

**CALENDAR ITEM
C46**

A	26	12/06/16 W 27054 G. Kato
S	8	J. Mattox

**CONSIDER SUPPORT FOR NOMINATION OF OWENS LAKE TO THE
WESTERN HEMISPHERE SHOREBIRD RESERVE NETWORK**

BACKGROUND:

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

In 1908, the City of Los Angeles, Department of Water and Power (City) commenced construction of an aqueduct to divert water from the Owens River north of the Lake. After completion of the Los Angeles Aqueduct in 1913, the Lake's water level rapidly declined. By 1930, the Lake was virtually dry with only a small brine pool remaining. The diversion of water led to dust storms carrying away as much as 4 million tons (3.6 million metric tons) of dust from the lakebed each year. As a result, the Great Basin Unified Air Pollution Control District (District) designated the Lake a Non-Attainment area caused by the City's actions, making the City subject to corrective orders issued by the District. Subsequent dust management activities by the City, largely consisting of shallow flooding of the Lake to suppress dust, led to a return of shorebirds and waterfowl in significant numbers and diversity. In 2001, Owens Lake was designated a National Audubon Important Bird Area.

California is facing one of the most severe droughts on record. The current drought has resulted in observations of new, record-high temperatures and record low snowpack for California. Staff is encouraged by the City's actions to provide habitat at Owens Lake during these drought conditions and its recognition of the importance of preserving this Public Trust resource. The availability and proper management of habitat for birds on the Lake is especially important now due to the scarcity of other available habitat. There is some

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evidence that these birds increasingly depend on the habitat provided by Owens Lake as other opportunities along the Pacific Flyway are lost or degraded due to development, climate change, and drought.¹

The Eastern Sierra Audubon Society, with support from Audubon California, is seeking support from the Commission and the City, as the primary landowners and managers of the Lake, for the nomination of Owens Lake as part of the Western Hemisphere Shorebird Reserve Network (WHSRN), a conservation strategy seeking to sustain healthy populations of shorebirds (<http://www.whsrn.org/>). The designation is advisory and non-regulatory, meant primarily to inform decisions on management and to bring scientific management tools and recognition to the area. WHSRN sites stretch from Alaska to the southern tip of Chile; in California, WHSRN sites include Mono Lake, Salton Sea, and the San Francisco Bay, among others. According to the Eastern Sierra Audubon Society's nomination request letter, Owens Lake meets the criteria for a WHSRN International Site, with more than 100,000 birds using the Lake each year, including American avocet, least sandpiper, and western snowy plover. Because the Commission is the primary landowner of Owens Lake, its support is required in order for the WHSRN Hemispheric Council to consider designation of the Lake as a WHSRN site.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, and 6301; California Code of Regulations, title 2, section 2000, subdivision (b).

Public Trust and State's Best Interests Analysis:

As the Legislature's delegated trustee over the State's sovereign lands and resources at the Lake, the Commission has the responsibility to manage the dry lakebed in the best interests of the State and consistent with the common law Public Trust Doctrine, taking care to protect the identified Public Trust resources and values. For years, the City has been diverting water from the Lake, which forever changed and almost eliminated the Public Trust resources at the Lake. However, since the City began implementing dust control measures at the Lake with shallow

¹ See e.g., *Global Climate Change and Sea Level Rise: Potential Losses of Intertidal Habitat for Shorebirds* by H. Galbraith, R. Jones, R. Park, J. Clough, S. Herrod-Julius, B. Harrington, and G. Page in *Waterbirds* 25(2): 173-183. 2002 <http://www.bioone.org/doi/abs/10.1675/1524-4695%282002%29025%5B0173%3AGCCASL%5D2.0.CO%3B2?journalCode=cowa>

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flooding and managed vegetation, the bird population of the Lake has increased significantly. The identified Public Trust resources at the Lake include wildlife habitat, public access, recreation, and aesthetic enjoyment among others. Eastern Sierra Audubon Society has already received letters of support from Audubon California (November 16, 2015) and the California Department of Fish and Wildlife (October 8, 2015).

Commission staff believes the proposed designation of the Lake as an international WHSRN site is in the public interest, particularly in light of climate change, drought, and other stressors on shorebird population viability. The Commission has been participating in the development of the Owens Lake Master Project for dust control, habitat protection, and water conservation since 2010; this comprehensive management framework already contains a commitment to shorebird conservation that would be bolstered by the designation. Further, the proposed designation will not significantly impact the other Public Trust resources and values—public access, recreation, and aesthetic enjoyment—on the lakebed. For all the reasons above, Commission staff believes its support for a WHSRN designation is consistent with the common law Public Trust Doctrine and in the best interests of the State.

