NATIVE AMERICAN HERITAGE COMMISSION
M E M O R A N D U M
July 11, 2017

To: Native American Heritage Commission Members

From: Terrie L. Robinson, General Counsel TLR

CC: Cynthia Gomez, Executive Secretary

Re: Action Item: Consideration of a Resolution in Support of Nominating Owens Lake for Inclusion on the National Register of Historic Places

INTRODUCTION

The Los Angeles Department of Water and Power/Great Basin Unified Air Pollution Control District Cultural Resources Task Force (CRFT) has been meeting for over three years to address mitigation measures for cultural resources affected by the Owens Lake dust mitigation program. The purpose of the dust mitigation program is to control dust emissions from Owens Lake, which is a dry lakebed that is highly emissive of dust in violation of air quality standards. The Native American Heritage Commission (NAHC) has been represented as a participant on the CRTF since February of 2014. Because the dust mitigation program is a phased project addressing dust mitigation in sections of the lakebed, cultural resources assessments are conducted for each individual phase and each section of the lakebed. It is the position of the Owens Valley tribes, the State Historic Preservation Officer, the State Lands Commission, and the Great Basin Unified Air Pollution Control District (GBUAPCD), which oversees emissions compliance in the Owens Valley, that instead of phased cultural resources assessments of portions of Owens Lake, the cultural resources on the Lake should be analyzed for the potential to contribute to an archaeological district, cultural landscape, or a traditional cultural property. As a result, several CRTF participants, representatives from Owens Valley Tribes, the State Lands Commission, GBUAPCD, the U.S. Bureau of Land Management, and the NAHC, recommended nominating Owens Lake to the National Register of Historic Places. The purpose of the nomination is to provide clarity on what resources are significant, facilitate creation of a management plan containing protocols for the treatment and management of cultural resources, and promote better communication between the Tribes and the agencies involved in dust mitigation activities on the Lake.[1]

[1] Staff Report by G. Kato and S. Mongano, State Lands Commission Agenda Item 77, June 22, 2017.

The action item before the Commission is to consider adopting a resolution supporting the nomination Owens Lake to the National Register of Historic Places as an archaeological district possessing significant cultural value to local Native American Tribes. The resolution would not commit the Commission to incur the costs of the nomination. The State Lands Commission adopted a similar resolution on June 22, 2016, which is included as Attachment C of this agenda item. The Great Basin Unified Air Pollution Control District will take up a similar resolution on July 13, 2017, and their agenda packet for this issue is included as Attachment D.

BACKGROUND

The Owens Valley is one of the most sensitive areas for Native American cultural resources in California. Owens Lake has held cultural and historical significance not only for Owens Valley Tribes, but for other tribes as well, and is the site of a historic massacre of Native Americans. In 1913, the City of Los Angeles Department of Water and Power (LADWP) began diverting water from the Owens River to the Los Angeles Aqueduct that would have flowed to Owens Lake. The diversion dried the lakebed, and dust storms have carried away as much as four million tons (3.6 million metric tons) of dust from the lakebed each year in violation of air quality standards.[2] The U.S. E.P.A., through GBUAPCD, ordered LADWP to implement dust mitigation actions to reduce dust emissions and bring Owens Lake into compliance. Ensuing litigation between GBUAPCD and LADWP resulted in a settlement on how to bring Owens Lake into compliance. Little, if any, prior tribal input was involved in determining how to control dust emissions and avoid or mitigate impacts to cultural resources.

The NAHC became actively involved in the CRTF in February of 2014. At that time, tensions between LADWP and GBUAPCD ran high over the interpretation of their settlement agreement, pressure to meet air quality standards on a timeline conceived without consideration of cultural resources, the effect of the dust mitigation project on Native American cultural resources, and the lack of attention to the interests of Owens Valley Tribes. Prior to the formation of the CRTF, tribal engagement by and consultation with the agencies involved for purposes of assessing and protecting cultural resources was less than optimal. Each phase of the dust mitigation project, which involves a specific section of Owens Lake, has resulted in a separate cultural resources assessment which, by terms of the settlement agreement, must be conducted and agreed upon by two archaeologists. However, this piecemeal evaluation failed to take into account the significance of Owens Lake's cultural resources as a whole.

