

**STAFF REPORT
C80**

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06/21/18
PRC 5464.1
V. Perez

**CONSIDER APPLICATION FOR RENEWAL
OF A MINERAL EXTRACTION LEASE FOR MINERALS
OTHER THAN OIL, GAS, OR GEOTHERMAL RESOURCES**

APPLICANT:

U.S. Borax Inc.

AREA, LAND TYPE, AND LOCATION:

Approximately 15,534 acres of State sovereign land located on the dry lakebed of Owens Lake in western Inyo County. This sovereign land is located east of U.S. Highway 395, and approximately 10 miles south of the city of Lone Pine (see Exhibits A and B, attached).

AUTHORIZED USE:

Extraction of industrial minerals, a sodium carbonate mineral (trona), and any other mineral deposits except oil, gas, other hydrocarbons, and geothermal resources.

LEASE TERM:

This is the second renewal with a lease term of 10 years, effective August 1, 2018, through July 31, 2028, with a preferential right to renew for two additional terms, not to exceed 10 years each, upon such reasonable terms and conditions as may be prescribed by the Commission.

CONSIDERATION:

The State's royalty is 10 percent for unprocessed trona and 7 percent for processed trona.

Annual rent of \$2.50 per acre or \$38,858 for a total of 15,543 acres and a minimum annual royalty of \$120,000.

INSURANCE:

In an amount not less than \$2,000,000.

BOND:

In an amount of \$60,000 to guarantee the faithful performance of Lessee's lease requirements.

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BACKGROUND:

In 1978 ([Item C26, March 30, 1978](#)), the Commission approved issuance of State Mineral Extraction Lease (Lease) PRC No. 5464.1, through a competitive bid sale, to Lake Minerals Corporation for a primary term of 20 years, with an option to renew for three successive terms, not to exceed 10 years each.

In 1980 ([Item C18, June 26, 1980](#)), the Lease was amended to increase the leased acreage from 7,440 acres to 16,120 acres, increase the performance bond to \$30,000, and to increase the minimum annual royalty from \$80,000 to \$120,000.

In 1998 ([Item C116, June 19, 1998](#)), the Commission approved Lake Minerals Corporation's assignment to U.S. Borax Inc.(Lessee), and the Lease was renewed for a 10-year term through July 31, 2008.

On April 28, 2004, the Inyo County Planning Commission (County) certified an Environmental Impact Report to construct a wash plant, calcining and drying facility (State Clearinghouse No. 2003041127). In 2004 ([Item C52, October 6, 2004](#)), the Commission approved a lease amendment allowing construction of the wash plant, calcining and drying facility. The permitted activities are limited to the County issued Conditional Use Permit No. 2002-13/U.S. Borax and Reclamation Plan No. 2002-1/U.S. Borax, with conditions and mitigation measures, approved by the County on the same date. These documents authorized the drilling and completion of a water well, wash plant, and calcining/drying facility (also known as the Trona Processing Upgrade Project). However, these facilities have yet to be constructed. The 2004 amendment also increased the financial security to \$60,000 and provided for four successive 10-year lease terms following July 31, 2008. The lease terms are as follows:

- 1st renewal - August 1, 2008 through July 31, 2018
- 2nd renewal - August 1, 2018 through July 31, 2028
- 3rd renewal - August 1, 2028 through July 31, 2038
- 4th renewal - August 1, 2038 through July 31, 2048

On August 1, 2008, the Lease was placed in holdover status pending negotiations of a lease amendment, and the Lessee's request to exercise its option to renew the Lease for another 10-year term.

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Concluding the lease holdover, in 2009 ([Item C35, December 17, 2009](#)), the Commission approved the Lease's first of four possible 10-year renewals, extending the existing Lease for a 10-year term, retroactive from August 1, 2008 through July 31, 2018. The Commission also approved a lease amendment to reduce the leased acreage by approximately 420 acres, from 16,120 to 15,700 acres. The acreage was reduced to allow the City of Los Angeles Department of Water and Power to mitigate those lands for dust abatement.

The 2009 lease amendment also resulted in a modification of the State's royalty. The State's royalty calculation is based upon the carbon dioxide (CO₂) content found in the trona (Na₂CO₃·NaHCO₃·2H₂O). The CO₂ content is determined by complex laboratory analysis in the Lessee's laboratory located in Lone Pine. For Lease quarter beginning August 1, 2017, the value of CO₂ per ton was \$198.97. The price of CO₂ per ton is adjusted yearly on August 1, in accordance with the Bureau of Labor Statistics, Producer Price Index by Commodity for Special Indexes: natural sodium carbonate and sulfate. The Lessee pays the State a royalty of 10 percent of the gross value of the CO₂ content in the trona. Per the amendment, all processed trona, including use of the calcining and drying facility, not yet constructed, is subject to a 7 percent royalty of the gross sales price. In 2015 ([Item C72, August 19, 2015](#)), the Commission approved a partial quitclaim deed for approximately 157 acres of the remaining 15,700 acres. Following the acceptance of the quitclaim, the amended Lease area contained approximately 15,543 acres of State sovereign land. Once again, the acreage was reduced to allow the City of Los Angeles Department of Water and Power to mitigate those lands for dust abatement.

