWP additional water spreading opportunity in this emergency.

Brine with BACM Backup:

For the 2016-17 dust year, LADWP operated fourteen DCAs as Brine. A compliance evaluation of twelve of the Brine DCAs was conducted in the Fall of 2016 to determine if they met the surface cover requirements specified in Attachment E of Board Order #160413-01. The two remaining Brine DCAs were not evaluated in the fall since the areas were being wetted with additional water to improve spreading of the Brine surfaces such that the areas met the required wetness cover to be compliant with BACM Shallow Flooding performance criteria. The wetness cover and surface conditions of these two outstanding Brine DCAs were watched throughout the remainder of the fall, winter and spring with the intention of evaluating them for the Brine surface cover requirements once they dried. However, due to the wet winter conditions and water spreading activities during the spring, the areas never dried significantly and they remained in compliance with BACM Shallow Flooding wetness cover requirements. In addition, most of the twelve active Brine DCAs also have had water added during the winter and spring such that the wetness cover far exceeds that required for either Brine or Shallow Flooding. It is anticipated that the addition of water into the Brine areas will not be detrimental in the long term to their operation as Brine and that the Brine crusts will reform once the areas dry.

In November 2016, the T29-4 Brine DCA had sand flux that exceeded the allowed threshold such that the DCA was determined to be in a potentially emissive state. As a result, on December 2, 2016 a re-flood order was issued to LADWP and the area was wetted such that it met the wetness cover requirements for Shallow Flooding. Even though the DCA is allowed to be dried out such that the Brine surfaces can reform, the T29-4 Brine DCA has been kept as Shallow Flooding by LADWP since its operation is tied to the associated re-flooding of the T29-4 TWB² area immediately up gradient. The next Brine surface cover evaluation will be conducted in September-October 2017 for the DCAs that LADWP plans to operate as Brine during the 2017-18 dust season.

TWB² (Tillage with BACM Back-up)

District staff is currently working on developing a Tillage with BACM Back-up annual compliance report. Below is summary of noteworthy compliance activity.

On October 16, 2016, a Sensit site in the T29-4 TWB² DCA recorded sand flux in excess of the allowed daily threshold. On December 2, 2016, the District ordered a partial re-flood of the area. LADWP crews were able to meet the required BACM Shallow Flooding performance requirements in the thirty-seven day period and the area has remained in compliance in all but one of the compliance calls for the remainder of the dust season. On the May 24, 2017 compliance evaluation only 8.3% of the area was sufficiently wet, failing to meet the requirement of 75% wetness. LADWP quickly took corrective actions and the area was in compliance by May 27, 2017.

On March 2, 2017 District staff conducted an IPET flight in an area of concern in the TWB² area of the T16 DCA. The flight indicated overall poor surface integrity and high potential of emissivity. The following day LADWP staff joined District staff to observe the IPET testing. LADWP performed maintenance by leveling and wetting the surface in early May and is scheduled to reestablish performance criteria for Tillage with BACM Back-up after tilling this summer.

Due to the large amounts of precipitation in January 2017, LADWP has been performing maintenance on a majority of the TWB² DCAs including T2-3, T2-4, T3N, T3SE, T3SW, T5-4, T16,

T24 Addition and T29-4. Maintenance generally includes leveling the area, wetting for a period of time, and then re-tilling. The majority of these areas have been leveled, wetted, and are currently drying out. Once dry enough to allow equipment to operate, these areas will be re-tilled this summer to meet required performance criteria for Tillage with BACM Back-up.

TWB² DCAs and infrastructure have not been negatively impacted by the 2017 Snowmelt Emergency Runoff. As a result of the numerous areas requiring maintenance described above, rewetting TWB² areas provided additional square mileage for water spreading.

BACM Managed Vegetation:

A compliance evaluation of the 3.5 square mile BACM Managed Vegetation on the south end of the lake (termed the "Farm", planted in 2002) was conducted using a satellite image acquired on December 11, 2016 and field measurements of cover collected over a 3 week period in late November to mid December 2016. Based on the results of the evaluation, the Farm met or exceeded the average cover and spatial distribution requirements and is therefore determined to be in compliance with required performance criteria. Existing BACM Managed Vegetation compliance areas and infrastructure have not been negatively impacted by the 2017 Snowmelt Emergency Runoff.

BACM Gravel Blanket

In January of 2017, LADWP and District field staff noted sand inundation on the gravel blanket along the western edge of T1A-3 and parts of T28. On March 6, 2017 LADWP sent the District a Remedial Action Plan for Sand Intrusion at the T1A-3 DCA as requested by the District. LADWP operations staff conducted maintenance work on the affected DCAs to bring the clean gravel blanket back to the surface. Additional maintenance is scheduled to take place in T28 this summer. Existing BACM Gravel Blanket compliance areas and infrastructure have not been negatively impacted by the 2017 Snowmelt Emergency Runoff.

Shallow Flood Wetness Cover Refinement Field Test (SFWCRFT)

On March 31, 2017, the District accepted and approved LADWP's request to suspend their SFWCRFT and operate these areas as BACM Shallow Flooding for the remainder of the 16-17 dust year. This provided yet another opportunity for LADWP to implement additional water spreading on Owens Lake.

Upcoming Owens Lake Compliance Deadlines (Phase 7a and Phase 9/10):

There are two dust control compliance deadlines on December 31, 2017 for Phase 7a BACM Managed Vegetation, Phase 9/10 BACM Gravel Blanket, Phase 9/10 BACM Shallow Flooding, and Phase 9/10 BACM Managed Vegetation construction and operation (Attachment 1). *(Note the deadline for Phase 9/10 BACM Managed Vegetation performance criteria compliance is December 31, 2019.)*

Phase 7a Managed Vegetation areas are required to meet the surface cover and spatial distribution performance criteria by December 31, 2017. A preliminary evaluation of the Phase 7a Managed Vegetation areas was conducted using a satellite image acquired on December 11, 2016 and field measurements of cover collected in late November and early December 2016. The method used for the preliminary compliance evaluation is the same as that used on the Farm (see above). The method was developed by the Desert Research Institute (DRI) for evaluation of a uniform senescent saltgrass meadow. The vegetation in the new Phase 7a DCAs is more diverse including multiple grass, shrub

and annual species. During the 2016 vegetation compliance evaluation, the same compliance analysis method used on the Farm was tested on the Phase 7a areas to determine if the method could be used on the heterogeneous vegetation mix. The results of the methodology testing are encouraging and with some small adjustments, the method will be used for compliance on the Phase 7a vegetation areas.

Results of the 2016 preliminary vegetation cover evaluation and field observations indicated areas of concern where the planted areas have low cover due to high salt content or poor drainage. Extensive work was performed by LADWP this past winter and spring including drainage improvements, reseeding, and installation of approximately 500,000 plugs. The compliance determination for these areas will be conducted in the late fall to early winter of 2017 after the vegetation's growing season has ended.

Dust control areas of Phase 9/10 are required to be completed by December 31, 2017, excluding Managed Vegetation areas that have an additional two years to grow-out in order to meet plant cover requirements. Currently OHL, LADWP's contracted construction company, are on schedule to complete construction activities by the end of summer. The precipitation events early in 2017 did cause some delays in the construction schedules, but it does not appear it will not affect final compliance deadlines. To date, Phase 7a and Phase 9/10 construction areas and infrastructure have not been negatively impacted by the 2017 Snowmelt Emergency Runoff.

Eastern Sierra Runoff Conditions

District staff has been tracking runoff conditions, LADWP water spreading activities, LADWP operational changes, and Owens River tributary flows in anticipation of potential impacts to dust control abatement infrastructure at Owens Lake due to the 2017 Snowpack Runoff Emergency. The District recently analyzed publicly available LADWP hydro data with aerial photography of major Eastern Sierra high mountain watershed basins captured on June 29, 2017 (Attachment 2), to provide useful prognostic insight. At this time, LADWP is well positioned to have successfully circumvented damage to existing dust control infrastructure at Owens Lake and avoided impacts to future DCAs requiring compliance by December 31, 2017.

Board Action:

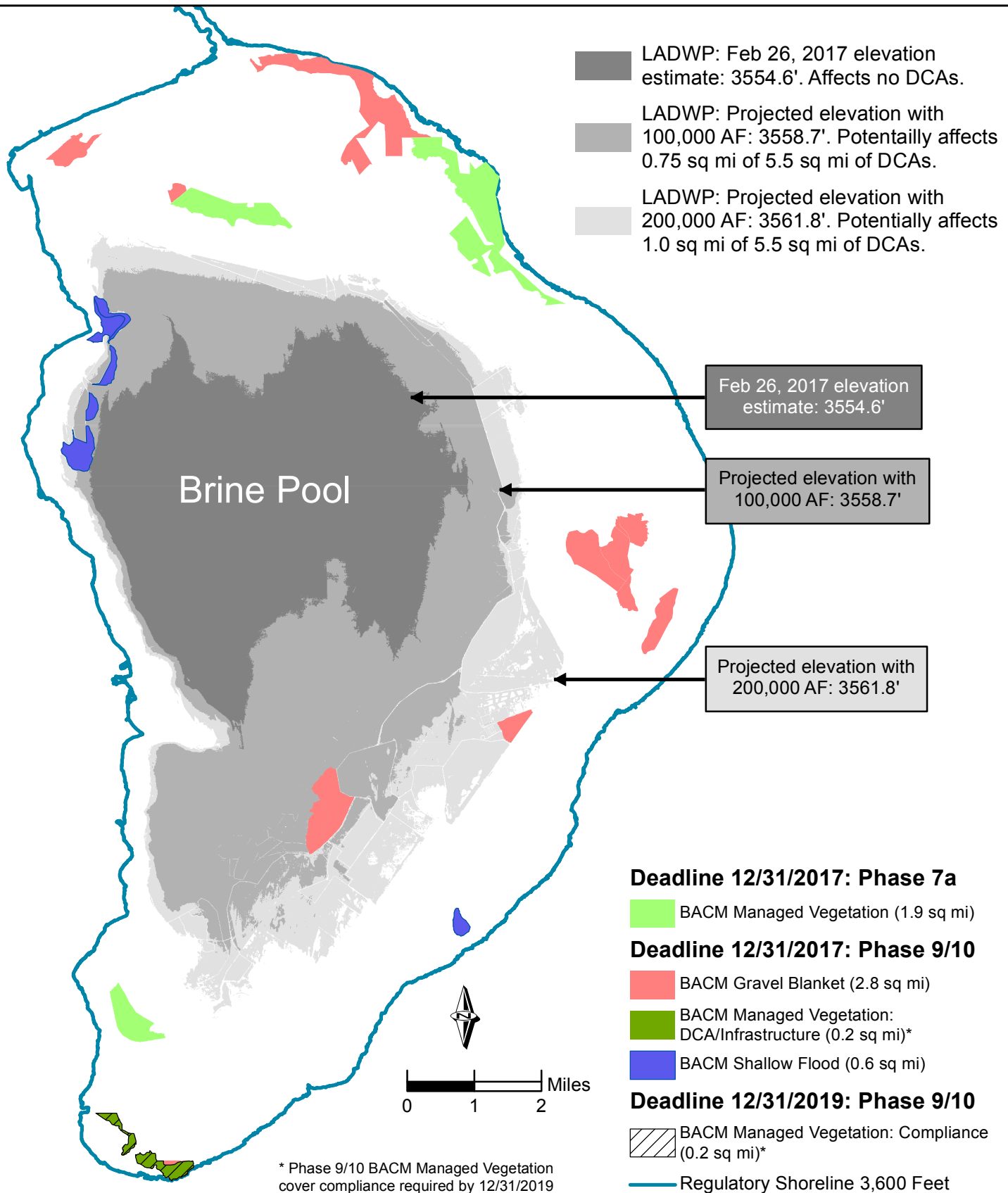
None. Informational only.

Attachments:

1. Map – December 31, 2017 Compliance Deadline Requirements for Phase 7a BACM Managed Vegetation, Phase 9/10 BACM Gravel Blanket, and Phase 9/10 BACM Shallow Flooding
2. 2017 Runoff Data and June 29, 2017 Aerial Images



LADWP: Potential Impacts from 2016-2017 Runoff on Phase 7a and Phase 9/10 Regulatory Deadlines

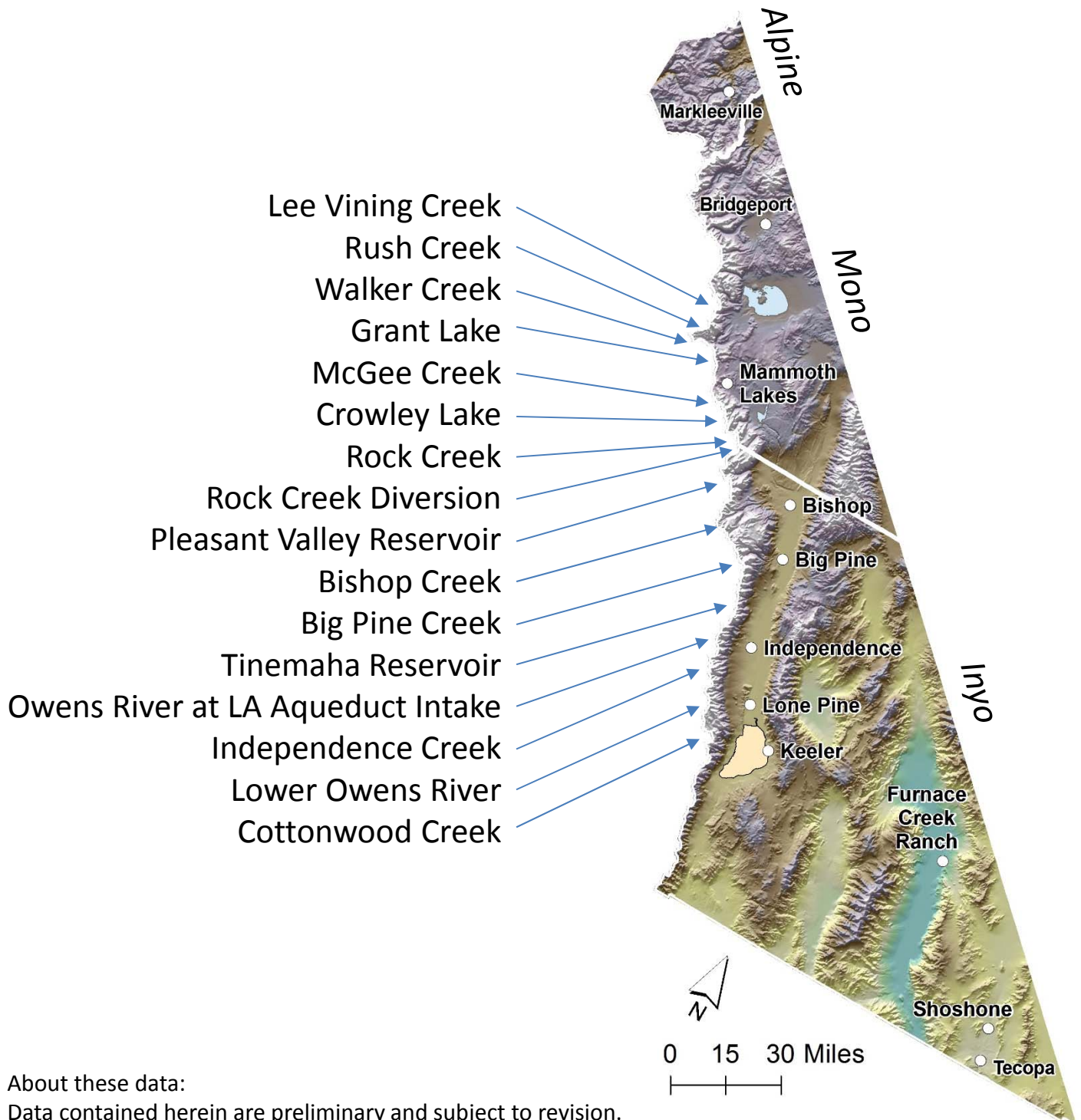


Eastern Sierra Runoff Conditions

Photos taken 6/29/2017

Flow data from LADWP website:

<http://wsoweb.ladwp.com/Aqueduct/>



About these data:

Data contained herein are preliminary and subject to revision.