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[2] Id.

In letters dated August 6, 2014, and March 30, 2015, the State Historic Preservation Officer (SHPO) notified LADWP that the cultural resources of Owens Lake should be analyzed for the potential to contribute to an archaeological district, cultural landscape, or a traditional cultural property and more appropriately take into account the Native American values attached to the sites. As a result, the CRTF began to discuss recommending the nomination of Owens Lake to the National Register. On March 2, 2017, members of the CRTF discussed moving forward with the nomination. Through its representatives, LADWP, which was supposed to have studied the issue and come prepared to respond to the proposed nomination, stated that LADWP needed more time to study the issue and could not respond until October.

On June 22, 2017, the State Lands Commission, which leases a large portion of Owens Lake to LADWP, adopted a resolution in support of the nomination and, even more notably, imposed a condition on the renewal of the lease that would require LADWP to adopt a tribal consultation policy and hire a tribal liaison for purposes of the dust mitigation program. The State Lands Commission Tribal Liaison, Jennifer Mattox, provided an exhaustive staff report to the State Lands Commission detailing the history of the dust mitigation program and the benefits of including Owens Lake on the National Register, which is included as Attachment C of this agenda item. On behalf of the NAHC, I submitted a letter in support of the State Lands Commission resolution, which is included as Attachment B of this agenda item.

The Owens Lake cultural resources assessment represents the ephemeral problem of making piecemeal assessments of a site which individually may not meet the standards of significance but which might if analyzed as an archaeological district, cultural landscape, or traditional cultural property. The nomination would, in the opinion of the CRTF participants supporting the nomination, allow for a consistent and cohesive plan in assessing and protecting Owens Lake in its entirety as a cultural resource.

Attachment A includes a proposed resolution for your consideration.

Attachment A

RESOLUTION BY THE CALIFORNIA NATIVE AMERICAN HERITAGE COMMISSION SUPPORTING A NOMINATION OF OWENS LAKE, LOCATED IN INYO COUNTY, TO THE NATIONAL REGISTER OF HISTORIC PLACES AS AN ARCHAEOLOGICAL DISTRICT, CULTURAL LANDSCAPE, AND/OR TRADITIONAL CULTURAL PROPERTY

WHEREAS, it is the mission of the California Native American Heritage Commission to protect to the fullest extent of the law the cultural resources of California's First Peoples; and

WHEREAS, the California Native American Heritage Commission is vested with the statutory authority to bring an action to prevent severe and irreparable damage to, or assure appropriate access for Native Americans to, a Native American sanctified cemetery, place of worship, religious or ceremonial site, or sacred shrine located on public property pursuant to Public Resources Code sections 5097.94 (g) and 5097.97; and

WHEREAS, for thousands of years, Owens Lake and its surrounding landscape are and have been culturally significant to five California Native American Tribes geographically and culturally affiliated to the area, including the Big Pine Paiute Tribe of the Owens Valley, the Bishop Paiute Tribe, the Fort Independence Indian Community of the Paiute Indians of the Fort Independence Reservation, the Lone Pine Paiute-Shoshone Reservation, and the Timbisha-Shoshone Tribe (collectively, Owens Valley Tribes); and

WHEREAS, Owens Lake is leased in part to the Los Angeles Department of Water and Power (LADWP) by the California State Lands Commission and is therefore public land subject to the jurisdiction of this Commission; and

WHEREAS, Owens Lake is the site of a tragic massacre of California Native Americans and, for this and other reasons, presumably meets the definition of lands subject to this Commission's jurisdiction, protection, and potential injunctive relief under Public Resources Code sections 5097.94 (g) and 5097.97; and

WHEREAS, the construction in 1913 of the Los Angeles Aqueduct diverted flows from the Owens River away from Owens Lake in order to supply water to Los Angeles, thus drying up Owens Lake and creating dust pollution in violation of air quality standards; and

