

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE** **JUNE 19 2019**  
**Lake and Streambed Alteration Agreement Amendment No. 6**  
**1600-2015-0045-R6** **STATE CLEARINGHOUSE**

**Los Angeles Department of Water and Power**  
**Amendment to the Owens Lake Dust Mitigation Program Phase 9/10 Project**

**CEQA FINDINGS**

**INTRODUCTION:**

The California Department of Fish and Wildlife (CDFW) has prepared these findings to document its compliance with the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 *et seq.*). CDFW is a responsible agency under CEQA with respect to the Amendment to the Owens Lake Dust Mitigation Program Phase 9/10 Project (project) because it is amending a Lake and Streambed Alteration Agreement with the Los Angeles Department of Water and Power (LADWP) under Fish and Game Code Section 1600. (See generally Pub. Resources Code, §§ 21002.1, subd. (d), 21069; CEQA Guidelines, § 15381; see also Cal. Code Regs., tit. 14, § 783.3, subd. (a).)<sup>1</sup> CDFW makes these findings under CEQA as part of its discretionary decision to authorize LADWP (Permittee) to disturb the Owens Lakebed during the project. (See generally Fish & G. Code, § 1601; Cal. Code Regs., tit. 14, § 783.4.)

CDFW is a responsible agency under CEQA with respect to the project because of prior environmental review and approval of the project by the lead agency, LADWP. (See generally Pub. Resources Code, § 21067; CEQA Guidelines, § 15367.) LADWP analyzed the environmental impacts associated with implementation of the project in an Environmental Impact Report (EIR) (SCH No. 2014071057) and approved the project on June 23, 2017. In so doing, LADWP imposed various mitigation measures for impacts as conditions of project approval and concluded that project-related impacts to the environment could be substantially lessened with implementation of mitigation and avoidance measures, such that the impacts would be less than significant.

As approved by LADWP, the amendment to the project includes the construction of an 8,490-foot long berm road and the completion of the existing 1,530-foot berm road within the T-13-1 Addition Dust Control Area within the Owens Lakebed, the construction of a 4,000-foot long berm road within the T-17-2 Dust Control Area within the Owens Lakebed, the retention of gravel riprap berms along the perimeter of Dust Control Area T29, the retention of 5,750 feet of gravel riprap berm around the perimeter of Dust Control Area T36, the retention of 2,427 feet of gravel riprap berm adjacent to the Brady Highway from Dust Control Area T-27N to T13-2 (except the for the area adjacent to T-18), and the installation of an above ground irrigation system within 53.14-acres of area within dust control cell T-32-2 which includes the placement of 1000 feet of three-inch diameter

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<sup>1</sup> The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with Section 15000.

HDPE pipe, a 2,000-gallon storage tank, and five to eight spigots to allow hose watering of shrubs within the irrigated area.

As a responsible agency, CDFW's CEQA obligations are more limited than those of the lead agency, in that CDFW is responsible for considering only the effects of those activities involved in the project which it is required by law to carry out or approve. Thus, while CDFW must consider the environmental effects of the project as set forth in LADWP's EIR, CDFW has responsibility to mitigate or avoid only the direct or indirect environmental effects of those parts of the project which it decides to carry out, finance, or approve. (Pub. Resources Code, § 21002.1, subd. (d); CEQA Guidelines, §§ 15041, subd. (b), 15096, subds. (f)-(g).) Accordingly, because CDFW's exercise of discretion is limited to issuance of a Lake and Streambed Alteration Agreement for the project, CDFW is responsible for considering only the environmental effects that fall within its permitting authority under Fish and Game Code section 1600. (See generally *San Diego Navy Broadway Complex Coalition v. City of San Diego* (2010) 185 Cal.App.4<sup>th</sup> 924, 935-941.) Indeed, with respect to all other effects associated with implementation of the project, CDFW is bound by the legal presumption that the EIR fully complies with CEQA. (Pub. Resources Code, § 21167.3; *City of Redding v. Shasta County Local Agency Formation Commission* (1989) 209 Cal.App.3d 1169, 1178-1181; see also CEQA Guidelines, § 15096, subd. (e); Pub. Resources Code, § 21167.2; *Laurel Heights Improvement Association v. Regents of the University of California* (1993) 6 Cal.4<sup>th</sup> 1112, 1130.)

#### **FINDINGS:**

CDFW has considered the EIR adopted by LADWP as the lead agency for the project.

CDFW finds that the mitigation measures imposed as conditions of project approval by LADWP, along with the mitigation measures and Conditions of Approval set forth in CDFW's amendment of the Lake and Streambed Alteration Agreement for the project, will ensure that all project-related impacts to CDFW-jurisdictional lakebed are mitigated to below a level of significance under CEQA.

CDFW finds that amendment of the Lake and Streambed Alteration Agreement will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the conditions of project approval adopted by the lead agency, as well as adherence to and implementation of the measures included in section 2 of the Lake and Streambed Alteration Agreement, will avoid or reduce such potential effects to below a level of significance.

The following measures and others set forth in CDFW's Lake and Streambed Alteration Agreement for the project will avoid to the extent feasible and mitigate to below a level of significance all project-related impacts to CDFW-jurisdictional habitat:

- A. Orientation will be provided to construction staff to familiarize them with the conditions of the Permit and the measures to avoid and minimize impacts to CDFW-jurisdictional habitat.
- B. Permittee shall conduct preconstruction surveys for sensitive species, including species of special concern, within seven days prior to the initiation of project activities.
- C. Permittee shall maintain or increase the Habitat Value Acres for each wildlife guild as described in the EIR.
- D. No work will occur in flowing water or when surface water is present.
- E. Permittee shall comply with all litter and pollution laws. All contractors, subcontractors, and employees shall also obey these laws and it shall be the responsibility of Permittee to ensure compliance.
- F. Permittee shall continue monitoring and data compilation of Owens Lake Biological Compliance data during this project, including seven annual surveys of bird species within the project area.
- G. Permittee will implement a 30 mile-per-hour speed limit within all active construction areas, and a 15 mile-per-hour speed limit within snowy plover nest buffers.
- H. No equipment maintenance shall be done within or adjacent to waters of the state.
- I. All berms covered by Amendment No.6 must be constructed or rehabilitated to a 3:1 slope.
- J. All riprap covered by Amendment No. 6 must be groomed so that crevices are such that animals will not become trapped within them.

*The project is approved.*

DATE: 6-17-19

By: Chris Hayes for  
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INLAND DESERTS REGION  
DEPARTMENT OF FISH AND WILDLIFE