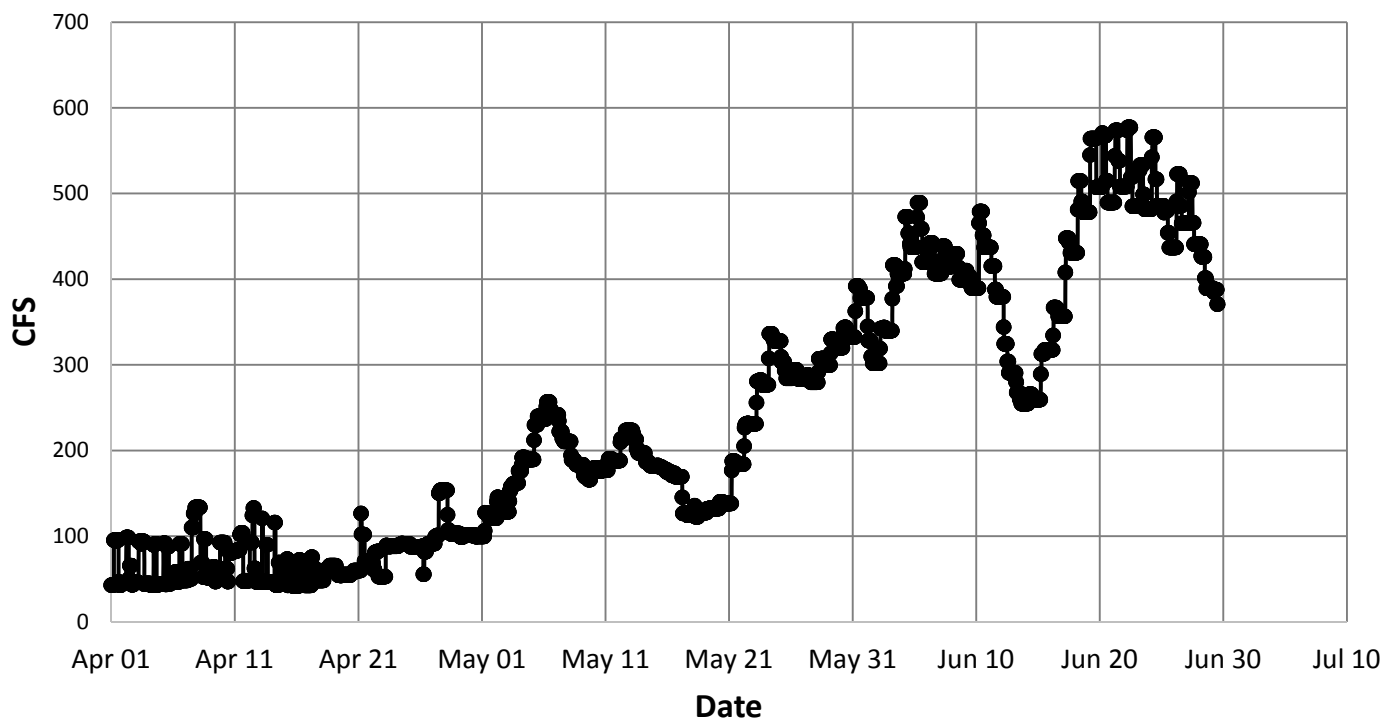
Agenda Item No. 5 - Attachment 2

Lee Vining Creek



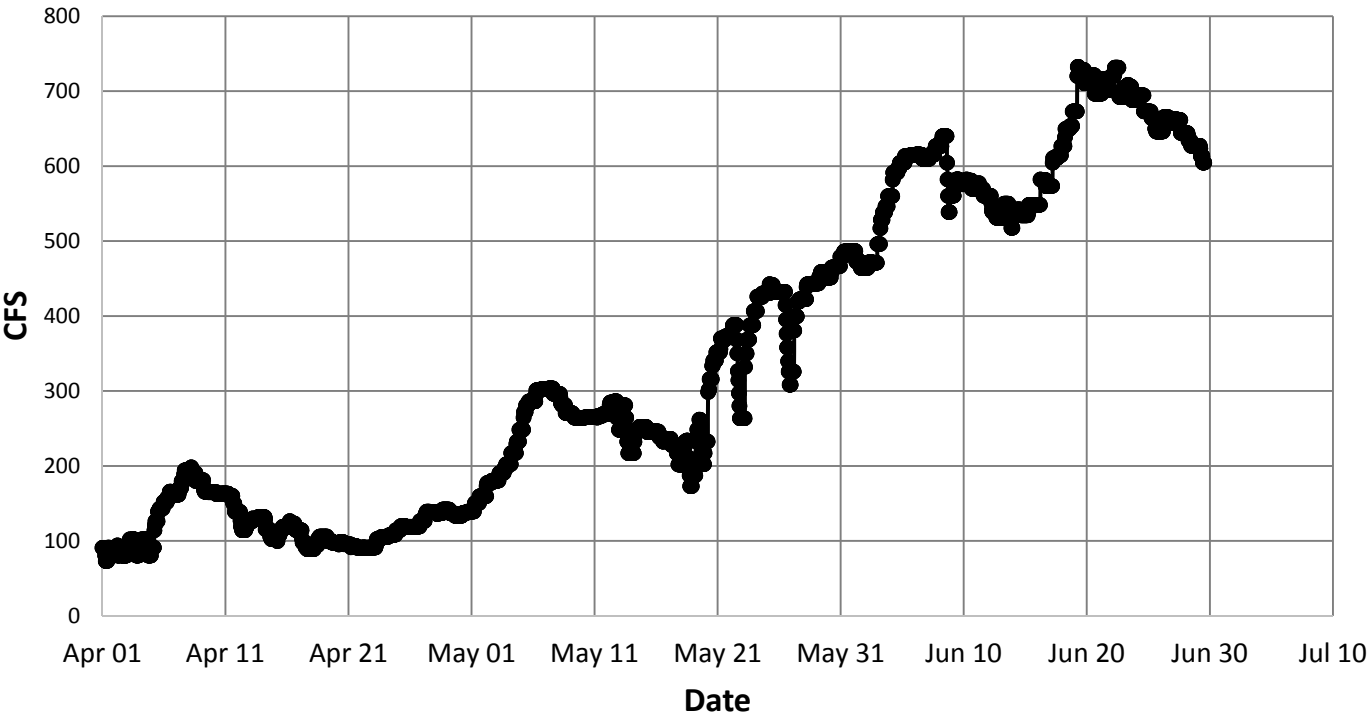
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Lee Vining Creek Above Flow