WHEREAS, cultural resources in the Phase 7a dust mitigation project area resulted in construction delays and the formation of a Cultural Resources Task Force (CRFT), an advisory group consisting of representatives of LADWP, GBUAPCD, the California State Lands Commission, the Office of Historic Preservation, the Big Pine Paiute Tribe of the Owens Valley, the Bishop Paiute Tribe, the Fort Independence Indian Community of the Paiute Indians of the Fort Independence Reservation, the Lone Pine Paiute-Shoshone Reservation, the Timbisha-Shoshone Tribe, and the U.S. Bureau of Land Management; and

WHEREAS, the National Register of Historic Places, authorized by the National Historic Preservation Act of 1966, as amended (NHPA), 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, cultural, and archaeological resources; and

WHEREAS, the process of listing Owens Lake on the National Register will provide clarity on what resources are significant, facilitate the creation of a management plan containing protocols for the treatment and management of such resources, and promote better communication between Owens Valley Tribes and the agencies involved in the Dust Control Mitigation Program on the lake bed; and

WHEREAS, along with the State Lands Commission, a majority of representatives to the CRTF have expressed support for the nomination of Owens Lake to the National Register as recognition of the significance of the Lake; now therefore, be it

RESOLVED BY THE CALIFORNIA NATIVE AMERICAN HERITAGE COMMISSION that it supports the nomination of Owens Lake to the National Register of Historic Places because of its past and present value to and use by the Owens Valley Tribes and its ability to reveal unique and important archaeological information about the Owens Lake region; and be it further

RESOLVED, that the Commission's Executive Secretary transmit copies of this resolution to the Governor of California's Tribal Advisor, LADWP, GBUAPCD, the California State Lands Commission, the Office of Historic Preservation, the Big Pine Paiute Tribe of the Owens Valley, the Bishop Paiute Tribe, the Fort Independence Indian Community of the Paiute Indians of the Fort Independence Reservation, the Lone Pine Paiute-Shoshone Reservation, the Timbisha-Shoshone Tribe, the U.S. Bureau of Land Management, and each State Assembly Member, State Senator from the Owens Lake District.

Attachment B

Native American Heritage Commission Letter in Support of State Land Commission Resolution Supporting the Nomination of Owens Lake to the National Register of Historic Places

STATE OF CALIFORNIA Edmund G. Brown, Jr., Governor

NATIVE AMERICAN HERITAGE COMMISSION
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Terrie L. Robinson, General Counsel
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June 21, 2017

Lieutenant Governor Gavin Newsom, Chair
California State Lands Commission
100 Howe Avenue, Suite 100 South
Sacramento, CA 95825

Re: NAHC's Support for the State Lands Commission's Resolution Supporting Nomination of Owens Lake to the National Register of Historic Places as an Archaeological District

Dear Chairman Newsom and Commissioners,

On behalf of the Native American Heritage Commission (NAHC), I wish to express the NAHC's support for the State Lands Commission's resolution supporting the nomination of Owens Lake for inclusion in the National Register of Historic Places as an archaeological district. The nomination of Owens Lake is a significant step towards elevating the evaluation and protection of Native American cultural resources unearthed as a result of the diversion of the Owens River as a consideration in planning dust mitigation. I have recommended for consideration at the next NAHC meeting on July 21 a similar resolution and the possibility of declaring the State-owned portion of Owens Lake a ceremonial site to be protected under Public Resources Code section 5097.97.

The NAHC became actively involved in the Los Angeles Department of Water & Power/Great Basin Unified Air Pollution Control District's Cultural Resources Task Force (CRTF) in February of 2014. Tensions between the Los Angeles Department of Water & Power (LAWDP) and the Great Basin Unified Air Pollution Control District (GBUAPCD) ran high over the interpretation of their Dust Mitigation Settlement Agreement, pressure to meet air quality standards on a timeline conceived without consideration of cultural resources, the effect of the dust mitigation project on Native American cultural resources, and the lack of attention to the interests of Owens Valley Tribes. The NAHC has been represented in the CRTF meetings since then and has watched history repeating itself, and not in a good way: The protection of Native American cultural resources and the interests of Owens Valley Tribes were not given due consideration when the Owens River was diverted by LADWP in 1913, and the same lack of consideration occurred in the early planning of the dust mitigation necessitated by the Owens River diversion, resulting in piecemeal archaeological evaluations that don't take into account the cultural resource significance of the lake as a whole. The NAHC does not mean to diminish the importance of air quality and the health implications for all Owens Valley residents of dust blowing off of what is left of Owens Lake. Nor is it ever the intention of the NAHC to oppose a project for the sole sake of opposition. That said, the nomination of Owens Lake to the National Register is a last resort to force a comprehensive evaluation of the site's archaeological and tribal significance by experts with only the interests of cultural resources preservation in mind and with the Owens Valley Tribes having a voice that must heard, weighed, and respected. The NAHC applauds the resolution and urges its passage.