On March 6, 2018, before the Lease's expiration date, the Lessee applied for their second Lease renewal to continue mining trona. If the Lease renewal is approved, the Lessee will continue their trona extraction operation. The trona is stockpiled, allowed to dry, and is trucked to Boron. At Boron, the trona is used as a chemical reagent in the processing of sodium and calcium borates at the U.S. Borax's operation site. One percent of the trona is added to 99 percent of the borates at Boron to stop the precipitation of probertite, a mineral, which forms scaling in the pipes and is difficult to remove. In addition, the Lessee also sells a smaller portion of their product to Western Milling for commercial animal feed.

Pursuant to the Surface Mining and Reclamation Act (SMARA), counties or cities are the lead agency for a Conditional Use Permit and Mining and Reclamation Plan that provides for how mining is to occur and how and when the land will be reclaimed to a usable form. Under the SMARA, annual inspections are required to be performed by the lead agency to determine the progress of mining and reclamation and to ensure that all the terms and conditions of the Conditional Use Permit are met.

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STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Codes sections 6005, 6216, 6301, 6890, 6895 and 6898; California Code of Regulations, title 14, section 15096; California Code of Regulations, title 2, section 2200 et seq.

Public Trust and State's Best Interests Analysis:

The leased lands are located on the dry lakebed of Owens Lake. The long-established mining activities have not been known to interfere with Public Trust needs or uses.

The Lease contains restrictions that protect public rights and environmental resources. The County also regulates the leased land while protecting public health and safety. The County approved an Environmental Impact Report and a Mitigation Monitoring and Compliance Program for implementation of the mitigation measures. The Mitigation Monitoring Program imposes feasible measures to avoid or substantially reduce any significant environmental impacts.

This mine has an approved reclamation plan, approved financial assurance, filed annual reports, paid reporting fees, and is inspected annually by the lead agency, Inyo County.

The Lease also provides that the Lessee shall deliver to staff quarterly royalty statements, which include the amount, quantity and value of all minerals resources produced, extracted, shipped, and sold. This lease has generated approximately \$5.9 million in royalties for the State's general fund since 1981.

The Lessee has submitted the financial liability insurance in an amount of not less than \$2,000,000 and added the Commission to its policy as an additional insured. The document is on file at the Commission's Long Beach office.

Conclusion:

Staff believes that approving the lease renewal will not substantially interfere with Public Trust needs and uses at this time, and for the foreseeable term of the Lease. For all the reasons above, staff believes approval of the lease renewal is in the State's best interests. Staff recommends approval of the Lease renewal.

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OTHER PERTINENT INFORMATION:

1. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084; California Code of Regulations, title 14, section 15300; California Code of Regulations, title 2, section 2905.

2. The Lessee will continue to mine trona consistent with the conditions approved in the Environmental Impact Report (State Clearinghouse No. 2003041127), the Conditional Use Permit No. 2002-13 and the Mining and Reclamation Plan No. 2002-1/U.S. Borax, approved by Inyo County pursuant to the California Surface Mining and Reclamation Act of 1975. The Environmental Impact Report was prepared and circulated to revise the Conditional Use Permit and Reclamation Plan to add the trona Processing Upgrade Project, which has not been built.
3. The Lessee has submitted the required filing fee and the approximate expense deposit.
4. This action is consistent with the Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation and responsible economic use of the lands and resources under the Commission's jurisdiction.

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDINGS:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

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PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that this lease renewal will not substantially interfere with Public Trust needs and values; and is in the State's best interests.

AUTHORIZATION:

Authorize the renewal of the existing Mineral Extraction Lease No. PRC 5464.1 to U.S. Borax Inc., for a term of 10 years beginning August 1, 2018, for all minerals other than oil, gas, other hydrocarbons, or geothermal resources on sovereign lands described in Exhibit A and shown on Exhibit B (for reference purposes only).

EXHIBIT A

PRC 5464.1

LAND DESCRIPTION

All those portions of the state-owned bed of Owens Lake, Inyo County, State of California, described as follows:

COMMENCING at Mineral Monument No. 58, a white marble stone monument with a metal plate in cross form stamped "MM #58", as said monument is shown on that certain map filed in Book 11 of Record of Surveys at Page 7, Official Records of said county, said monument having coordinates North y-coordinate 2,064,076.37 feet, East x-coordinate 6,890,187.91 feet; thence South 36°50'11" West 19,945.92 feet to the POINT OF BEGINNING;