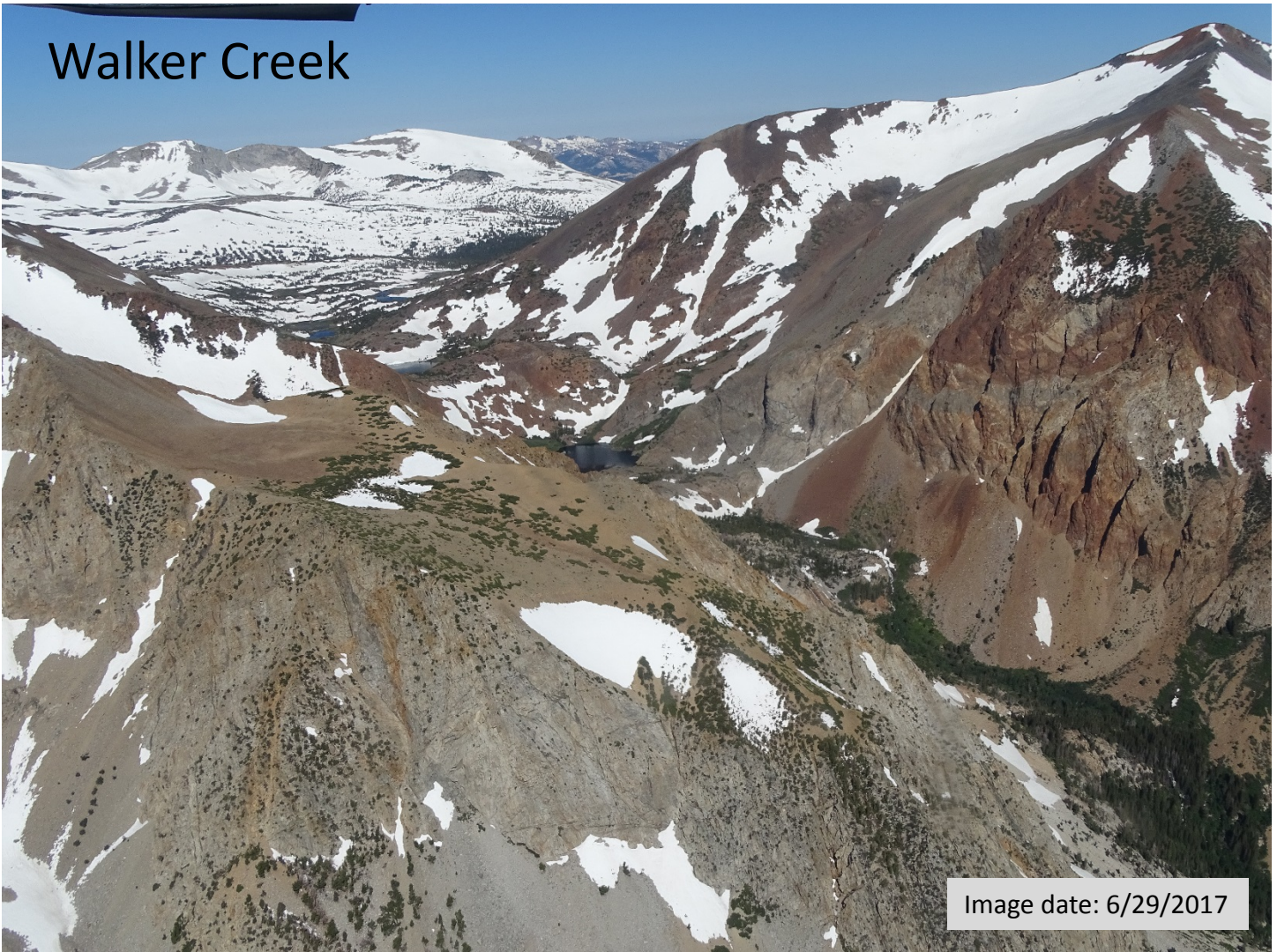




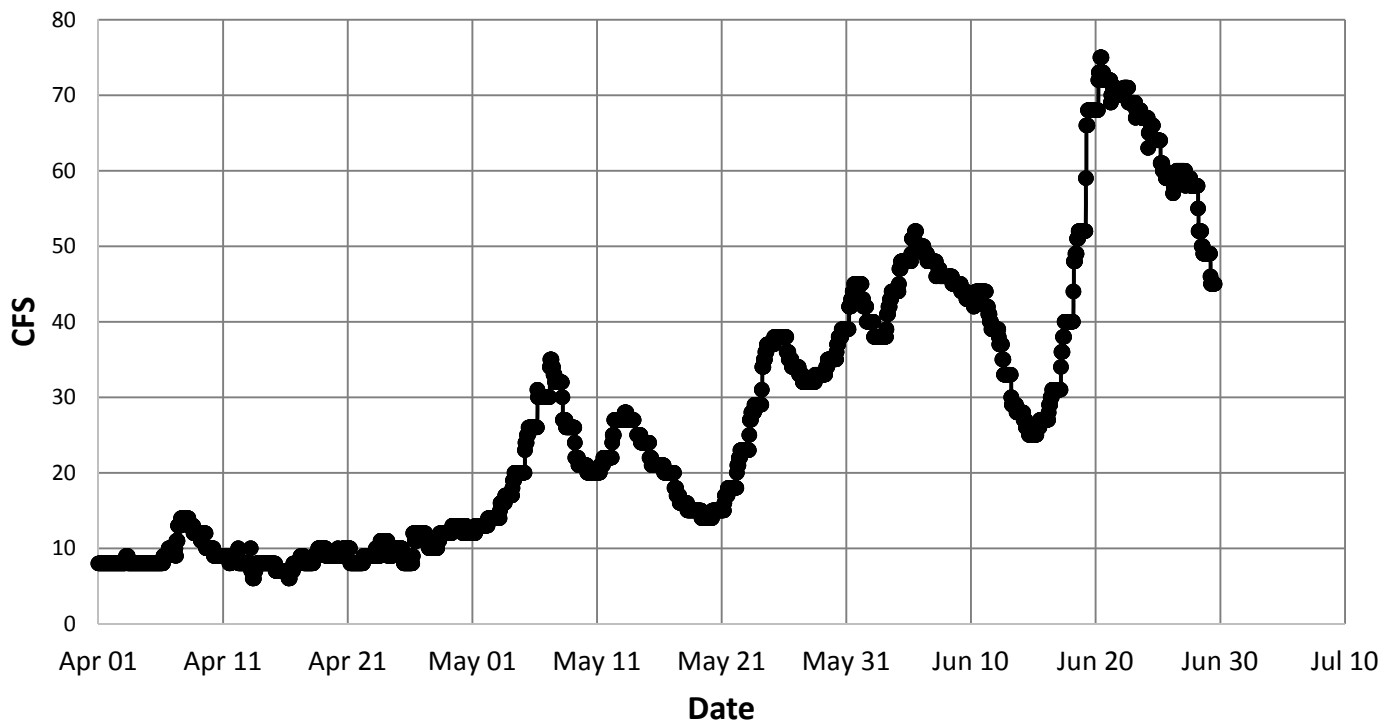
Rush Creek Flow



Walker Creek

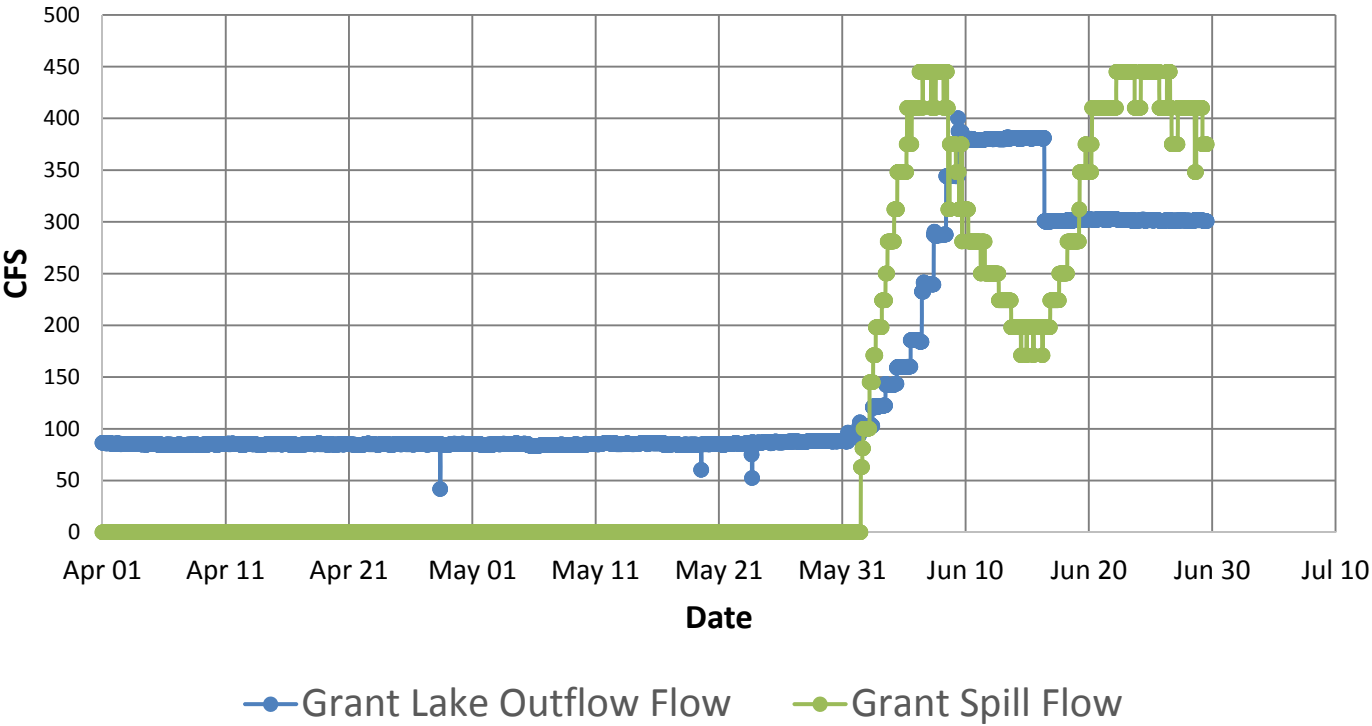


Walker Creek Above Flow



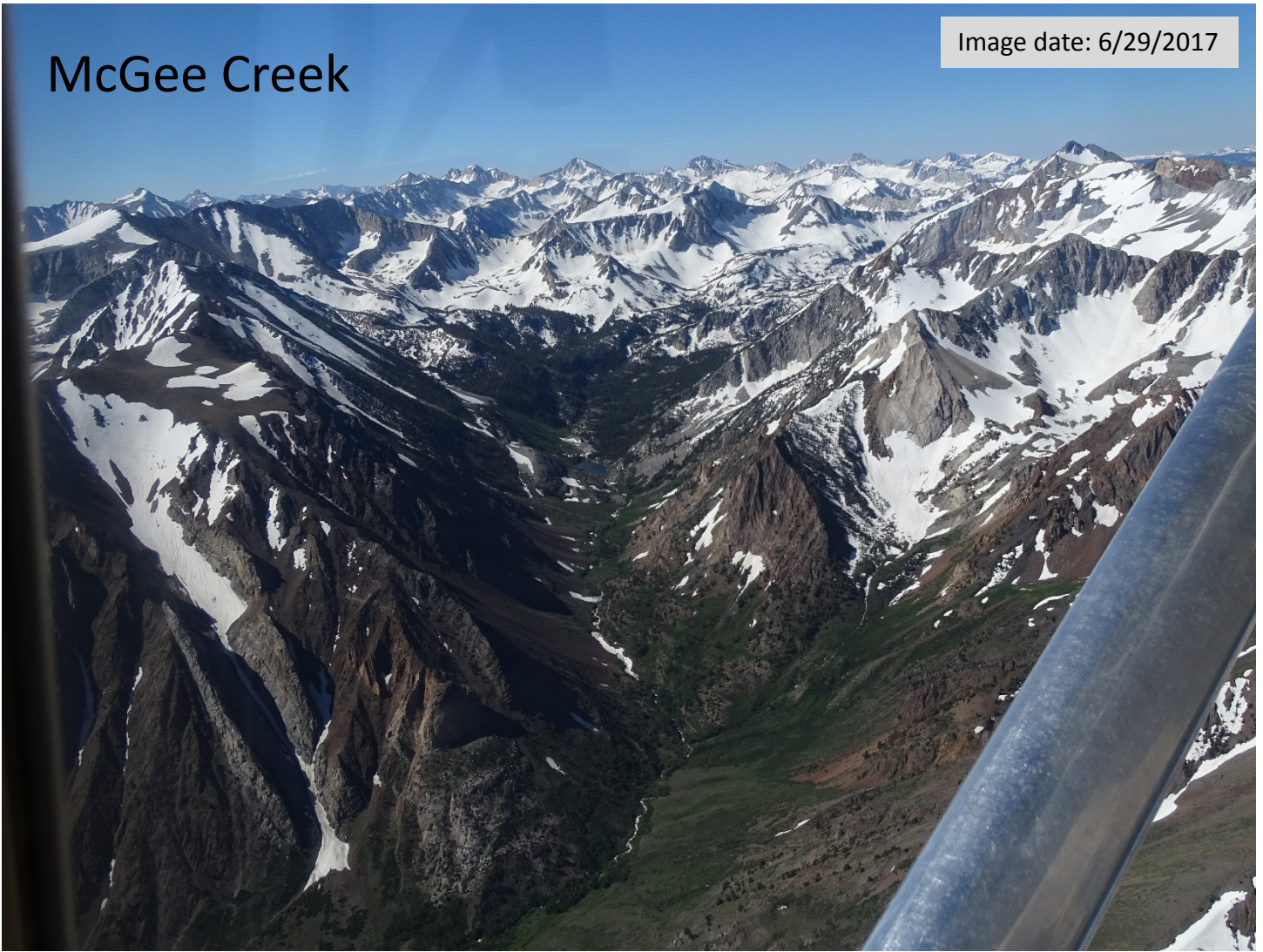


Grant Lake Outflow and Spill Flow

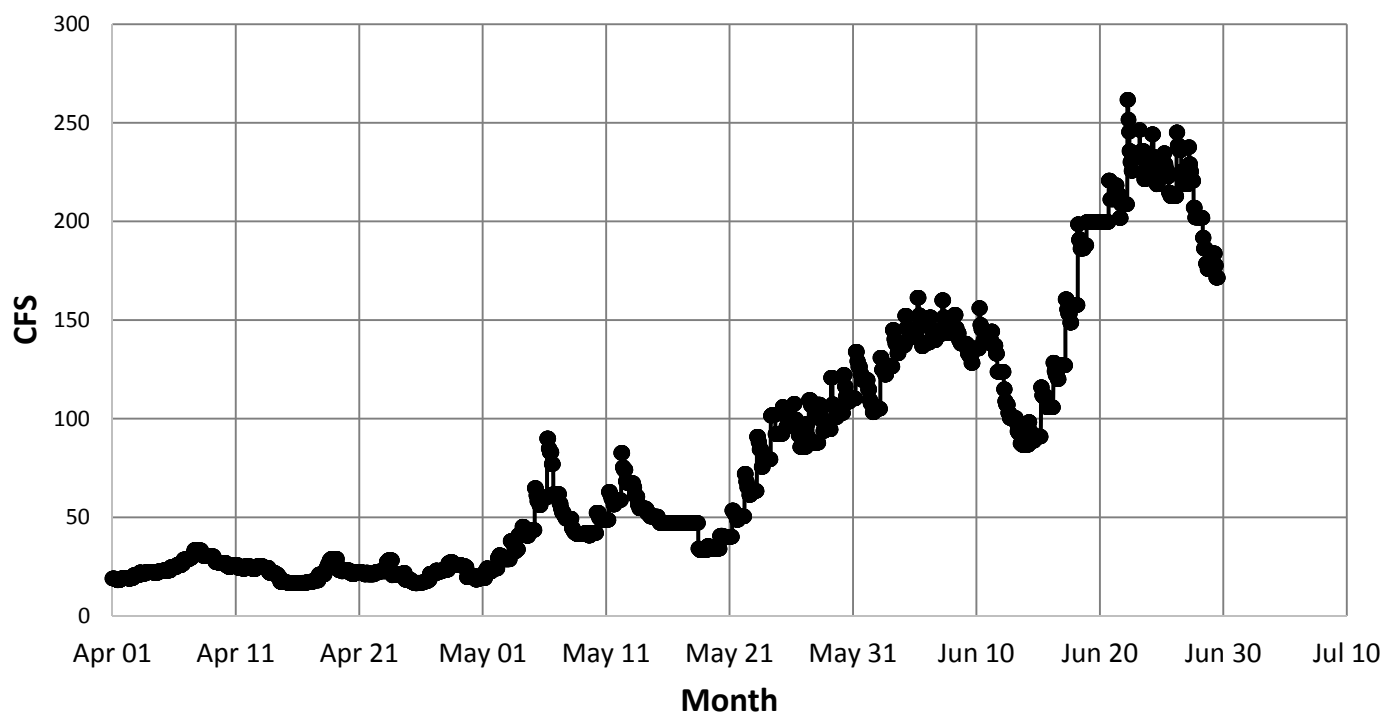


McGee Creek

Image date: 6/29/2017



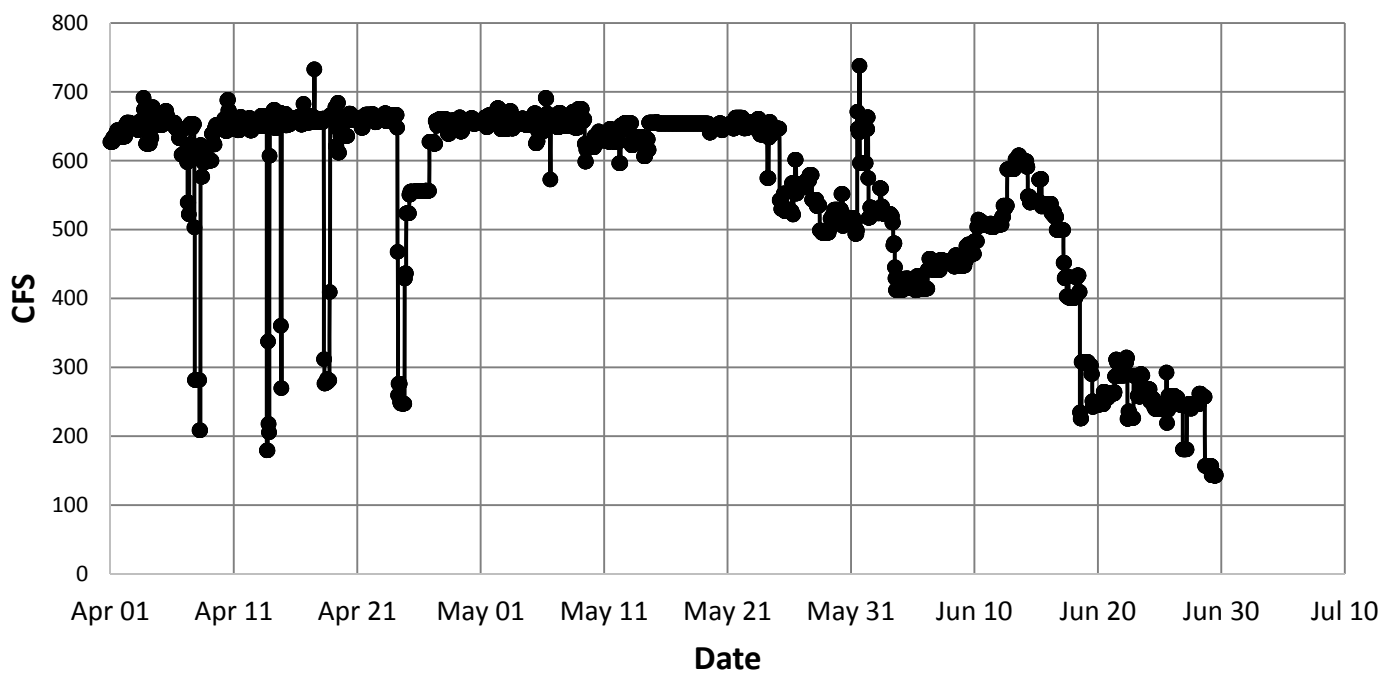
McGee Creek Flow



Crowley Lake



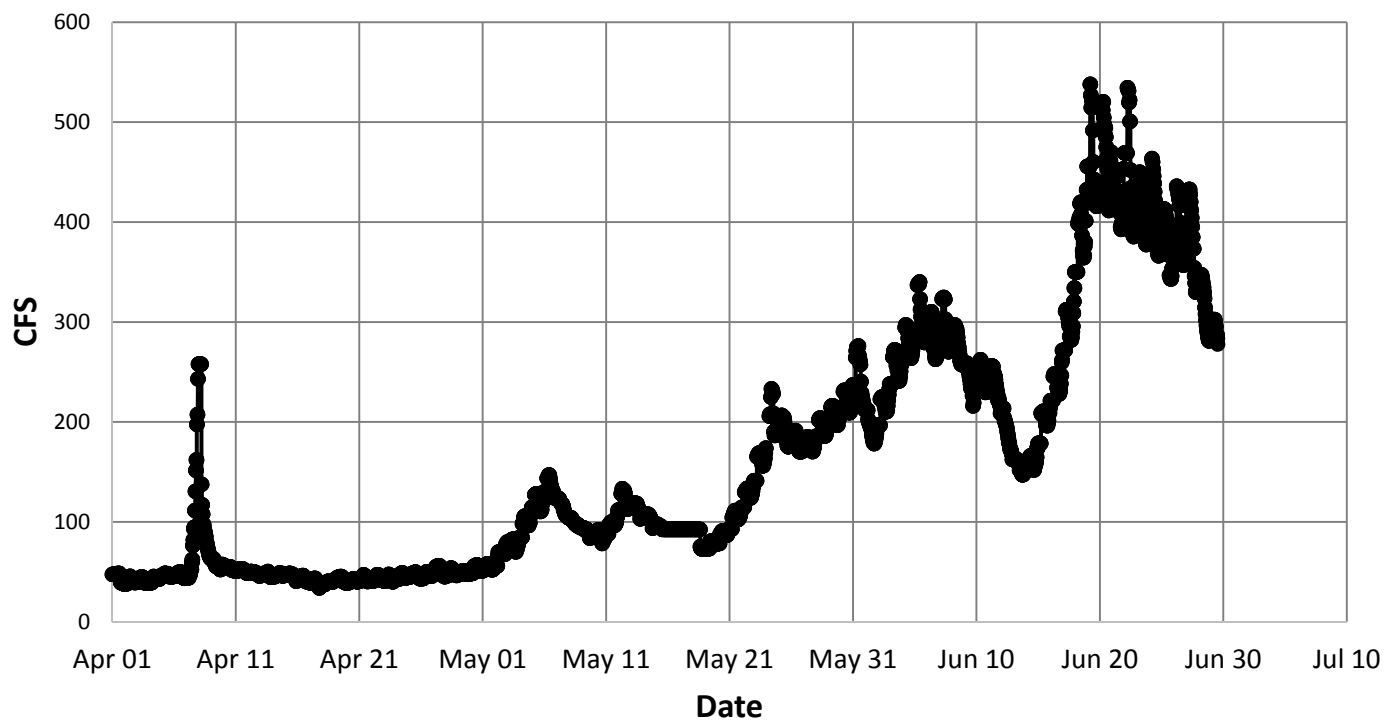
Crowley Lake Outflow



Rock Creek

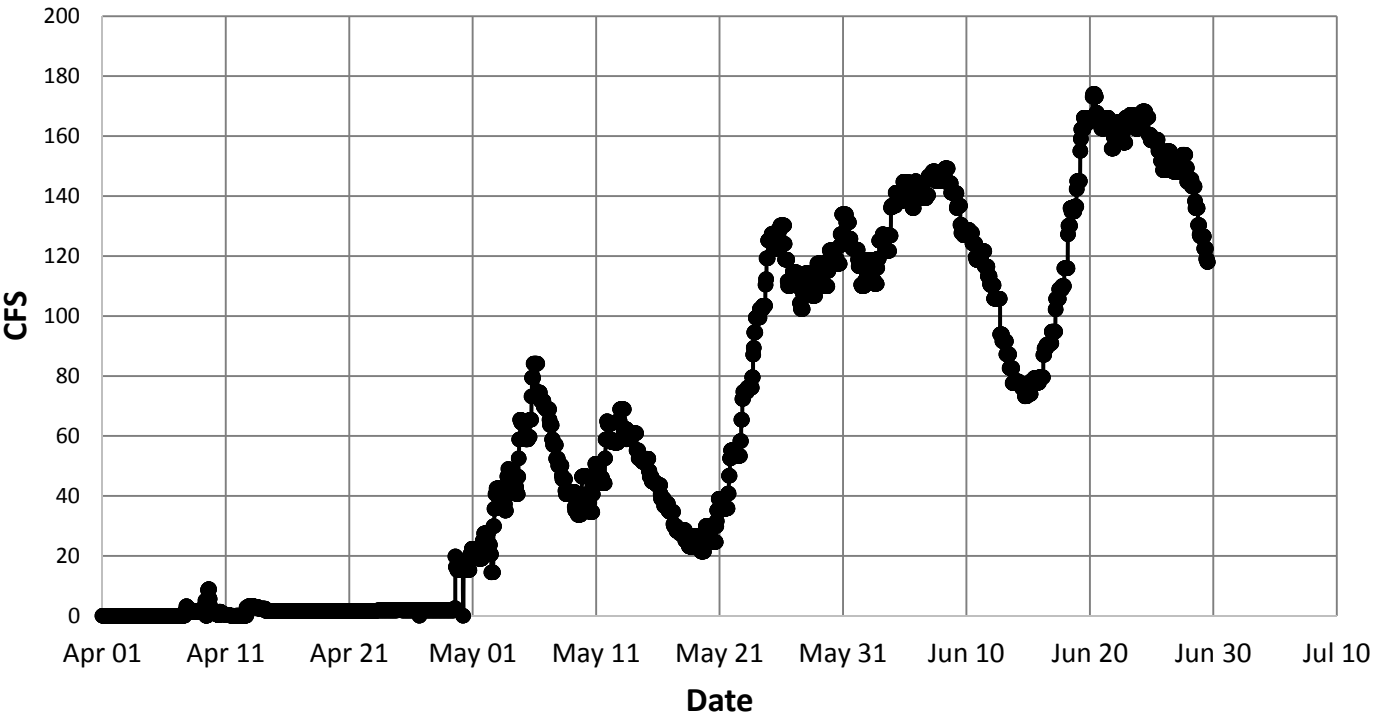