Yours very truly,

Terrie L. Robinson

Terrie L. Robinson, General Counsel
Native American Heritage Commission

Attachment C

State Lands Commission Staff Report and Resolution in Support of the Nomination of Owens Lake to the National Register of Historic Places

CALENDAR ITEM
77

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S 8 G. Kato
S. Mongano

CONSIDER ADOPTING A RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION 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

INTRODUCTION

Owens Lake (Lake) is located in southwest Inyo County, approximately 200 miles north of Los Angeles. The Lake was a natural and navigable waterway at the time of California's statehood and is thus sovereign land of the State. The Lake covered approximately 110 square miles and was 50 feet deep in places. Wildlife, waterfowl, and the nearby residents depended on and benefited from the Lake. In the modern era, settlers diverted water from the Owens River to grow crops and irrigate pasture for livestock, and steamboats carried cargo across the Lake.

Beginning in 1913, the City of Los Angeles Department of Water and Power (LADWP) began diverting water from the Lake and transporting the water southwest to Los Angeles through a City-constructed aqueduct system. The Lake level rapidly declined and, by the mid-1920s, the Lake was essentially dry. Since then, dust storms have carried away as much as four million tons (3.6 million metric tons) of dust from the lakebed each year, causing respiratory problems for residents in the Owens Valley. As a result of the air quality standard violations caused by the dust, the U.S. EPA, through the Great Basin Unified Air Pollution Control District (GBUAPCD), ordered LADWP to implement dust mitigation actions, consisting of shallow flooding, vegetation planting, and placement of gravel cover, to control blowing dust and meet air quality standards. The Commission issued a 20-year lease to LADWP in 1999 and subsequently issued 18 amendments to the lease to allow implementation of dust control measures on additional areas of the Lake. Implementation of the dust mitigation program has been evaluated under the California Environmental Quality Act (CEQA) by either LADWP or GBUAPCD to assess the effect of proposed implementation on the environment, including on cultural resources.

The Lake is also important to local Native American Tribes, who have occupied the Lake and surrounding areas for thousands of years, shifting their residency, resource

use, and land use patterns as Lake levels rose and fell over time, and experiencing displacement and tragedy at the hands of settlers arriving to occupy the Owens Valley area. These Tribes include the Big Pine Paiute Tribe, the Bishop Paiute Tribe, the Fort Independence Paiute Tribe, the Lone Pine Paiute-Shoshone Reservation, and the Timbisha-Shoshone Tribe. To this day, culturally significant resources and sites remain on the Lake, some known due to archaeological surveys or local Tribal knowledge, but others are still undiscovered. The landscape includes ceremonial areas, massacre sites, grinding rocks, figurines, arrowheads, rock features, and other artifacts.

BACKGROUND AND CONTEXT

State

The State of California recognizes the importance of tribal engagement and consultation, as evidenced by a number of administrative directives and statutory provisions. Executive Order B-10-11, issued by Governor Brown in September 2011, established a Tribal Advisor in the Governor's office to oversee and implement more effective consultation between the Administration and tribes, facilitate coordination with state agencies, and review relevant legislative and regulatory proposals. The Executive Order further directed state agencies to encourage communication and consultation with Tribes, including allowing tribal representatives to provide "meaningful input" into agency activities and decisions. In August 2016 the Commission adopted its own Tribal Consultation Policy (Policy) and established a Tribal Liaison position to provide guidance and consistency in the Commission's interactions with Tribes, emphasizing mutual education, mutual respect, early and continuous communication, and timely notice and information sharing. The Policy respects the Tribes' sovereign authority, valuable knowledge, and unique histories and experiences related to their ancestral and current relationships to their territories, including the importance and meaning of cultural resources.