EXHIBITS:

- A. Site and Location Map
- B. Proposed Letter of Support

OTHER PERTINENT INFORMATION

1. Commission staff has participated in the Owens Lake Master Project processes starting in March 2010 with the City, the District, other public agencies, Native American tribes, non-governmental organizations, and other interested stakeholders to develop a framework to manage the variety of important resources on the lakebed while continuing to control dust. The Master Project contains provisions for conserving and enhancing habitat values, including for shorebirds.
2. The proposed action is consistent with Strategy 1.2 of the Commission's Strategic Plan to provide that the current and future management of ungranted sovereign lands and resources and granted lands, including through strategic partnerships with trustee ports and harbor districts, is consistent with evolving Public Trust principles and values, particularly

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amid challenges relating to climate change, sea-level rise, public access, and complex land use planning.

3. The authorization to submit a letter of support for the WHSRN designation is not a project as defined by the California Environmental Quality Act because it is an administrative action that will not result in direct or indirect physical changes in the environment.

Authority: Public Resources Code section 21065 and California Code of Regulations, title 14, section 15378, subdivision (b)(5).

4. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq.; however, the Commission has declared that all lands are significant by nature of their public ownership (as opposed to environmentally significant). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code section 6370 et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by California Code of Regulations, title 2, section 2954 is not applicable.

RECOMMENDED ACTION:

It is recommended that the Commission:

PUBLIC TRUST AND STATE'S BEST INTERESTS FINDING:

Find that the proposed nomination will not substantially interfere with the Public Trust needs and values at this location, is consistent with the common law Public Trust Doctrine, and is in the best interests of the State.

AUTHORIZATION:

Authorize the Executive Officer, or her designee, to submit a letter of support, substantially in the form of the attached Exhibit B, regarding the nomination of Owens Lake as an international Western Hemisphere Shorebird Reserve Network site.

**CALIFORNIA STATE
LANDS COMMISSION***Established in 1938***EXECUTIVE OFFICE**
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Date

Rob Clay, Ph.D.
Director
Western Hemisphere Shorebird Reserve Network
Manomet
P.O. Box 1770
Manomet, MA 02345

Subject: Support for adding Owens Lake to the Western Hemisphere
Shorebird Reserve Network

Dear Dr. Clay:

The California State Lands Commission supports Eastern Sierra Audubon Society's nomination of Owens Lake to the Western Hemisphere Shorebird Reserve Network. Owens Lake is already designated as an Important Bird Area because of its concentrations of migratory shorebirds and waterfowl as well as its importance to breeding western snowy plovers, a California Species of Special Concern. Owens Lake, located in southwest Inyo County, was a natural and navigable waterway at the time of California's statehood and is thus sovereign land of the State managed by the Commission under the Public Trust Doctrine. Historically, wildlife, waterfowl, and the nearby residents depended on and benefited from the Lake, which covered approximately 110 square miles and was 50 feet deep in places. The diversion of water from the Lake via the Los Angeles Aqueduct beginning in 1908 led to dust storms that affected the health of the local residents. Subsequent dust management activities by the Los Angeles Department of Water and Power, largely consisting of shallow flooding of the Lake to suppress dust, led to a return of shorebirds and waterfowl in significant numbers and diversity. There is some evidence that these birds increasingly depend on the habitat provided by Owens Lake as other opportunities along the Pacific Flyway are lost or degraded due to development, climate change, and drought.¹

Today, Eastern Sierra Audubon Society is a key player in shorebird habitat protection and management at Owens Lake alongside the Commission, Audubon CA, Los Angeles Department of Water and Power, CA Native Plant Society, CA Department

¹ See e.g., *Global Climate Change and Sea Level Rise: Potential Losses of Intertidal Habitat for Shorebirds* by H. Galbraith, R. Jones, R. Park, J. Clough, S. Herrod-Julius, B. Harrington, and G. Page in *Waterbirds* 25(2): 173-183. 2002 <http://www.bioone.org/doi/abs/10.1675/1524-4695%282002%29025%5B0173%3AGCCASL%5D2.0.CO%3B2?journalCode=cowa>

Rob Clay, Ph.D.

Date

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of Fish and Wildlife, and others. The Commission agrees with Eastern Sierra Audubon Society's assessment of Owens Lake as internationally significant for shorebirds. As Owens Lake has been rewatered in association with dust control activities, numbers of shorebirds have been increasing and Owens Lake now consistently supports tens of thousands of shorebirds during spring and fall migration, is home to wintering shorebirds, and provides important breeding habitat for American avocet, black-necked stilt, Wilson's phalarope, killdeer, and western snowy plover. The Commission believes that Owens Lake will continue to be a critical site for breeding and migratory shorebirds in the Pacific Flyway and look forward to it being included in the WHSRN.

Sincerely,

JENNIFER LUCCHESI
Executive Officer

DRAFT