Rock Creek at Owens River Flow



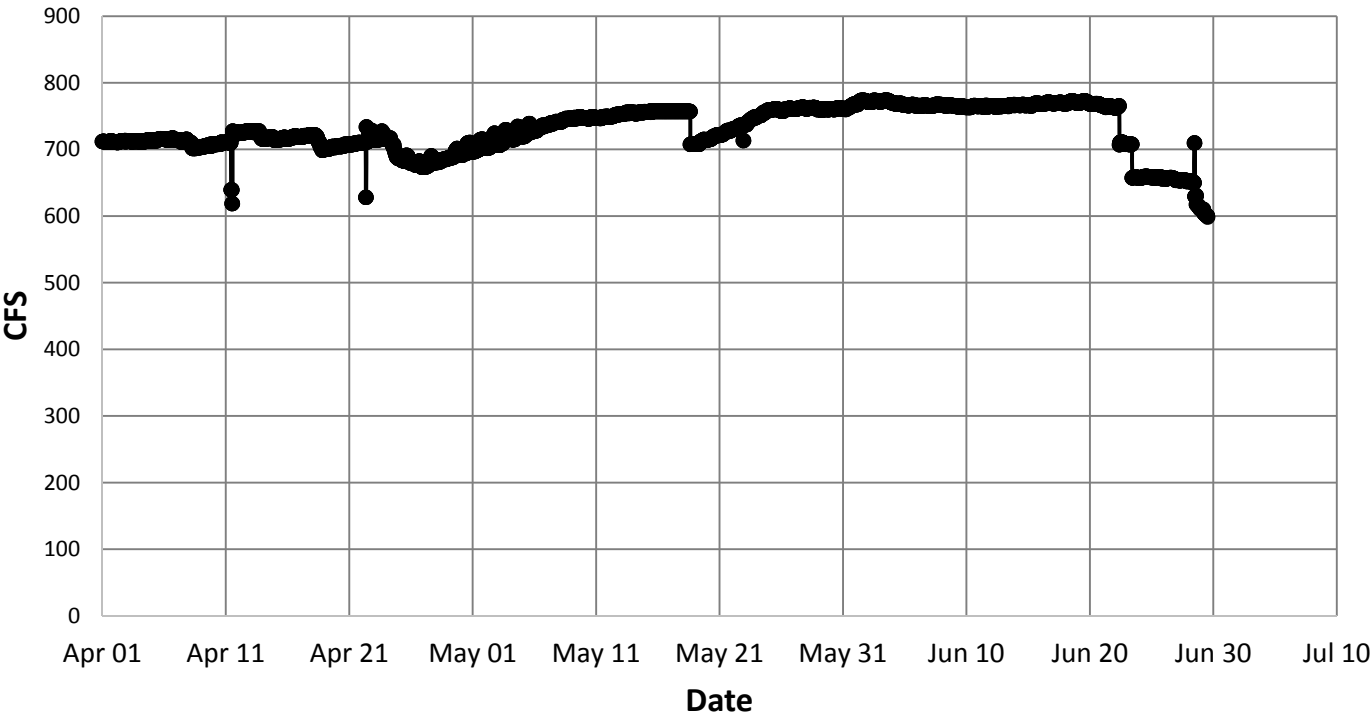


Rock Creek Diversion Flow



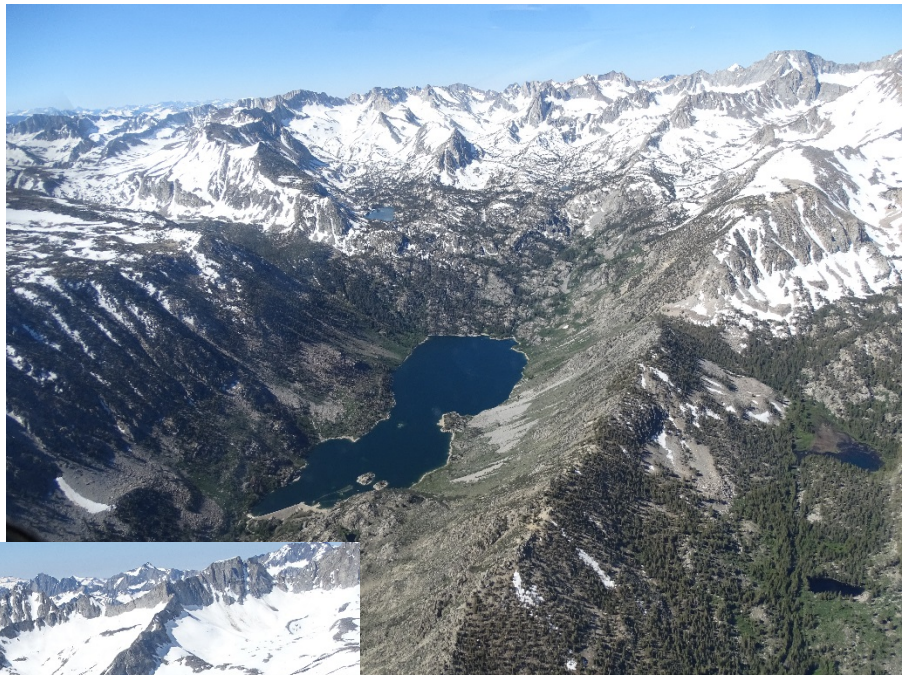


Pleasant Valley Reservoir Outflow Flow



Bishop Creek

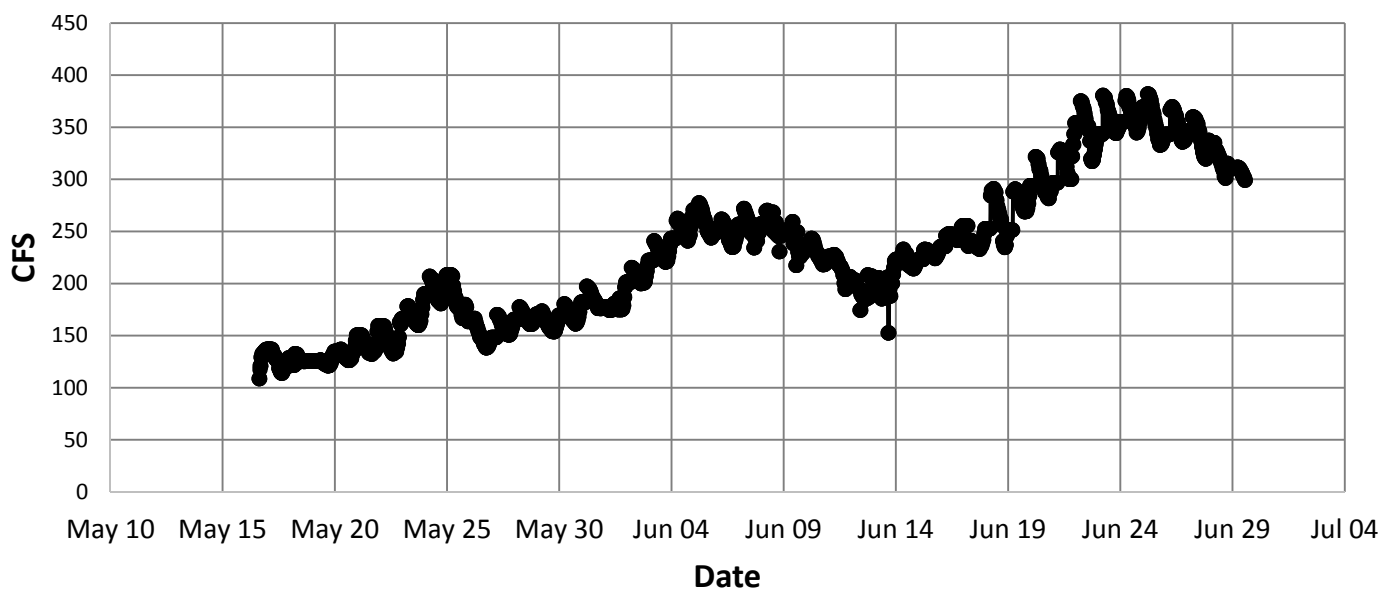
Middle Fork

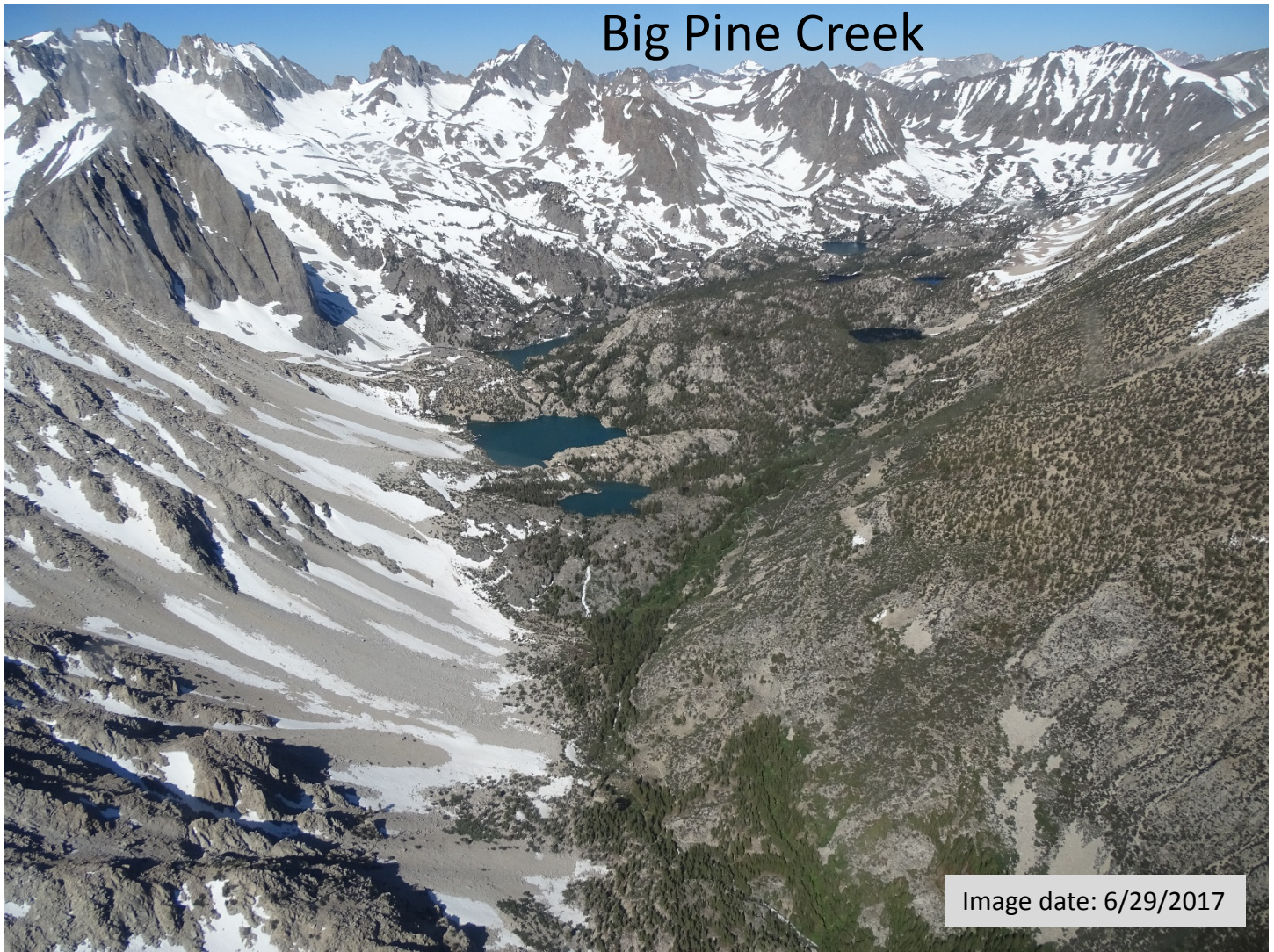


South Fork

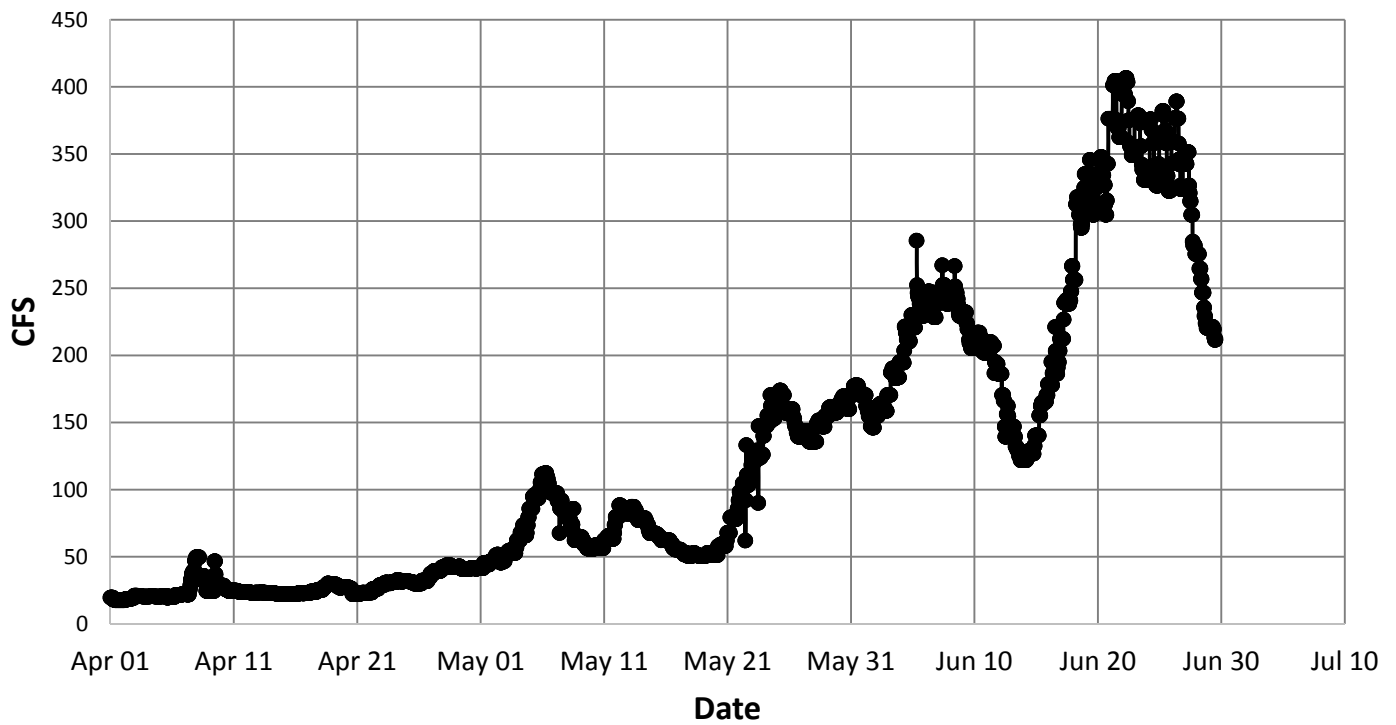
Image date: 6/29/2017

Bishop Creek at Plant Six Flows





Big Pine Creek at USGS Flow

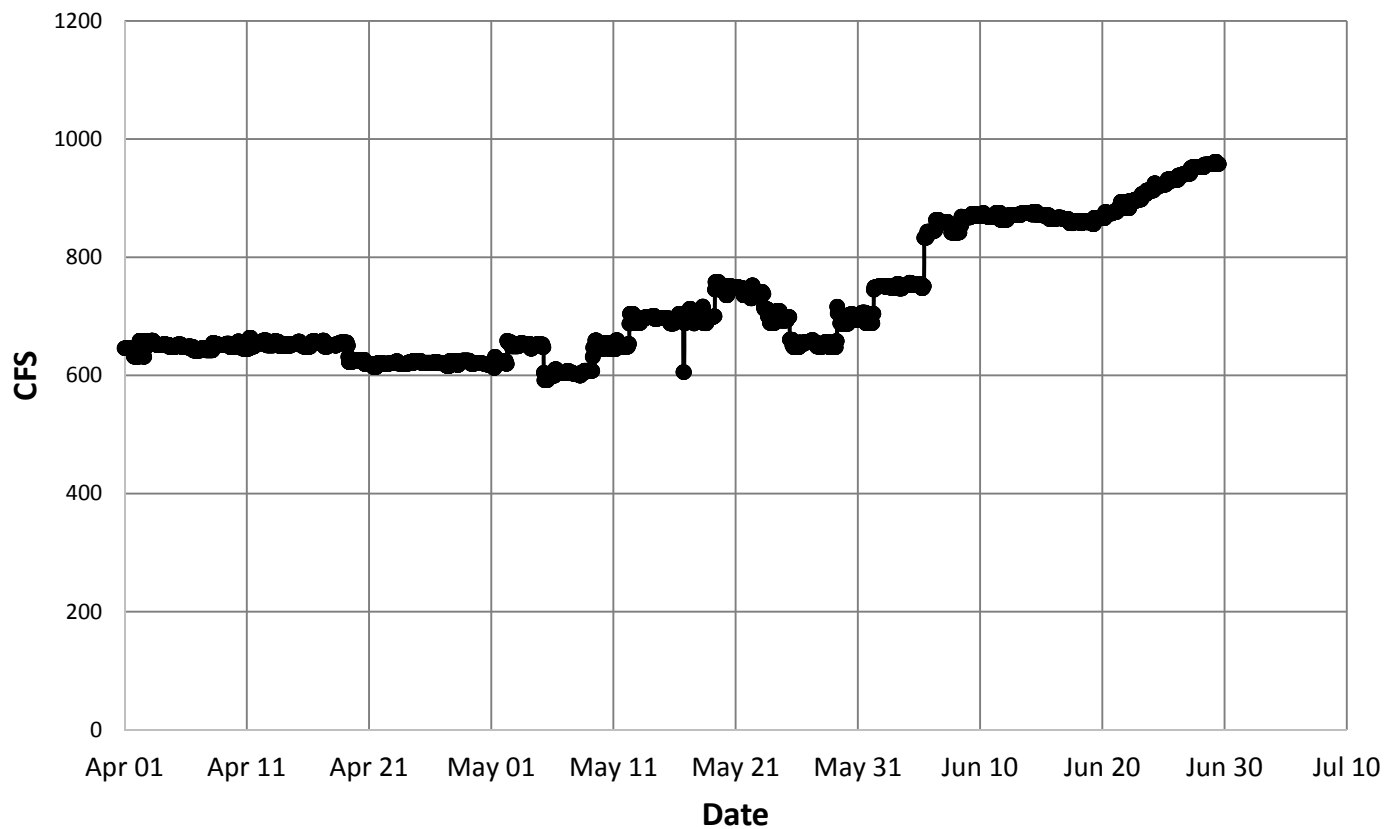


Tinemaha Reservoir



Image date: 6/29/2017

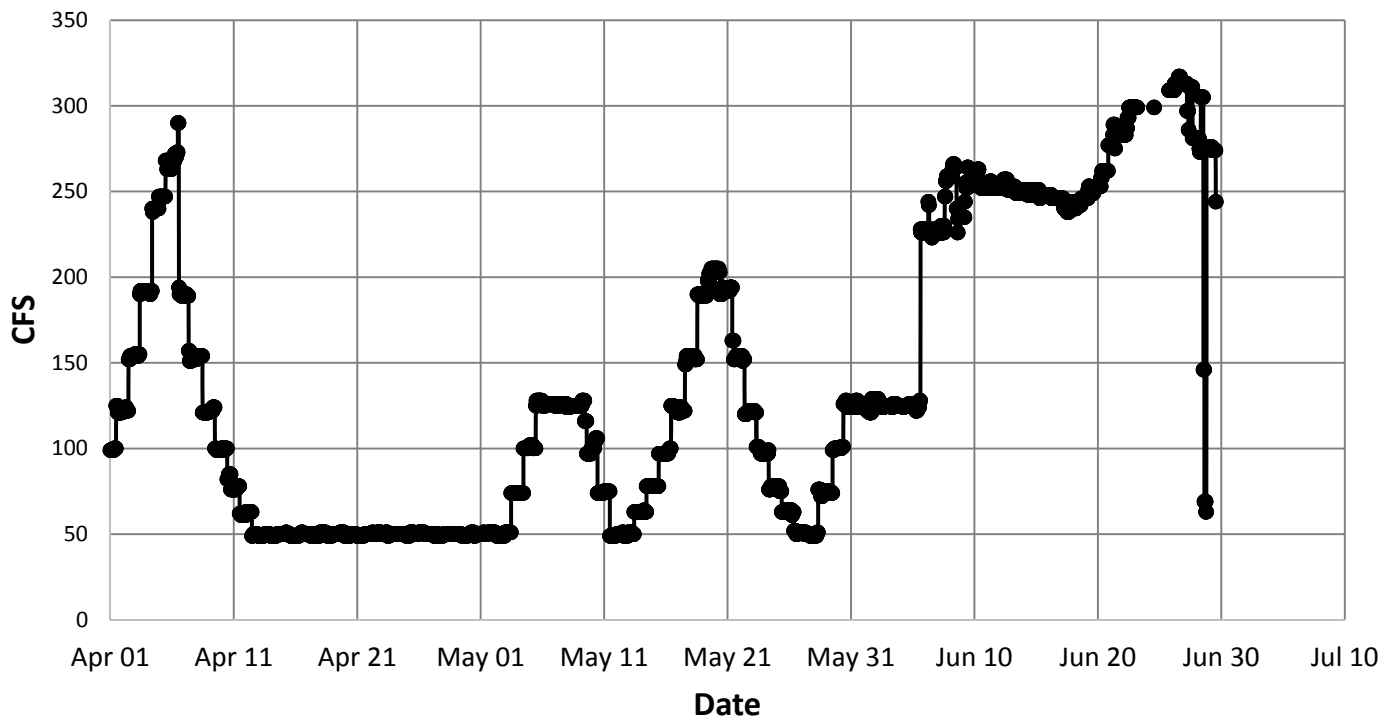