Federal

The National Historic Preservation Act of 1966, as amended (NHPA), addresses the importance of protecting our Nation's historical and archaeological sites. In addition to setting federal policy for preserving our nation's heritage and establishing both federal-state and federal-tribal partnerships, the NHPA established the Advisory Council on Historic Preservation, requires states to appoint qualified State Historic Preservation Officers, charges federal agencies with responsible stewardship of resources, and established the National Register of Historic Places and National Historic Landmarks Programs.

The National Register of Historic Places, administered by the National Park Service, 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. An Archaeological Property is defined as "the place or places where the remnants of a past culture survive in a physical context that allows for the interpretation of these remains." Archeological remains usually take the form of artifacts (e.g., fragments of tools or ceramic vessels), features (e.g., remnants of walls, cooking hearths, or trash middens), and ecological evidence (e.g., pollens remaining from plants that were in the area when the activities occurred); archaeological properties can also include landscapes and areas that have an important association with events in the historic context.

To be eligible for listing on the National Register, one or more specified criteria must be met. One of these criteria, Criterion D, includes a site's potential to yield important information or data (through physical remains and artifacts). Another of the criteria, Criterion A, pertains to a site associated with events that have made a significant contribution to the broad patterns of our history, including personal value to Tribal members and ongoing use by Tribes. Traditional cultural values are often central to the way a community or group defines itself, and maintaining such values is often vital to maintaining the group's sense of identity and self-respect. Because the Tribes have occupied Owens Lake and the surrounding area for thousands of years, moving and using resources as the Lake level shrank and grew over time, the Lake is considered important not just for the artifacts and information that can be collected, but also for its association with the Tribes' cultures and traditions, and significant events in their histories, including ceremony and massacres.

DISCUSSION

In the course of implementing its dust mitigation activities, LADWP uncovered many artifacts and sites from the Tribes' historical occupation of the Lake. In early phases, these resources were often collected and curated at an academic repository, pursuant to the mitigation described in the CEQA documents. While the Tribes had an opportunity to comment on the CEQA documents along with the general public, Tribal outreach or consultation with tribes did not occur. In 2013, LADWP approved a proposal for implementing Phase 7a dust mitigation; however, prior to the start of construction, the Tribes objected, stating that portions of the area were a historic massacre site with significant cultural value, and that damage to or infringement on the site would be deeply offensive to and destructive of the Tribes' identities.

This discovery of cultural resources in the Phase 7a dust mitigation project area resulted in construction delays that were resolved by a process described in a Settlement Agreement and Release (Agreement) dated August 19, 2013 between LADWP and GBUAPCD which, in part, included the formation of a Cultural Resources Task Force (CRTF). The CRTF was described in the Agreement as an advisory group

consisting of representatives of LADWP, GBUAPCD, the Commission, the State Historic Preservation Office (SHPO), and local Tribal representatives. The purpose is to make non-binding recommendations concerning the treatment of cultural resources in the project area. The Agreement sets forth a process to evaluate the significance of cultural resource discoveries, which included a process for review by a second archaeologist, but which did not include Tribes in the evaluations. Subsequently, additional cultural resource discoveries have been made on the Lake, including in the Phase 9/10 dust control area, and disputes over the significance of those discoveries have arisen, leading to additional delays, project modifications, and increased costs to LADWP. Under these circumstances, and the absence of clear guidance and opportunities for Tribal input for the treatment of cultural resource on the Lake, and the Tribes' desire to participate in the significance evaluations of cultural resources, the need for an additional mechanism by which to ensure maximum consideration of cultural resources and meaningful Tribal participation in the process has grown.