Tinemaha Reservoir Outflow Flow

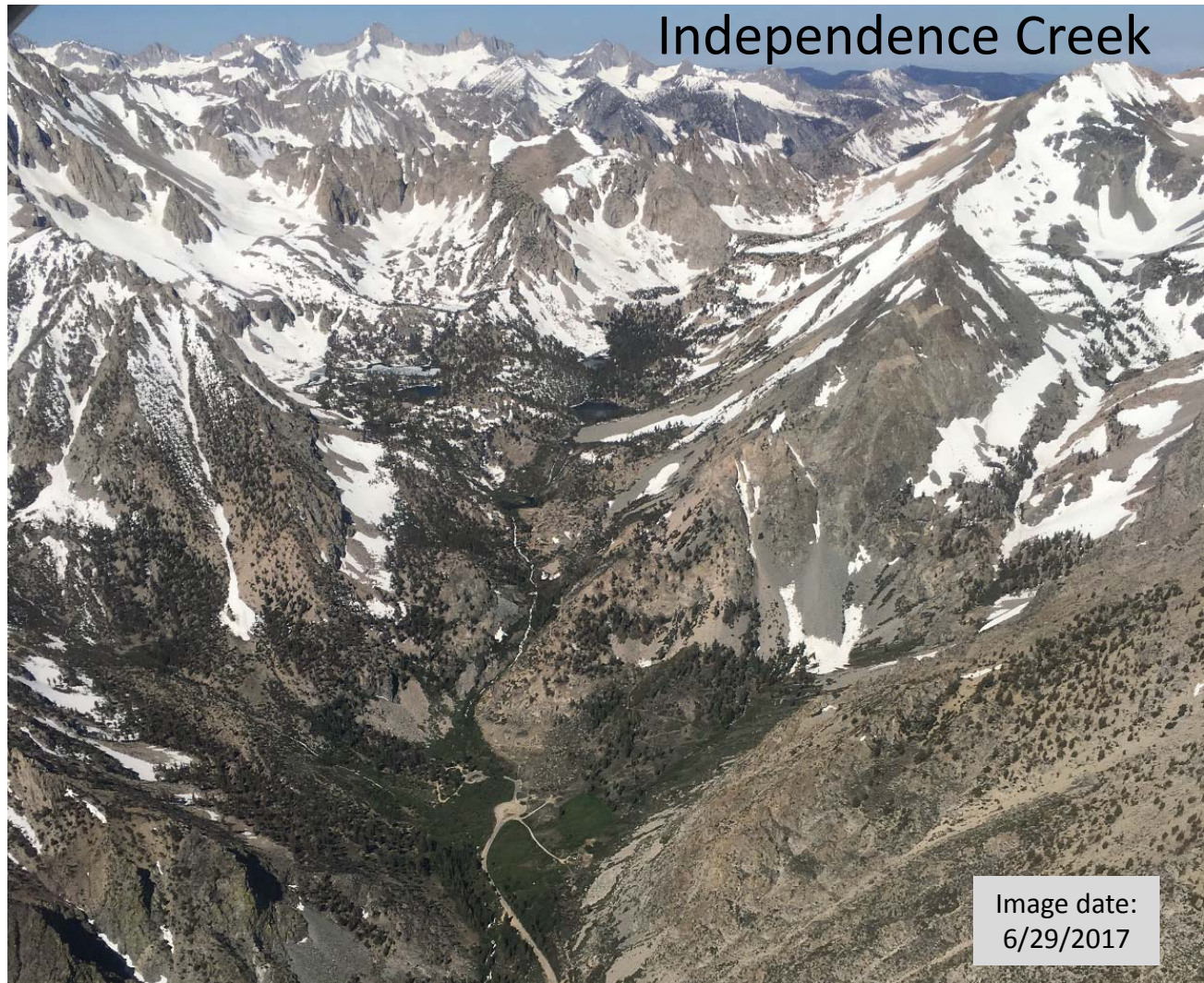


Owens River at Aqueduct Intake

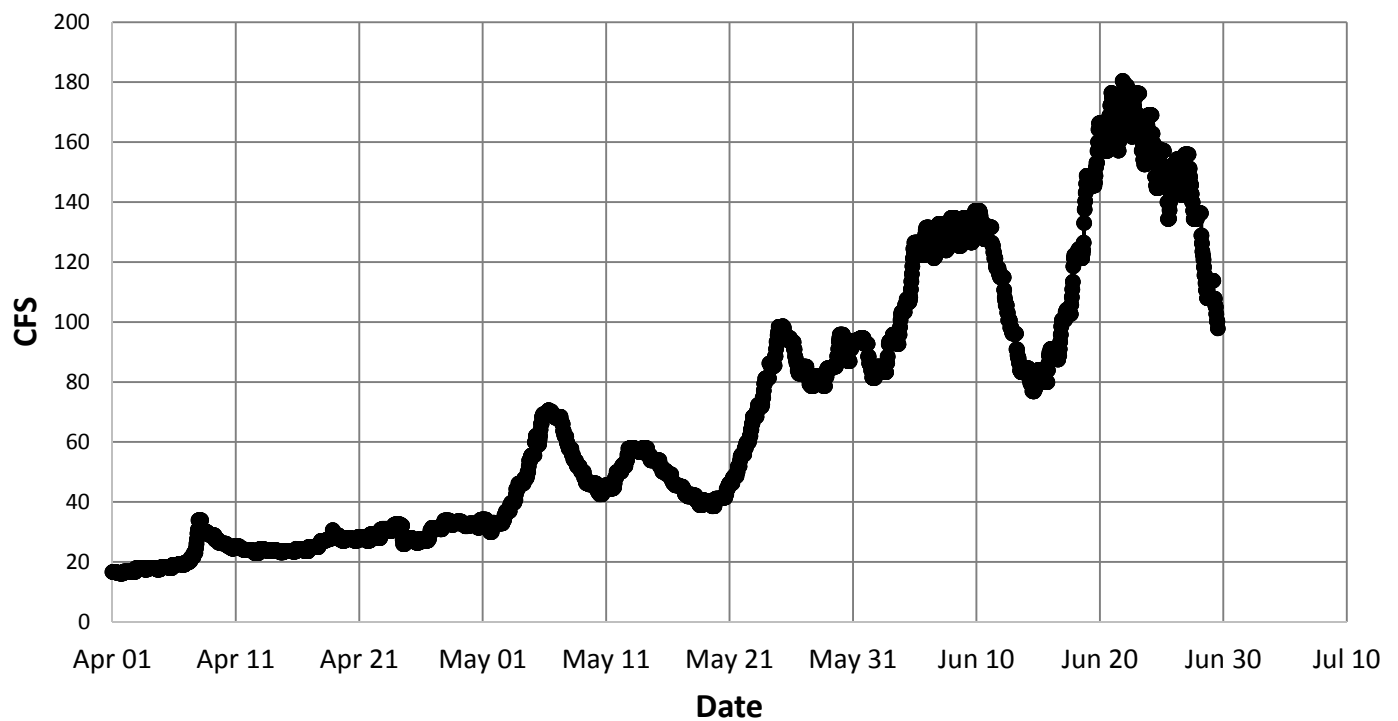


Owens River at Intake Flow

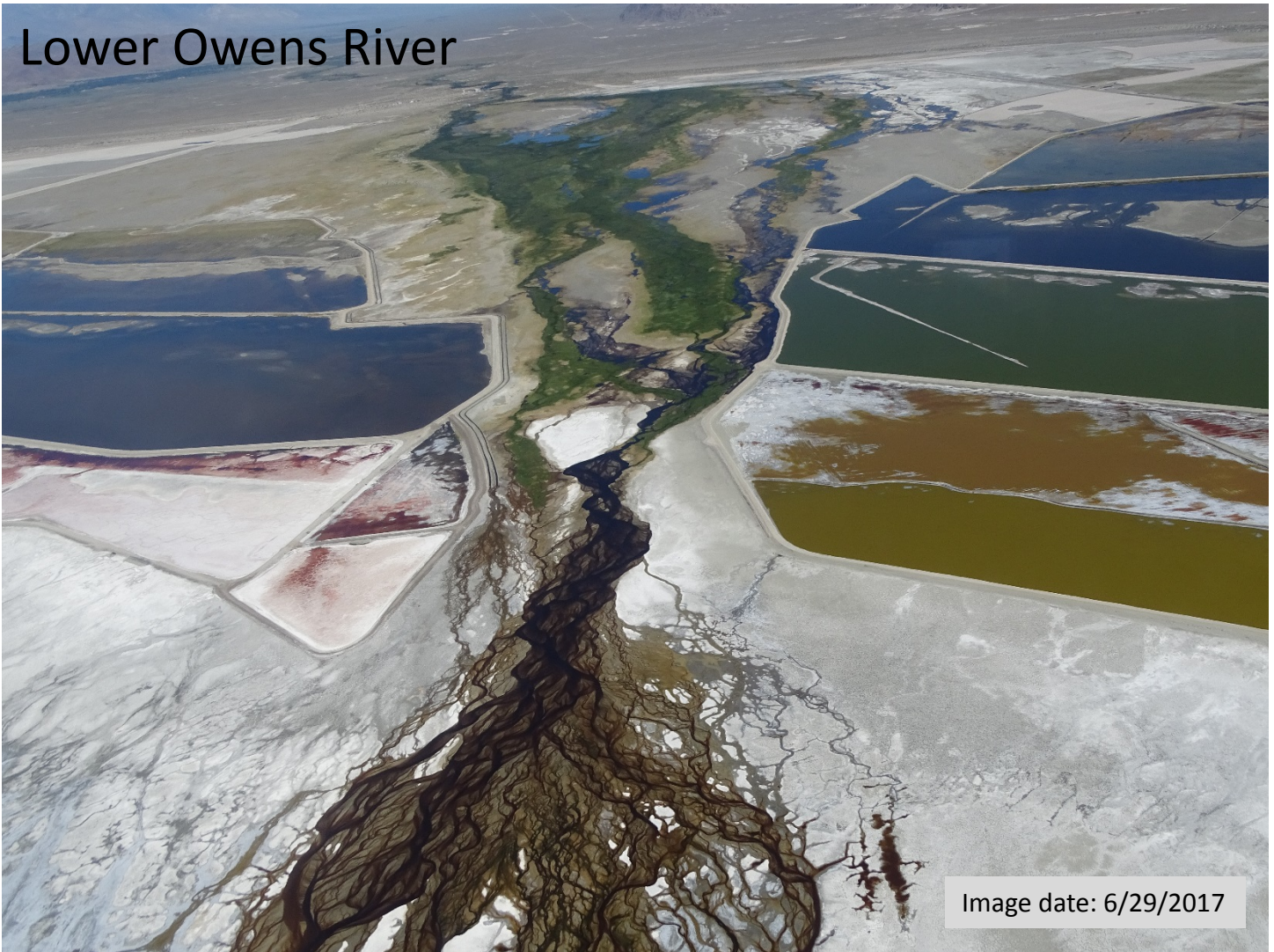




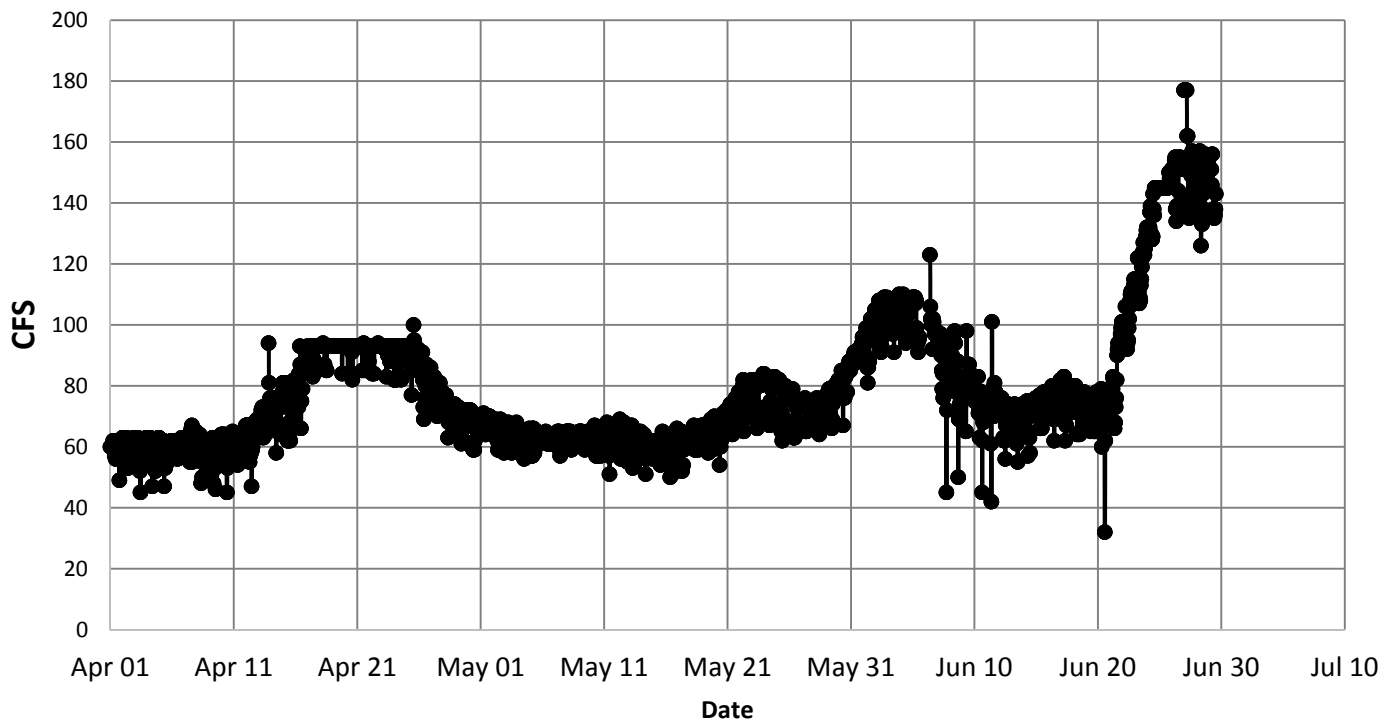
Independence Creek at Junction Flow



Lower Owens River



Above Pumpback Station Flow

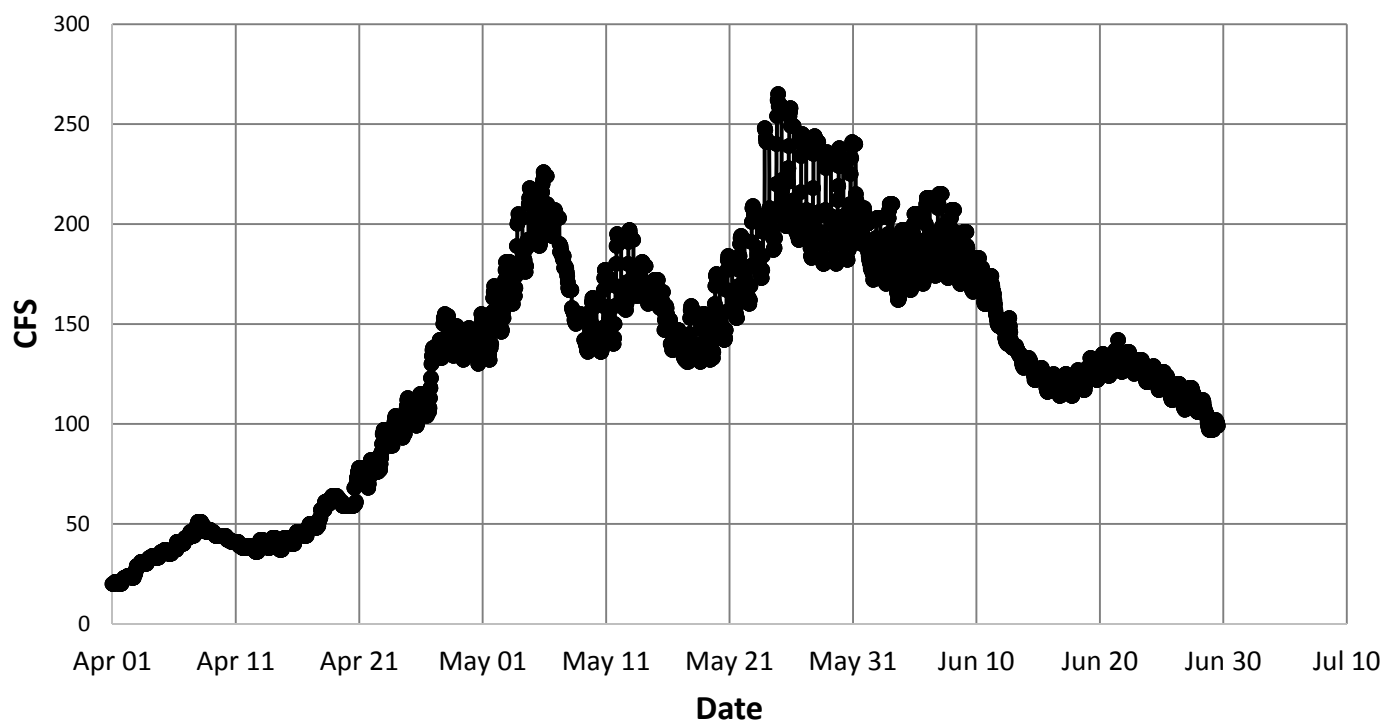


Cottonwood Creek



Image date: 6/29/2017

Cottonwood Creek at Overhead 48 Flow



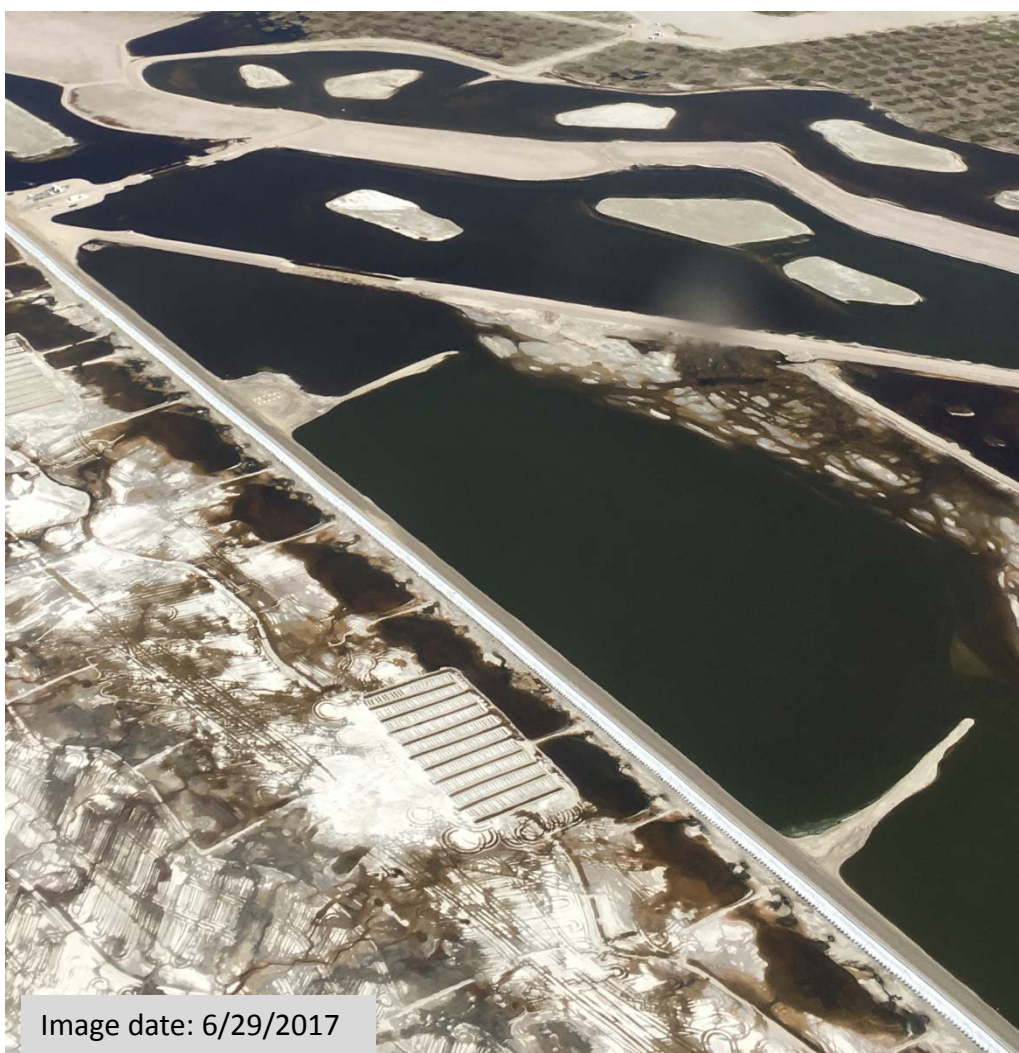
Owens Lake LORPS & West Branch Diversion