In letters dated August 6, 2014, and March 30, 2015, the SHPO notified LADWP that it should analyze the cultural resources on the Lake for the potential to contribute to an archaeological district, cultural landscape, or a traditional cultural property and more appropriately take into account the Native American values attached to the sites. In particular, the 2015 letter concerning the Phase 9/10 project, notes that resources on the Lake should be treated in the context of their "larger relationship to a lakeshore cultural landscape" with a "common cultural heritage which bears on the meaning and significance of archaeological and historical sites that cannot be artificially segmented." Subsequent to this, the CRTF began discussing a recommendation to nominate the Lake to the National Register, recommending that a listing would provide clarity on what resources are significant, facilitate the creation of a management plan containing protocols for the treatment and management of such resources, and promote better communication between the Tribes and the agencies involved with the dust mitigation activities on the Lake.

On March 2, 2017, members of the CRTF met to discuss the nomination and attempt to reach consensus on moving forward with the process. During the meeting, Tribal members spoke about the cultural importance and personal value of the Lake to the members and the Tribes' cultures, and strongly disagreed with the practice of categorizing resources as discrete artifact deposits, instead stating that many of the discoveries are parts of a larger connected resource area. In addition, LADWP's archaeological consultant presented an overview of the Lake's potential significance and a source of archaeological and historical information, including its potential to contribute to a reconstruction of the paleo-climate and human responses to environmental change, and a better understanding of the Tribes' traditional use of the Lake and shoreline areas. The meeting demonstrated to the majority of the participants

that information supporting the nomination of Owens Lake for the National Register is available or can be developed from the Tribes and archaeological consultant research, including its significance as a cultural landscape which has personal value to the Tribes for both its current and traditional cultural use and its known and undiscovered archeological sites that could reveal important historic or prehistoric information. As a result, Tribal representatives, staffs of the Native American Heritage Commission (NAHC), U.S. Bureau of Land Management, GBUAPCD, SHPO, and Commission staff concurred in recommending pursuit of a nomination to the National Register, while staff of LADWP requested an additional briefing and time to consider. The additional briefings were held on March 30 and June 1, 2017; to date, however, LADWP staff has been unable to inform the CRTF of whether LADWP supports the nomination and whether LADWP, as the project proponent on the Lake, will initiate and fund the nomination.

At this time, staff recommends the Commission adopt the Resolution, attached as Exhibit A, supporting the nomination of Owens Lake to the National Register, as it possesses significant cultural value to the local Tribes as well as a large collection of archaeological deposits that are likely to yield important information about the region's history and associated cultures in history and pre-history. Staff believes that these features qualify the Lake for listing at the State and National level as an archaeological district, cultural landscape, or traditional cultural property. Important to the staff's recommendation is the approaching expiration of LADWP's lease in 2019, LADWP's preparation of the Owens Lake Master Project, the potential for GBUAPCD to issue additional dust abatement orders, the financial and public health effects of delays to dust control caused by cultural resource discoveries, and disputes about significance, and concerns expressed to Commission staff by the Tribes. The protections and consideration afforded cultural resources are the same whether the resource is eligible or actually listed on the California or National Registers. So, theoretically an actual nomination and formal listing will not unduly impact the Commission's discretion in managing the Lake. Practically, a nomination and formal listing will help clarify what cultural resources are significant and should be preserved in advance of specific project proposals, thereby enhancing the Commission's management and stewardship of the public trust lands and resources at the Lake. As such, Commission staff believe that the subject Resolution is consistent with the Commission's Public Trust responsibilities at the Lake and is in the best interests of the State.

The Resolution would not commit the Commission to contributing to the funding of the nomination process. However, the Resolution does commit Commission staff to assist with the nomination process, where possible, by providing staff time and expertise when such support is useful and appropriate.

OTHER PERTINENT INFORMATION:

1. This activity is consistent with Strategy 3.2 of the Commission's Strategic Plan to commit to early and meaningful coordination and collaboration with local, state, and federal agencies, California Native American Tribes, local and regional communities and all individuals disproportionately impacted by environmental pollution.

2. The staff recommends that the Commission find that the subject adoption of a resolution does not have a potential for resulting in either a direct or a reasonably foreseeable indirect physical change in the environment, and is, therefore, not a project in accordance with the California Environmental Quality Act (CEQA).