Image dates: 6/29/2017

Agenda Item No. 5 - Attachment 2

Owens Lake Mainline Protection





GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT
157 Short Street, Bishop, California 93514-3537
Tel: 760-872-8211 Fax: 760-872-6109

BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Phillip L. Kiddoo, Air Pollution Control Officer
Ann Piersall, Deputy Air Pollution Control Officer

Subject: Adoption of a Resolution of the Governing Board of the Great Basin Unified Air Pollution Control District to Nominate Owens Lake to the National Register of Historic Places as an Archaeological District

Summary:

After almost two decades of dust control abatement on Owens Lake the City of Los Angeles Department of Water and Power (City) is currently on schedule to complete another 3.2 square miles of dust control by the end of 2017. Upon completion, lakebed dust control areas will total 48.6 square miles minus eligible cultural resource areas. The 2013 Settlement Agreement and 2013 Modified Stipulated Order of Abatement created provisions for the evaluation and consideration of cultural resources within ordered Phase 7a areas after numerous and lengthy delays in dust control implementation due in part to the discovery of cultural resources. The 2013 Settlement Agreement and 2013 Modified Stipulated Order of Abatement also created the Cultural Resource Task Force (CRTF), an advisory group that makes non-binding recommendations to the District and City. The CRTF has met quarterly since 2013 and consists of representatives from the tribes in the region, the City, District, California State Lands Commission (CSLC), State Historic Preservation Officer, and the Bureau of Land Management (BLM).

Per District Board Order #130819-01, the 2013 Modified Stipulated Order of Abatement, procedures were established for eligible cultural resource areas in Phase 7a areas to be avoided, withdrawn from the original order and be placed in a newly created Phase 7b. To be determined eligible a cultural resource area must meet eligibility criteria for listing on the California Register of Historic Resources per determination of a state-certified archaeologist and be confirmed by a second, state-certified archaeologist. District Board Order #130916-01, amending the 2008 SIP, outlined the procedure by which if the District Governing Board decided dust controls were necessary on Phase 7b Areas, the District Governing Board would do so by issuing a new Board Order.

The 2014 Stipulated Judgment and District Board Order #160413-01 extended the procedures of District Board Order #130819-01, the 2013 Stipulated Abatement Order, and District Board Order #130916-01 to apply to cultural resources found in Phase 9/10 areas. The Governing Board has not yet authorized approval of monitoring and mitigation of Phase 9/10b cultural resource areas at Owens

Adoption of a Resolution of the Governing Board of the Great Basin Unified Air Pollution Control District
to Nominate Owens Lake to the National Register of Historic Places as an Archaeological District
July 13, 2017 – Agenda Item No. 6 – Page 1

Lake as the CRTF has not yet released the Tribe's recommendations. Recommendations are anticipated prior to the Phase 9/10 compliance deadline of December 31, 2017.

Cultural resource areas determined to be eligible for listing on the California Register of Historic Resources in Phase 7b and Phase 9/10 are currently avoided for dust control mitigation and emission monitoring is being conducted by the District to determine whether future abatement requirements will be necessary. All recommendations for the Phase 7b areas include avoidance as a first step to determine whether the areas continue to require dust controls once surrounding areas have been mitigated. The tribal recommendations outline some conceptual dust control strategies that might be considered if the areas require controls but no formal recommendation for acceptable controls has been developed.

Provisions in the 2014 Stipulated Judgment and District Board Order #160413-01 allow for an additional 4.8 square miles of contingency areas to be ordered as necessary to provide emission reduction necessary to meet the National Ambient Air Quality Standards and state standards in the Owens Valley Planning Area. However, there are no procedures addressing how future contingency areas that contain significant cultural resources will be treated beyond protection and mitigation as required by law.

A management plan, more detailed than the current procedures, should be developed for management of future contingency dust controls and current avoidance areas in Phase 7b and Phase 9/10. This management plan would be developed in conjunction with nomination of Owens Lake as an archaeological district for consideration for listing on the National Register of Historic Places.

The presence or absence of an archaeological district is an archaeological determination that should be made on basis of both science and traditional values by archaeologists in consultation with tribal entities. No consideration of Owens Lake as an archaeological district has been made previously due to the highly segmented implementation of the dust control abatement. The necessity of cultural resources to be evaluated and managed in the context of a larger property type has been noted in documents produced by, for and in response to Phase 9/10 Environmental Impact Report (EIR). Thus far, each phase of dust control has been treated as its own undertaking resulting in evaluation of cultural resources only within the area of each phase, precluding consideration of the larger property type, despite comments to the Phase 9/10 Draft EIR from the State Historic Preservation Officer and California State Lands Commission. Additionally, a nomination will likely be a requirement of any future areas, contingency areas or current avoidance areas, ordered for dust control on federal property including the Keeler Dunes.

A nomination of Owens Lake as an archaeological district and accompanying agreement and management plan would streamline evaluation, consultation and would outline treatment options, timing and alternatives. The current procedures in Phase 7b and Phase 9/10 do not specify tribal preferences for treatment if required and do not specify less destructive alternative treatments that could be implemented on eligible cultural resource areas prior to a Board Order issuing controls. Nomination and development of agreement and management plan between all parties may take several years to finalize. Initiating this process now provides all parties predictability, opportunity for participation, effort consolidation, transparency, planning aid, and most importantly from an air pollution standpoint, will not result in the inevitable time delay and excess emissions associated with inaction.

Adoption of a Resolution of the Governing Board of the Great Basin Unified Air Pollution Control District
to Nominate Owens Lake to the National Register of Historic Places as an Archaeological District
July 13, 2017 – Agenda Item No. 6 – Page 2

Archaeological District Question and Answer

What is an archaeological district?

The National Register of Historic Places defines an archeological district as a grouping of sites, buildings, structures, or objects that are linked historically by function, theme, or physical development or aesthetically by plan where the remnants of a past culture survive in a physical context such as artifacts, features and ecological evidence that allows for the interpretation of these remains. An archeological district should be considered when the significance of the archaeological sites is better understood within the larger context of a district than on an individual site-by-site basis.

How are archaeological districts designated and approved?

In theory, anyone can complete and submit all of the appropriate forms to nominate a site or district for consideration for listing on a state or national register. In practice, a nomination is prepared by an agency archaeologist or a contractor who meets the California or National standards for a professional archaeologist. Archaeological districts can be listed on the California Register of Historical Resources and on the National Register of Historic Places. In most cases, nominations are reviewed and approved by the Office of Historic Preservation and the State Historical Resources Commission before being sent to the Keeper of the National Register for the official listing.

What criteria determine eligibility for listing?

The criteria for listing on the National Register of Historic Places are found in the Code of Federal Regulations, Title 36, Chapter I, Part 60, Section 60.4, which states: The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and

- A. That are associated with events that have made a significant contribution to the broad patterns of our history; or
- B. That are associated with the lives of significant persons in our past; or
- C. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. That have yielded or may be likely to yield, information important in history or prehistory.

The California Register of Historical Resources is based on the National Register and the criteria for listing are very similar.

What area would be considered for nomination?

This is not yet determined. Archaeological consultants for both the City and the District suggest the boundaries of the Owens Lake Archaeological District would include the area encompassing all the Native American archaeological sites that are on or adjacent to former shorelines of Owens Lake, dating back to the Early Holocene.

Does nomination of an archaeological district provide legal protections or restrictions beyond what would be required for future projects pursuant to Section 106 NHPA and California Assembly Bill 52?

Designation of a district would not provide additional legal protections or restrictions beyond what would already be required under Section 106 of the NHPA and California Assembly Bill 52. As outlined in the regulations that implement Section 106 of the NHPA, listing on, or being determined eligible for listing on, the National Register affords the same degree of consideration in planning. Further, neither listing nor determination of eligibility guarantees protection and preservation. However, sites that were previously determined ineligible for listing individually or were evaluated under limited criteria may be eligible for listing in the context of an archaeological district.

Who supports nomination of Owens Lake as an archaeological district?

All members of the Cultural Resource Task Force support nomination with the exception of the City who has yet to take a position. Supporting members include the tribes, California State Lands Commission (the largest landowner), BLM, the District, Native American Heritage Commission and the California Office of Historic Preservation. On June 22, 2017 California State Land Commission adopted a Resolution supporting nomination of Owens Lake as an archaeological district possessing significant cultural value to local Native American Tribes.

What does this have to do air quality?

An archeological district nomination would be done in conjunction with a Programmatic Agreement that includes a management plan providing a framework for evaluating properties, streamlining evaluation and consultation among tribes and agencies. All parties would help shape the management plan adding certainty and transparency to the process. Archaeologists working on the lake would have a document that would serve as a guide to their evaluations, and the City and District would see expedited determinations of eligibility avoiding delays in dust control implementation for future areas ordered for dust control and could outline treatment options beyond avoidance.

Per District Board Order #160413-01 and the 2014 Stipulated Judgment the procedures used to modify ordered control areas containing eligible cultural resource areas are only applicable to Phase 7a and Phase 9/10 projects. An additional 4.8 square miles of contingency areas may be ordered to meet national and state air quality standards. Currently there are no procedures addressing how future contingency areas that contain significant cultural resources will be treated beyond protection and mitigation as required by law. Additionally, a nomination will likely be a requirement of any areas ordered for dust control on federal property, including contingency areas as well as current avoidance areas.

Initiating development of a management plan prior to future dust control orders will save time and pollution emissions. Nomination and the development of an agreement and management plan between all parties will be necessary for future projects and may take years to finalize. Initiating this process now provides all parties predictability, opportunity for participation, transparency, and most importantly from an air pollution standpoint, will not result in the inevitable time delay associated with inaction. Time delays equate to prolonged dust emission exposure and significant public health impacts.

Board Action:

Staff recommends the Governing Board:

1. Approve Resolution 2017-01.
2. Authorize Board Chair to sign District correspondence in response to Mel Levine, President of the Board of Water and Power Commissioners, correspondence dated June 19, 2017.

Attachments:

1. Resolution 2017-01
2. Response from the Governing Board of Great Basin Unified Air Pollution Control District to Mel Levine, President of the Board of Water and Power Commissioners, correspondence dated June 19, 2017.

RESOLUTION NO. 2017-01

RESOLUTION OF THE GOVERNING BOARD OF THE GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT TO NOMINATE OWENS LAKE TO THE NATIONAL REGISTER OF HISTORIC PLACES AS AN ARCHAEOLOGICAL DISTRICT

WHEREAS, the Great Basin Unified Air Pollution Control District (District) is the body vested by law with the authority and responsibility to enforce federal, state and local air quality regulations and to ensure that the federal and state air quality standards are met in Alpine, Inyo and Mono counties; and

WHEREAS, California Health and Safety Code§ 42316 establishes the authority of the District to require the City of Los Angeles to mitigate the air quality impacts of its activities in the production, diversion, storage, or conveyance of water; and

WHEREAS, the City of Los Angeles Department of Water and Power (City) has constructed dust controls on Owens Lake as ordered by the District since 2000; and

WHEREAS, the Owens Lake bed and shoreline contains archaeological sites and artifacts possessing significant cultural value that have been or could be affected by dust mitigation activities; and

WHEREAS, the City has required numerous and lengthy delays in dust control implementation due in part to the discovery of archaeological resources resulting in special consideration for cultural resource areas meeting eligibility for the California Register of Historic Resources as provided by the Governing Board Order No. 130819-01, the 2013 Modified Stipulated Order of Abatement, and the 2013 Settlement Agreement between the District and City; and

WHEREAS, Governing Board Order No. 130819-01, the 2013 Modified Stipulated Order of Abatement, and the 2013 Settlement Agreement created the Cultural Resources Task Force, an advisory group consisting of Tribal representatives in the region, the City, District, California State Land Commission and State Historic Preservation Office that has met quarterly since 2013 to make nonbinding recommendations concerning the treatment of cultural resources; and

WHEREAS, no consideration of Owens Lake as an archaeological district has been made previously due to the segmented implementation of dust control abatement resulting in evaluation of the impacts to cultural resources on a site by site basis, in the limited context of each phase of dust control, failing to analyze the physical, contextual or temporal relationship between and to a larger property type, precluding consideration of an archaeological district; and

WHEREAS, the National Register of Historic Places, authorized by the National Historic Preservation Act of 1966, is the official list of the Nation's historic places worthy of preservation and is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources; and

WHEREAS, nomination for consideration for listing on the National Register provides clarity on what resources are significant, facilitates development of an agreement and management plan containing protocols for the treatment and management of such resources, promoting predictability and participation between the Tribes and the agencies involved; and

WHEREAS, a majority of members of the Cultural Resource Task Force have expressed support for the nomination of Owens Lake to the National Register, including the Tribes, the landowner California State Land Commission, Native American Heritage Commission, U.S. Bureau of Land Management, State Historic Preservation Officer and District; and

WHEREAS, on June 22, 2017 California State Lands Commission adopted a resolution supporting a nomination of Owens Lake, located in Inyo County, to the National Register of Historic Places as an archaeological district possessing significant cultural value to local Native American tribes; and

WHEREAS, the Sacramento Superior Court entered a Stipulated Judgment for the District on December 30, 2014 in the case captioned *City of Los Angeles v. California Air Resources Board, et al.*, Case No. 34-2013-80001451-CU-WM-GDS (2014 Stipulated Judgment) requiring implementation of additional dust control measures on the lake bed for a total of 48.6 square miles by December 31, 2017, and provisions to order contingency measures on up to 4.8 additional square miles of the lake bed if needed to meet the federal and state air quality standards by the statutory deadlines; and

WHEREAS, lack of recognition of the archaeological resources in the context of an archaeological district and associated agreement and management plan creates delays for future dust control implementation; and

WHEREAS, future dust control and current avoidance areas on Owens Lake and the Keeler Dunes located on federal land may require evaluation of archaeological resources under the context of an archaeological district; and

WHEREAS, initiation of nomination of Owens Lake as an archaeological district in concert with development of an agreement and management plan will prevent inevitable future time delays associated with inaction, equating to prolonged dust emission exposure and significant public health impacts; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Great Basin Unified Air Pollution Control District that it supports the nomination of Owens Lake as an archaeological district to the National Register of Historic Places; and

BE IT FURTHER RESOLVED by the Governing Board of the Great Basin Unified Air Pollution Control District that it authorizes the Air Pollution Control Officer and staff to lead the nomination of Owens Lake as an archaeological district to the National Register of Historic Places and to collaborate with Cultural Resources Task Force participants to develop any necessary agreements and plans in order to protect cultural resources and prevent delays in dust control implementation.

APPROVED and ADOPTED by the Governing Board of the Great Basin Unified Air Pollution Control District the 13th Day of July, 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Board Chair

ATTEST:

Tori DeHaven, Clerk of the Board



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537

Tel: 760-872-8211 Fax: 760-872-6109

July 13, 2017

Mr. Mel Levine and Board of Water and Power Commissioners
Los Angeles Department of Water & Power
111 North Hope Street
Los Angeles, California 90012-2607

Re: Proposed Nomination of Owens Lake as an Archaeological District

Dear Board of Water and Power Commissioners,

The Governing Board (Board) of the Great Basin Unified Air Pollution Control District (District) has received the correspondence dated June 19, 2017 from Mel Levine, President of the City of Los Angeles Department of Water and Power (City) Board of Commissioners, expressing concern about the District's actions regarding nomination of Owens Lake as an archaeological district to the National Register of Historic Places and the California Register of Historic Places. The Governing Board hopes the Board of Commissioners will support the nomination after review of the facts in this letter.

It appears Mr. Levine's letter was written before the City received the District's letter dated June 21, 2017, a copy of which is enclosed, to respond to the City's June 9 letter. The City has been involved in extensive discussions with the members of the Cultural Resources Task Force (CRTF) for over a year about the nomination of Owens Lake as an archaeological district and the appropriate agency to make this nomination. CRTF members broadly support the nomination of Owens Lake as an archaeological district to coordinate the planning and protection of cultural resources. Despite the extended period of discussion, the City has yet to take a position on whether to support the nomination or whether it would serve as the lead agency for that nomination, but has repeatedly said it would continue to study the issue.

At the June 1, 2017 meeting of the CRTF referenced in your letter, the City again stated that it would continue to study the issue. The District stated that the City appeared to be the appropriate lead agency to make the nomination, but did not order the City to do so. The District asked the City to make its decision within 30 days, and if no decision was made, then the District would proceed with the nomination given the broad support in the CRTF for this action and the inevitable time delay associated with inaction equating to prolonged dust emission exposure and significant public health impacts. As the District's subsequent June 21 letter stated, the District also offered to proceed jointly with the City to make this nomination in a cooperative manner.

As explained in the District's June 21 letter, the District supports a nomination developed alongside a management plan that will work in unison with existing requirements of the air pollution laws enforced by the District. Mr. Levine's suggested amendments to these rules, orders, judgments and agreements are unwarranted and unnecessary. The fulfillment of duties under the 2014 Stipulated Judgment, 2016 Owens Valley Planning Area PM State Implementation Plan, District Board Order #160413-01, District Rule 433, 2013 Stipulated Order of Abatement and 2013 Settlement Agreement are under the authority of the District Air Pollution Control Officer. The Governing Board supports the Air Pollution Control Officer and District staff recommendation regarding the nomination and development of a management plan.

Additional events have occurred after Mr. Levine's letter was sent. On June 22, the California State Lands Commission (CSLC) held a noticed public hearing attended by the City, received public comments including those from the Native American Heritage Commission, Lone Pine Paiute-Shoshone Tribe, Big Pine Paiute Tribe of the Owens Valley and District, and unanimously passed a resolution supporting the nomination of Owens Lake, located in Inyo County, to the National Register of Historic Places as an Archaeological District possessing significant cultural value to local Native American Tribes.

The Governing Board asks the Commissioners to convey their support to the City to nominate Owens Lake an archaeological district and develop a management plan to allow for respectful incorporation of Tribal values and concerns into current and future dust control project implementation preventing future time delays and excess emissions.

Sincerely,

John Wentworth, Chair
Governing Board of the Great Basin Unified Air Pollution Control District

Great Basin Unified Air Pollution Control District Governing Board

John Wentworth, Town of Mammoth Lakes, Chair
David Griffith, Alpine County, Vice Chair
Matt Kingsley, Inyo County
Dan Totheroh, Inyo County
Larry Johnston, Mono County
Fred Stump, Mono County
Ron Hames, Alpine County

Enclosures:

1. Mel Levine, President of the LADWP Board of Commissioners, correspondence dated June 19, 2017
2. District Proposed Nomination of Owens Lake as an Archaeological District correspondence dated June 21, 2017

Cc:

Mr. Phillip L. Kiddoo, Air Pollution Control Officer, GBUAPCD
Ms. Jennifer Lucchesi, California State Lands Commission
Mr. Steve Nelson, Bureau of Land Management

ERIC GARCETTI
Mayor

Commission
MEL LEVINE, *President*
WILLIAM W. FUNDERBURK JR., *Vice President*
JILL BANKS BARAD
CHRISTINA E. NOONAN
AURA VASQUEZ
BARBARA E. MOSCHOS, *Secretary*

DAVID H. WRIGHT
General Manager

June 19, 2017

Mr. John Wentworth
Governing Board Chair
Great Basin Unified Air Pollution Control District
157 Short Street
Bishop, California 93514-3537



Dear Mr. Wentworth:

Subject: Proposed Nomination of Owens Lake as an Archaeological District

On June 1, 2017, the Los Angeles Department of Water and Power (LADWP) was directed by the Great Basin Unified Air Pollution Control District's (Great Basin) Air Pollution Control Officer (APCO) to proceed with the nomination of Owens Lake as an Archaeological District. LADWP was given 30 days to proceed with the nomination or the Great Basin will proceed with the nomination process.

LADWP has several questions regarding the APCO's directive, which have been summarized in LADWP's enclosed letter, dated June 9, 2017. It is unclear at this time that the APCO has legal standing or authority to issue such directive to LADWP and whether the nomination expenditures by the Great Basin are justified under California Health and Safety Code Section 42316.

Nevertheless, in 2013 and 2014, LADWP and the Great Basin Governing Board entered into two critical agreements, which in part, outlined protocols for addressing cultural and archaeological issues that may arise during the construction of dust mitigation measures. LADWP also has long-standing measures to address paleontological issues that may arise during the construction of dust mitigation measures. Should the protocols for addressing cultural and archaeological issues need to be revised, amended, or enhanced as the result of such nomination, it would require reopening of the 2013 and 2014 agreements. The California Superior Court's (Court) approval of any revisions, amendment, or enhancement may also be required since the Court retains jurisdiction over the 2013 and 2014 agreements.

LADWP fully supports efforts to preserve and maintain the integrity of cultural, archaeological, paleontological, and tribal cultural resources. Therefore, it is critical that actions are not rushed, especially since there is no pending order before us for implementation of additional dust mitigation measures warranting immediate action by LADWP or the Great Basin.

Please look into this matter, and if the Governing Board wishes to proceed with the nomination process, please notify LADWP that the Great Basin would like to reopen the 2013 and 2014 agreements.

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Mr. John Wentworth
Page 2
June 19, 2017

If you have any questions, please contact me at (213) 367-1356 or Mr. Richard F. Harasick, Senior Assistant General Manager – Water System, at (213) 367-1022.

Sincerely,

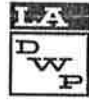


Mel Levine, President
Board of Water and Power Commissioners

MT:jem

Enclosure

c/enc: Mr. David Griffith, Vice Chair of the Great Basin Governing Board
Mr. Ron Hames, Member of the Great Basin Governing Board
Mr. Larry Johnston, Member of the Great Basin Governing Board
Mr. Matt Kingsley, Member of the Great Basin Governing Board
Mr. Fred Stump, Member of the Great Basin Governing Board
Mr. Dan Totheroh, Member of the Great Basin Governing Board
Mr. Richard F. Harasick, LADWP



ERIC GARCETTI
Mayor

Commission
MEL LEVINE, *President*
WILLIAM W. FUNDERBURK JR., *Vice President*
JILL BANKS BARAD
CHRISTINA E. NOONAN
AURA VASQUEZ
BARBARA E. MOSCHOS, *Secretary*

DAVID H. WRIGHT
General Manager

June 9, 2017

Mr. Phillip L. Kiddoo
Air Pollution Control Officer
Great Basin Unified Air Pollution Control District
157 Short Street
Bishop, California 93514-3537

Dear Mr. Kiddoo:

Subject: Proposed Nomination of Owens Lake as an Archaeological District

This is a follow-up to the Owens Lake Cultural Resources Task Force meeting on June 1, 2017, and your verbal directive to the Los Angeles Department of Water and Power (LADWP) to proceed with the nomination of Owens Lake as an Archaeological District within 30 days or the Great Basin Unified Air Pollution Control District (Great Basin) will proceed with the nomination process.

LADWP is evaluating this concept and has the following questions about the process for, and implications of, the nomination:

1. What specific area is proposed to be nominated as an Archaeological District under the National Historic Preservation Act (NHPA), and who owns the property within it? Do the other property owners support the nomination?
2. Does the Great Basin have information to support the conclusion that the property is eligible for listing on the National Register, based on the criteria set forth at 36 Code of Federal Regulations Section 60.4? If so, what technical work provides the basis for that conclusion? LADWP would appreciate being provided with any relevant technical studies or reports.
3. What are the benefits, legal or otherwise, of designating Owens Lake as an Archaeological District? Does it provide any legal protections or restrictions beyond what would already be required for any future projects impacting resources, pursuant to Section 106 of the NHPA and Assembly Bill (AB) 52?
4. What does the Great Basin propose for long-term stewardship, and how would those responsibilities be documented? How would designation impact the 2013 Settlement Agreement and Release Between Great Basin and City of Los Angeles Acting By and Through its LADWP Concerning Modification to

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111 N. Hope Street, Los Angeles, California 90012-2607 Mailing Address: Box 51111, Los Angeles, CA 90051-5700
Telephone (213) 367-4211 www.LADWP.com

Mr. Phillip L. Kiddoo
Page 2
June 9, 2017

Phase 7A Stipulated Order for Abatement No. 110317 and Keeler Dunes Project (2013 SAR) as well as the 2014 Stipulated Judgment for Respondent and Defendant Great Basin (2014 SJ), which previously established a program for handling cultural and tribal cultural resources?

5. In light of the existing 2013 SAR and 2014 SJ regarding the handling of cultural resources, how does the Great Basin see the NHPA designation as necessary to its responsibilities under California Health and Safety Code Section 42316?
6. If there will be an agreement regarding resource management moving forward, who will participate in the negotiation of that agreement? Who will have ultimate authority to determine what is included in that agreement if there is no meeting of the minds? How will such an agreement obviate the need for or otherwise bind the parties involved in future negotiations under Section 106 of the NHPA or AB 52?

LADWP supports efforts to preserve and maintain the integrity of cultural, archaeological, paleontological, and tribal cultural resources. Your prompt response to the above-mentioned questions will assist LADWP in evaluating the appropriateness of, need for, and implications of an NHPA designation in light of your directive.

If you have any questions, please contact me at (213) 367-1022 or Mr. Milad Taghavi, Manager of Owens Lake Policy and Planning, at (213) 367-1138.

Sincerely,



Richard F. Harasick
Senior Assistant General Manager – Water System

MT:jem

c: Mr. John Wentworth, Chair of the Great Basin Governing Board
Mr. David Griffith, Vice Chair of the Great Basin Governing Board
Mr. Ron Hames, Member of the Great Basin Governing Board
Mr. Larry Johnston, Member of the Great Basin Governing Board
Mr. Matt Kingsley, Member of the Great Basin Governing Board
Mr. Dan Totheroh, Member of the Great Basin Governing Board
Ms. Jennifer Lucchesi, California State Lands Commission
Mr. Milad Taghavi, LADWP



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537

Tel: 760-872-8211 Fax: 760-872-6109

June 21, 2017

Mr. Richard Harasick
Senior Assistant General Manager – Water System
Los Angeles Department of Water & Power
111 North Hope Street
Los Angeles, California 90012-2607

Re: Proposed Nomination of Owens Lake as an Archaeological District

Dear Mr. Harasick,

This letter is in response to the June 9, 2017 letter from the City of Los Angeles Department of Water and Power (City) regarding the proposed nomination of Owens Lake as an archaeological district. Thank you for the City's continued interest in this nomination. As discussed in the last Cultural Resources Task Force (CRTF) meeting, Great Basin Unified Air Pollution Control District (District) believes the City is the appropriate agency to take the lead role in nominating the dry Owens Lake bed area as an archaeological district under the California Register of Historic Places and the National Register of Historic Places.

The answers to technical questions in the City's letter are best obtained from the City's expert archaeological consultants and these detailed answers are beyond the scope of this letter. Since March 2015, an archaeological district has been discussed in documents produced by, for, or in response to the Phase 9/10 Project Draft Environmental Impact Report for the Owens Lake Dust Mitigation Program. Additionally, many of the questions in the City's letter regarding the process, eligibility and benefits of an archaeological district nomination have been discussed in detail at CRTF meetings attended by City staff including:

- June 1, 2017 CRTF Meeting, City's Keeler Sulfate Facility
- March 30, 2017 Archaeological District follow up meeting between CSLC, District and City at the City's Bishop office
- March 2, 2017 CRTF Archaeological District Subcommittee Meeting, City's Keeler Sulfate Facility
- November 30, 2016 CRTF Meeting, City's Keeler Sulfate Facility
- April 4, 2016 CRTF Meeting, City's Keeler Sulfate Facility
- February 25, 2016 CRTF Meeting, City's Keeler Sulfate Facility
- November 19, 2015 CRTF Meeting, City's Keeler Sulfate Facility

At these meetings there has been broad support for an archaeological district in the Owens Lake area.

The District anticipates that the answers to many of the questions asked by the City regarding specifics of the nomination will be determined through a process involving discussion with interested parties including the City, District, Tribes, federal agencies, state agencies, landowners, and other stakeholders, as well as consultation with the State Historic Preservation Office and the National Register of Historic Places. The District supports the nomination in conjunction with development of an agreement that would work in unison with existing requirements of the air pollution laws enforced by the District including the 2014 Stipulated Judgment, 2016 Owens Valley Planning Area State Implementation Plan, District Governing Board Order #160413-01 and District Rule 433.

In summary, nomination of an archaeological district and development of an agreement would allow for respectful incorporation of Tribal values and concerns into current and future dust control project implementation and would allow for better planning, lending predictability and facilitating participation among the City, District, and fellow CRTF members.

After the City consults with its experts, the District suggests a meeting to further discuss the questions in the City's letter and exchange ideas for next steps. In the spirit of cooperation and collaboration between the City and District, along with interest in achieving our shared goal of PM10 attainment at Owens Lake after years of successful dust emission abatement, the District would consider a joint archaeological district nomination and development of an agreement by the City and the District. Please let the District know by July 1, 2017 if the City is interested in this proposal.

Sincerely,



Phillip L. Kiddoo
Air Pollution Control Officer

Enclosure:

Los Angeles Department of Water and Power (LADWP) Proposed Nomination of Owens Lake as an Archaeological District correspondence date June 9, 2017.

Cc:

Mr. Mel Levine, President of the LADWP Board of Commissioners
Mr. William W. Funderburk, Jr., Vice President of the LADWP Board of Commissioners
Ms. Jill Banks Barad, Commissioner of the LADWP Board of Commissioners
Ms. Christina E. Noonan, Commissioner of the LADWP Board of Commissioners
Ms. Aura Vasquez, Commissioner of the LADWP Board of Commissioners
Mr. David Wright, LADWP
Mr. Marty Adams, LADWP
Mr. Milad Taghavi, LADWP
Ms. Nancy Sutley, LADWP
Ms. Jennifer Lucchesi, California State Lands Commission
Mr. Steve Nelson, Bureau of Land Management



ERIC GARCETTI
Mayor

Commission
MEL LEVINE, *President*
WILLIAM W. FUNDERBURK JR., *Vice President*
JILL BANKS BARAD
CHRISTINA E. NOONAN
AURA VASQUEZ
BARBARA E. MOSCHOS, *Secretary*

DAVID H. WRIGHT
General Manager

June 9, 2017

Mr. Phillip L. Kiddoo
Air Pollution Control Officer
Great Basin Unified Air Pollution Control District
157 Short Street
Bishop, California 93514-3537



Dear Mr. Kiddoo:

Subject: Proposed Nomination of Owens Lake as an Archaeological District

This is a follow-up to the Owens Lake Cultural Resources Task Force meeting on June 1, 2017, and your verbal directive to the Los Angeles Department of Water and Power (LADWP) to proceed with the nomination of Owens Lake as an Archaeological District within 30 days or the Great Basin Unified Air Pollution Control District (Great Basin) will proceed with the nomination process.

LADWP is evaluating this concept and has the following questions about the process for, and implications of, the nomination:

1. What specific area is proposed to be nominated as an Archaeological District under the National Historic Preservation Act (NHPA), and who owns the property within it? Do the other property owners support the nomination?
2. Does the Great Basin have information to support the conclusion that the property is eligible for listing on the National Register, based on the criteria set forth at 36 Code of Federal Regulations Section 60.4? If so, what technical work provides the basis for that conclusion? LADWP would appreciate being provided with any relevant technical studies or reports.
3. What are the benefits, legal or otherwise, of designating Owens Lake as an Archaeological District? Does it provide any legal protections or restrictions beyond what would already be required for any future projects impacting resources, pursuant to Section 106 of the NHPA and Assembly Bill (AB) 52?
4. What does the Great Basin propose for long-term stewardship, and how would those responsibilities be documented? How would designation impact the 2013 Settlement Agreement and Release Between Great Basin and City of Los Angeles Acting By and Through its LADWP Concerning Modification to

Putting Our Customers First

111 N. Hope Street, Los Angeles, California 90012-2607 Mailing Address: Box 51111, Los Angeles, CA 90051-5700
Telephone (213) 367-4211 www.LADWP.com

Mr. Phillip L. Kiddoo
Page 2
June 9, 2017

Phase 7A Stipulated Order for Abatement No. 110317 and Keeler Dunes Project (2013 SAR) as well as the 2014 Stipulated Judgment for Respondent and Defendant Great Basin (2014 SJ), which previously established a program for handling cultural and tribal cultural resources?

5. In light of the existing 2013 SAR and 2014 SJ regarding the handling of cultural resources, how does the Great Basin see the NHPA designation as necessary to its responsibilities under California Health and Safety Code Section 42316?
6. If there will be an agreement regarding resource management moving forward, who will participate in the negotiation of that agreement? Who will have ultimate authority to determine what is included in that agreement if there is no meeting of the minds? How will such an agreement obviate the need for or otherwise bind the parties involved in future negotiations under Section 106 of the NHPA or AB 52?

LADWP supports efforts to preserve and maintain the integrity of cultural, archaeological, paleontological, and tribal cultural resources. Your prompt response to the above-mentioned questions will assist LADWP in evaluating the appropriateness of, need for, and implications of an NHPA designation in light of your directive.

If you have any questions, please contact me at (213) 367-1022 or Mr. Milad Taghavi, Manager of Owens Lake Policy and Planning, at (213) 367-1138.

Sincerely,



Richard F. Harasick
Senior Assistant General Manager – Water System

MT:jem

c: Mr. John Wentworth, Chair of the Great Basin Governing Board
Mr. David Griffith, Vice Chair of the Great Basin Governing Board
Mr. Ron Hames, Member of the Great Basin Governing Board
Mr. Larry Johnston, Member of the Great Basin Governing Board
Mr. Matt Kingsley, Member of the Great Basin Governing Board
Mr. Dan Tothoroh, Member of the Great Basin Governing Board
Ms. Jennifer Lucchesi, California State Lands Commission
Mr. Milad Taghavi, LADWP



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537
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BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Phillip Kiddoo, Air Pollution Control Officer
Susan Cash, Administrative Projects Manager

Subject: Use of up to \$200,000 unexpended FY 16/17 SB 270 funds and PARS GASB 68 trust funds to pay off SB 270 portion of CalPERS Pre-2013 Unfunded Accrued Liability (UAL), and use of PARS GASB 68 trust to pay District's portion of post-2013 UAL.