EXHIBIT:

A. Proposed 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.

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the Commission's adoption of a resolution supporting the nomination of Owens Lake to the National Register of Historic Places as an Archaeological District possessing significant cultural value to local Native American Tribes is not subject to the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15060, subdivision (c)(3), because the subject activity is not a project as defined by Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378.

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed adoption of a resolution is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

AUTHORIZATION:

Adopt the Resolution supporting the nomination of Owens Lake to the National Register as an Archaeological District, attached substantially in the form as Exhibit A.

Exhibit A

RESOLUTION BY THE CALIFORNIA STATE LANDS COMMISSION 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

WHEREAS, Owens Lake was, historically, a navigable lake and, is therefore, sovereign land owned by the State of California, under the jurisdiction of the California State Lands Commission; and

WHEREAS, the Commission serves the people of California by providing stewardship of the lands, waterways, and resources entrusted to its care through preservation, restoration, enhancement, responsible economic development, and the promotion of public access; and

WHEREAS, the construction in 1913 of the Los Angeles Aqueduct diverted flows from the Owens River to supply water to Los Angeles, causing much of the Lake to dry up, resulting in dust storms affecting public health in the Owens Valley; and

WHEREAS, the Commission, as the state owner of most of the Lakebed, issued a lease to the Los Angeles Department of Water and Power (LADWP) in 1999, and has subsequently issued 18 amendments to the lease, to authorize dust mitigation activities including shallow flooding, vegetation planting, and placement of gravel cover to meet air quality standards as directed by the Great Basin Unified Air Pollution Control District (GBUAPCD); and

WHEREAS, Owens Lake and its surrounding landscape is culturally significant to five California Native American Tribes geographically and culturally affiliated with the area – including the Big Pine Paiute, Bishop Paiute, Fort Independence Paiute, Lone Pine Paiute-Shoshone Reservation, and Timbisha-Shoshone (collectively, Tribes) – and contains hundreds of culturally important sites and artifacts that have been or could be affected by LADWP's dust mitigation activities; and

WHEREAS, cultural resources in the Phase 7a dust mitigation project area resulted in construction delays and the formation of a Cultural Resources Task Force (CRTF), an advisory group consisting of representatives of LADWP, GBUAPCD, the Commission, the State Historic Preservation Office (SHPO), and Tribal representatives, to make non-binding recommendations concerning the treatment of cultural resources; and

WHEREAS, the National Register of Historic Places, authorized by the National Historic Preservation Act of 1966, as amended (NHPA), 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, listing on the National Register provides clarity on what resources are significant, facilitates the creation of a management plan containing protocols for the treatment and management of such resources, and promotes better communication between the Tribes and the agencies involved with the Dust Control Mitigation Program on the Lakebed; and

WHEREAS, information supporting the nomination of Owens Lake for the National Register is available or can be developed from the Tribes and archaeological consultant research, including its significance as a cultural landscape which has personal value to the Tribes for both its current and traditional cultural use and its known and undiscovered archeological sites that could reveal important historic or prehistoric information; and

WHEREAS, along with the Native American Heritage Commission (NAHC), a majority of members of the CRTF have expressed support for the nomination to the National Register as recognition of the significance of the Lake, including the Tribes, the U.S. Bureau of Land Management, the GBUAPCD, and the SHPO; and

WHEREAS, pursuant to its Tribal Consultation policy, the Commission is committed to respecting the sovereign authority and the valuable knowledge and history of Native Nations, and in recognition of the Tribes' unique experiences and resources present on the Lakebed, Commission staff has recommended that pursuit of a National Register nomination would accomplish these goals in the most objective and practical manner to ensure maximum consideration of cultural resources during dust mitigation design and construction activities; now therefore, be it

RESOLVED BY THE CALIFORNIA STATE LANDS COMMISSION that it supports the nomination of Owens Lake to the National Register of Historic Places because of its past and present value to and use by the Tribes and its ability to reveal unique and important archaeological information about the Owens Lake region; and be it further

RESOLVED, that the Commission's Executive Officer transmit copies of this resolution to the Governor of California's Tribal Advisor, the Tribes, SHPO, NAHC, LADWP, GBUAPCD, and each State Senator and Representative from the Owens Lake District]