Summary:

As a California public agency employer, the District is a member of the California Public Employees' Retirement System (CalPERS) which provides retirement benefits to employees. CalPERS retirement benefits are funded through contributions paid by employer, member contributions, and earnings from CalPERS investments.

CalPERS member agencies generally make four types of payments to CalPERS.

- Payment for current and retired employee health benefits. The District pays this from a combination of current expenses for current employees and the Government Accounting Standard Board (GASB) 45 Public Agency Retirement Services (PARS) District and SB 270 trusts. The trusts, at the last valuation date of July 1, 2015, were in surplus status and required no annual contribution from current expenses for retiree benefits.
- A payment which represents a percentage of current payroll subject to the pension formula is remitted each payroll. This payment is a mixture of employer and employee contributions. The total percentage is determined by CalPERS actuarial valuation. The Employee (EE) Contribution percentage is steady at 8%, the Employer (ER) Contribution percentage fluctuates and for Fiscal Year 17/18 will be 10.11%. This is referred to as "Normal Cost" and represents the value of benefits earned during the current year.
- Side Fund payment. The Side Fund is created when agencies join mandatory risk pools to account for the difference between the funded status of the pool and the funded status of the joining agency's plan. The District paid off its portion of the Side Fund in 2014, and the SB 270 portion of the Side Fund in 2015.

Use of Unexpended FY 16/17 SB 270 Funds and PARS GASB 68 Trust Funds to
Pay Down CalPERS Pension Liabilities (Action)
July 13, 2017 – Agenda Item No. 7 – Page 1

- An annual lump sum or 12 monthly payment(s) toward the Unfunded Accrued Liability (UAL) which represents the difference between the actuarial Accrued Liability and the Market Value of Assets. We currently utilize the lump-sum method to avoid accruing interest throughout the year. This is the liability/payment that is the subject of this request, and more detail is provided below.

Unfunded Accrued Liability (UAL)

The Unfunded Accrued Liability (UAL) at this time is divided into 4 parts or amortization bases: The Pre-2013 Pool UAL, the asset gain/loss for 2013, the asset gain/loss for 2014, and the asset gain/loss for 2015. Future valuations will add subsequent years' asset gains/losses. The total liability for 06/30/17 is \$3,184,472 as calculated on the valuation date of 06/30/15. This agenda item concerns the Pre-2013 Pool UAL balance as well as the District's portion of the other three amortization bases.

As the board may recall, the District paid its proportional share of the Pre-2013 UAL in 2015, resulting in the remainder of the Pre-2013 UAL being solely attributable to SB 270. The balances per the most recent valuations are as follows:

Base	District Share	SB 270 Share	Total
Pre-2013 Pool UAL	\$ -	\$ 1,370,746	\$ 1,370,746
2013 Asset & Non-Asset (Gain)/Loss	\$ 222,815	\$ 1,262,617	\$ 1,485,432
2014 Asset & Non-Asset (Gain)/Loss	\$ (52,542)	\$ (297,740)	\$ (350,282)
2015 Asset & Non-Asset (Gain)/Loss	\$ 101,786	\$ 576,790	\$ 678,576
Total	\$ 272,059	\$ 2,912,413	\$ 3,184,472

The PARS GASB 68 trust balances as of 04/30/2017 are as follows:

District	\$ 524,162
SB 270	\$1,222,141

PARS GASB 68 trusts can only be used for pension costs.

CalPERS does not allow payoff or payment toward any of the post-2013 amortization bases until the Pre-2013 Pool UAL is completely paid off. The District has enough to pay off its portion of the three post-2013 amounts with a healthy amount left over to continue to grow in PARS to pay toward future amortization bases. Paying off the District's UAL also relieves much of the concern over CalPERS' lowering of the discount rate (essentially the expected rate of return on investments) from 7.5% to 7.0%. However, we cannot do so until the SB270 portion of the Pre-2013 Pool UAL is paid, and we are presently \$148,605 short of doing so in the SB 270 PARS GASB 68 Trust. The 17/18 budget does contain \$127,819 in the SB 270 budget toward the yearly payment of the Pre-2013 UAL which would no longer need to be made if the balance were paid in full by 07/31/2017.

Our proposal for paying off the SB 270 Pre-2013 UAL balance would be:

Unexpended SB270 Funds FY 16/17 (max)	\$ 200,000
17/18 SB270 budgeted payment	127,819
PARS SB270 GASB 68 Trust (approx)	<u>1,042,927</u>
Total CalPERS Payment	\$1,370,746

Staff is asking for authority to spend up to \$200,000 of unexpended SB 270 FY 16/17 funds to account for any variations between the trust value as of 04/30/2017 and the payment date to CalPERS of 07/31/2017, the uncertainty at this date as to how much SB 270 FY 16/17 will remain, and to leave some money in the PARS SB 270 GASB 68 trust to provide seed toward paying the three post-2013 amortization bases as well as future yearly amortization base balances. Simultaneous to paying off the SB 270 Pre-2013 UAL, the District would also pay off the District's share of the three post-2013 bases, currently \$272,059, from the District's PARS GASB 68 trust. These amounts are approximate as CalPERS is currently going through the annual valuation process to update amounts due.

Fiscal Impact:

Allowing the staff to expend up to \$200,000 of FY 16/17 SB 270 funds toward paying off the Pre-2013 UAL attributable to SB 270 would lessen the amount of money that is rolled into the SB 270 reserve as the fiscal year closes. However, this is money that was anticipated and budgeted to be spent in FY 16/17 anyway but was not.

The true savings or cost from paying off the Pre-2013 UAL are difficult to calculate as most of the amount needed to pay off the liability is currently in a trust fund which has an annualized (but not guaranteed) 5-year return rate of 4.78% and would be offset by the CalPERS discount rate (currently 7.5% and being lowered to 7.0% over the next 3 years, with expectation that it will be at 6.5% in 20 years). However, it is important to note that the PARS Trust return rate is not certain or guaranteed, and while CalPERS controls the discount rate applied prospectively to the UAL - the difference between that prospective projection and the actual returns is what causes the yearly amortization bases resulting in the total UAL. The long-term savings or net cost depends upon actual future CalPERS investment and PARS investment performance, which is impossible to predict. The same comparison limitation applies to paying the lump sum for the District post-2013 UAL amounts from the PARS trust. We only know that we are avoiding the uncertainty and volatility of both the investment (the trust) and the liability (the UAL) by eliminating the UAL to the extent possible, at least for known and calculated amortization bases.

We can assume that paying the \$1,370,746 Pre-2013 UAL now will avoid approximately \$4.2 million in SB 270 payments over the next 30 years. Paying \$272,049 of District funds now (the post-2013 amortization bases) will avoid approximately \$400,000 in payments over the next 30 years. The payments on the remaining \$1,541,667 due in the post-2013 bases, which will now be solely attributable to SB 270, will total approximately \$2.2 million (according to current information and subject to investment returns over the next 30 years).

Board Action:

Staff recommends the board:

1. Approve the use of up to \$200,000 unexpended FY 16/17 SB 270 funds to pay off SB 270 portion of CalPERS Pre-2013 UAL.
2. Approve the use of \$1,042,927 PARS GASB 68 trust funds to pay off SB 270 portion of CalPERS Pre-2013 UAL.
3. Approve the use of PARS GASB 68 trust to pay District's portion of post-2013 UALs.
4. Approve minor variances to any of these amounts to account for annual evaluation updates in order to reach the goals of paying off the Pre-2013 UAL and the District portion of the Post-2013 UALs.



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537

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www.gbuapcd.org

BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Grace A. McCarley Holder, Senior Scientist

Subject: Update on the Keeler Dunes Dust Control Project

This Board report provides the District Governing Board with an update and information on the Keeler Dunes dust control project going into the fourth year of activities.

Project Update

July 2017 marks the third anniversary of approval of the Keeler Dunes dust control project. Construction activities started in September 2014. At that time, it was anticipated that construction would take 6-9 months followed by 2 ½ years of maintenance watering with the project being decommissioned in December 2017. There have been several changes to the project timeline and project design over the past three years as we have adapted to unexpected challenges in getting the work completed and as we have learned more about control of the dunes.

As the Board is aware, the project has not proceeded as planned starting from the very beginning when there were problems in getting two of the main required elements in the project design – straw bales and plants. After the first year only about 80% of the bales were placed and 5% of the plants were installed in the project. As a result of the slow start, project construction extended into a second construction season in the fall of 2015 during which the remaining straw bales were placed. However once again, the nursery (Antelope Valley) was unable to produce the required plants for the project such that after the second season only about one-third of the plants were planted.

As a result of the continued failure of the Antelope Valley nursery to produce plants for the project, District staff went out to bid in January 2016 for another nursery to grow-out the plants for the project for planting in the fall of 2016, the third construction season. In April 2016, the Board approved a purchase order with Greenheart Farms (Greenheart) from Arroyo Grande, CA for propagation of plants for the third construction season.

The third construction season began in September 2016. In addition to planting newly grown plants from Greenheart, the work plan included modifying the design of the southern portion of the project (termed the Southern Dunes) where the sand motion remained high and the control level did not meet

Update on the Keeler Dunes Dust Control Project (No Action)
July 13, 2017 – Agenda Item No. 8. – Page 1

the project goals. Instead of an array of single bales placed on the surface, straw bales were stacked into three-tier bale mounds to create larger roughness elements to interact with the wind and provide increased control in the high sand motion areas.

Observations of the success of the bale mounds in stabilizing the high sand motion areas has been conducted over the winter and spring and it appears that bale mounds are working and that they have increased the amount of control in the Southern Dunes. However, based on observations and monitoring surveys of the plant establishment across the project, it appears that there is only about a 5-18% survivorship at planted bales, depending on location within the project. Many of the newly installed plants were severely impacted by several strong wind events during March and April just as they were starting to bud out and grow for the season.

Based on the progress made so far in the project, the District and project team has gone through a long-term planning effort to decide how to proceed with the project and reach the goal of establishing a stable vegetated dune system to control PM10 emissions in Keeler and the surrounding area. The long-term plan is described below.

Long-Term Plan

The overall goal of the project is to reduce the PM10 impacts from the dunes in the community of Keeler to below the Federal and California State standards through the establishment of a stable vegetated dune system that requires minimal long-term operation and maintenance. Although, there has been an overall reduction in the number of exceedances of the PM10 standards and in the magnitude of PM10 concentrations in the community of Keeler from the dunes, the original goal of the project has not been met yet such that additional work is needed in the project beyond December 2017. The new proposed end of the construction and watering work in the project is anticipated for June 2019, an extension of 1.5 years beyond the original project design.

The additional work consists of three main construction activities conducted between Summer 2017 and Spring 2019 as well as the decommissioning work at the end of the project. These elements or tasks are listed here and described below.

1. **Watering:** Watering of the installed live plants within the project is considered the most important work activity in the project. The success of the project ultimately is dependent on the success of plant establishment. The original project design included two watering events per year with each irrigation event providing 3 gallons of water to each planted bale. The amount of water provided was based on data from plants near Lone Pine and appears to be insufficient for plants in the Keeler Dunes, especially during extended dry periods such as that occurred over the past several years.

The long-term work plan proposes to provide additional water to the installed plants by increasing the amount of water provided in the spring and fall and by adding a third irrigation event in the summer months. Even though the species of plants used in the project do not grow much in the summer and are somewhat drought tolerant, it is thought that the water received by the plants during the summer is vital for them to survive throughout the hot dry summer period. Usually summer water is provided naturally with summer thunderstorms, however, summer storms have not occurred over the past several years such that there was

significant loss of planted material due to dry soil conditions. There are six proposed watering events from the summer of 2017 through the spring of 2019 doubling the amount of water provided to the plants from the original project design.

2. Planting: Plant establishment success has been more difficult than expected in the project such that several changes are being considered for future planting efforts including, but not limited to: targeted planting areas within the project, plant installation away from the straw bales, fewer plants per planting location, no protective cages or watering tubes, an increase in the proportion of sand in the potting mix for plant grow-out, more thorough hardening off of the plants before installation in the project, and planting later in the season in January-February. Additionally, alternative planting methods, such as ways to successfully direct seed portions of the project, are being researched.

Instead of trying to complete another blanket planting effort across the entire project, the next planting efforts will involve fewer plants and will target specific locations where there are the best conditions for success. Two additional planting efforts are proposed in the long-term plan for the project. The next planting work is anticipated for January 2018 and will involve installation of 25,000 plants. The second planting effort is anticipated for January 2019 and will include another 15,000 to 25,000 plants. Both planting efforts will consist of plants grown-out by Greenheart using seed collected from around Owens Lake with the planting areas selected based on the results of the plant survey results.

3. Bale Placement: The bale mounds constructed in the Southern Dunes in 2016 appear to have been relatively successful in stabilizing the active dune areas. Additional bale mounds are proposed for about 11 acres of the project in two main areas where there continues to be active sand motion hindering plant establishment. The first area is along the northern edge of the Northern Dune and the second area is located in the southern portion of the project towards Keeler. Each bale mound will be constructed using the same 6-bale design as that used in 2016 and will be built from bales already within the project, where possible. Straw bales from the stock piles can be used, if needed, to supplement the bales already present within the two new bale mound areas. Bale mound construction is expected to take place in December 2017 or early January 2018 prior to any planting work.
4. Decommissioning: Following the spring 2019 irrigation work it is anticipated that the project will be decommissioned. The decommissioning work will consist of removal and disposal of the irrigation system, back filling of access routes used within the project with straw bales, restoration of staging areas, and removal and disposal of all trash and debris remaining in the project. Recycling of the HDPE irrigation pipe will be encouraged rather than disposal in a landfill. The pump, backflow preventer, flow meter and other equipment located at the Keeler Well will be removed from the well head but the pipe extending under SR 136 will be capped and remain in place for future use by the community of Keeler.

Supporting these main elements are other work activities associated with the proposed work, including: project management services by Amec Foster Wheeler, plant monitoring, water from the Keeler Community Services District (KCSD), cultural resource monitoring, seed collection and plant

propagation, possible purchase of additional straw bales for backfilling of access routes, and extension of necessary permits and approvals.

District staff are in the process of working with the project team to finalize the work associated with the long-term plan and to develop a cost estimate and budget for completion of the project. Discussions have been started with the Bureau of Land Management (BLM) for extending the Right-of-Way Grant and Temporary Use Permit for the project beyond December 2017. Similar discussions will be conducted over the next several months with KCSD and other agencies to extend agreements and permits for the project based on the expected final long-term plan for the project.

Photos and Maps

A short presentation with photos and maps of the project will be provided at the Board Meeting.

Board Action:

None. Information only



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

157 Short Street, Bishop, California 93514-3537

Tel: 760-872-8211 Fax: 760-872-6109

BOARD REPORT

Mtg. Date: July 13, 2017

To: Governing Board

From: Tori DeHaven, Clerk of the Board

Subject: Travel Report

Summary:

Phill Kiddoo	May 23 – 24	CAPCOA* Spring Conference	Squaw Valley, CA
	June 22	CSLC* Board Meeting	Los Angeles, CA
	June 25 – 28	CSDA* Leadership Summit	Newport Beach, CA
Kimberly Mitchell Casey Freeman	July 10 – 13	ESRI* User Conference	San Diego, CA
Ann Piersall	July 11 – 12	CARB* Training	Monterey, CA

Board Action:

None. Information only.

**CAPCOA: California Air Pollution Control Office's Association*

**CSLC: California State Lands Commission*

**CSDA: California Special District Association*

**ESRI: GIS mapping Software Company*

**CARB: California Air Resource Board; specific training is: CARB #197 Basics of New Source Review (NSR) Title V Permitting; CARB #397 Advanced New Source Review (NSR) and Title V*



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BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Susan Cash, Administrative Projects Manager

Subject: Contracts Less than \$10,000 or Otherwise Within the APCO's Authority

The District's purchasing, bidding and contracting policy allows the Air Pollution Control Officer (APCO) to execute leases, contracts and purchase orders for consultant and contractor services when the value is less than or equal to \$10,000. The APCO can also execute contract change orders or amendments when the value of the change order is less than 10% of the contract price or \$25,000, whichever is less. The policy requires the APCO to inform the Board of all such contracts or leases at the Board's next meeting.

Since the Board's last regular meeting, the APCO has executed the following leases, consultant and contractor contracts or contract amendments:

Contract with Yaney MacIver (Personal Services). The APCO executed a contract on March 22, 2017 with Yaney MacIver of Bishop, California in the amount of \$5,000.00 and an addendum on June 20, 2017 for an additional \$1,000.00. The contract is for personal services as a part-time, unbenefited administrative clerk. Ms. MacIver has been assisting staff with various archiving duties. The term of the contract is from March 22, 2017 through June 30, 2017 and utilizes the funding left over from the previous administrative clerk position that was vacated early.

Contract Amendment with Desert Research Institute. The APCO executed a contract amendment on May 31, 2017 with Desert Research Institute, extending the original contract term from June 30, 2017 to December 31, 2017 for the Engineered Roughness Element Project and acknowledging an additional employee for the work associated with the task. There was no increase in the monetary value of the contract.

Board Action:

None. Information only.



GREAT BASIN UNIFIED AIR POLLUTION CONTROL DISTRICT

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BOARD REPORT

Mtg. Date: July 13, 2017

To: District Governing Board

From: Phillip L. Kiddoo, Air Pollution Control Officer

Subject: Air Pollution Control Officer Report

A verbal report will be given at the meeting.

2017

JANUARY

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20	21	22	23	24	25	26
27	28	29	30	31		

SEPTEMBER

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

OCTOBER

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

NOVEMBER

S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30		

DECEMBER

S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						