thence South 00°19'49" West 5241.49 feet;
thence South 89°45'01" West 1325.80 feet;
thence South 00°17'15" West 5245.05 feet;
thence South 89°50'16" West 1332.98 feet;
thence South 00°08'18" West 4097.25 feet;
thence South 53°23'55" West 1014.32 feet;
thence South 37°30'32" West 2130.95 feet;
thence South 13°07'26" West 1332.93 feet;
thence South 44°24'42" West 334.75 feet;
thence South 89°58'08" West 2640.90 feet;
thence South 00°05'45" West 1312.95 feet;
thence South 45°13'11" West 918.35 feet;
thence North 76°03'09" West 66.68 feet;
thence North 38°36'31" West 256.39 feet;
thence South 20°24'09" West 178.37 feet;
thence South 61°48'10" West 297.76 feet;
thence South 47°25'23" West 279.03 feet;
thence South 30°56'37" West 134.07 feet;
thence South 21°45'57" West 159.12 feet;
thence South 79°22'27" West 141.91 feet;
thence South 32°03'55" West 268.23 feet;
thence South 29°56'09" West 212.95 feet;
thence South 52°57'31" West 378.81 feet;
thence South 25°14'18" West 506.21 feet;
thence South 55°06'18" East 123.63 feet;
thence South 27°30'52" East 324.90 feet;
thence South 51°17'39" East 184.13 feet;
thence South 80°18'49" East 131.33 feet;
thence South 19°49'15" East 397.94 feet;
thence South 67°46'36" West 211.60 feet;
thence South 62°29'13" West 99.69 feet;
thence North 77°43'12" West 112.97 feet;

thence South 53°40'25" West 140.10 feet;
thence South 07°30'45" East 185.99 feet;
thence South 19°45'18" West 303.80 feet;
thence South 65°48'26" West 151.93 feet;
thence South 40°52'58" West 158.39 feet;
thence South 23°08'55" East 155.83 feet;
thence South 80°22'18" East 273.34 feet;
thence South 47°28'01" West 225.02 feet;
thence South 32°34'09" West 203.27 feet;
thence South 26°59'35" West 228.56 feet;
thence South 00°31'55" East 304.15 feet;
thence South 13°44'35" West 55.48 feet;
thence South 00°30'46" East 163.15 feet;
thence South 03°22'59" East 105.15 feet;
thence South 00°24'28" East 204.49 feet;
thence South 00°36'01" West 296.46 feet;
thence South 89°57'01" West 150.12 feet;
thence South 40°13'18" West 68.21 feet;
thence South 02°28'30" East 281.87 feet;
thence South 03°47'15" East 79.97 feet;
thence South 04°05'51" East 154.15 feet;
thence South 03°00'20" East 73.91 feet;
thence South 03°36'36" West 68.25 feet;
thence South 17°26'31" West 62.61 feet;
thence South 20°12'45" East 693.37 feet;
thence South 24°28'59" West 39.95 feet;
thence South 19°40'47" East 39.69 feet;
thence North 86°46'59" West 1723.65 feet;
thence South 54°07'17" West 1444.70 feet;
thence South 35°26'03" West 1367.05 feet;
thence South 89°48'46" West 8265.85 feet;
thence North 00°10'30" West 2705.08 feet;
thence South 89°26'29" West 1671.69 feet to the southeast corner of Lake Land Location 2175, as described in patent by the State of California dated November 12, 1907;
thence northerly along the easterly boundary of said Lake Land Location 2175 to a point from which a point having coordinates North y-coordinate 2,027,039.38 feet, East x-coordinate 6,855,637.39 feet bears North 90°00'00" East;
thence North 90°00'00" East to said point having coordinates North y-coordinate 2,027,039.38 feet, East x-coordinate 6,855,637.39 feet;
thence North 00°03'32" East 1304.23 feet;
thence North 90°00'00" East 2638.74 feet;
thence North 00°00'00" East 1513.29 feet to the southerly boundary of Lake Land Location 2168, as described in patent by the State of California dated July 23, 1907;

thence easterly along said southerly boundary to the most easterly corner of said Lake Land Location 2168;
thence northwesterly along the northeasterly boundary of said Lake Land Location 2168 to a point from which a point having coordinates North y-coordinate 2,032,311.29 feet, East x-coordinate 6,858,272.70 feet bears North 00°07'36" West;
thence leaving said northeasterly boundary North 00°07'36" West to said point having coordinates North y-coordinate 2,032,311.29 feet, East x-coordinate 6,858,272.70 feet;
thence South 89°59'56" West 1330.36 feet;
thence North 00°09'17" West 2626.40 feet;
thence South 89°55'06" West 1331.28 feet;
thence North 00°10'30" West 2624.53 feet;
thence South 89°52'43" West 1339.34 feet;
thence North 00°00'54" East 5208.39 feet;
thence South 89°42'10" West 1322.09 feet;
thence North 00°17'34" West 7886.23 feet;
thence North 89°45'58" East 1330.20 feet;
thence North 00°14'29" West 7919.47 feet;
thence North 89°41'22" East 13393.27 feet;
thence South 00°02'02" West 9253.82 feet;
thence North 89°46'29" East 7995.44 feet;
thence South 00°14'50" West 1317.57 feet;
thence North 89°47'00" East 2659.98 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM all those portions leased under California State Lands Commission lease PRC 2976.1

The BASIS OF BEARINGS of this description is the California Coordinate System CCS83, Zone 4 (1992), expressed in U.S. Survey feet. Distances are grid distances. To convert grid distances to ground distances multiply by 1.000223215.

END OF DESCRIPTION

Prepared 09/22/2009 by the California State Lands Commission Boundary Unit
Revised 03/13/2018 by the California State Lands Commission Boundary Unit



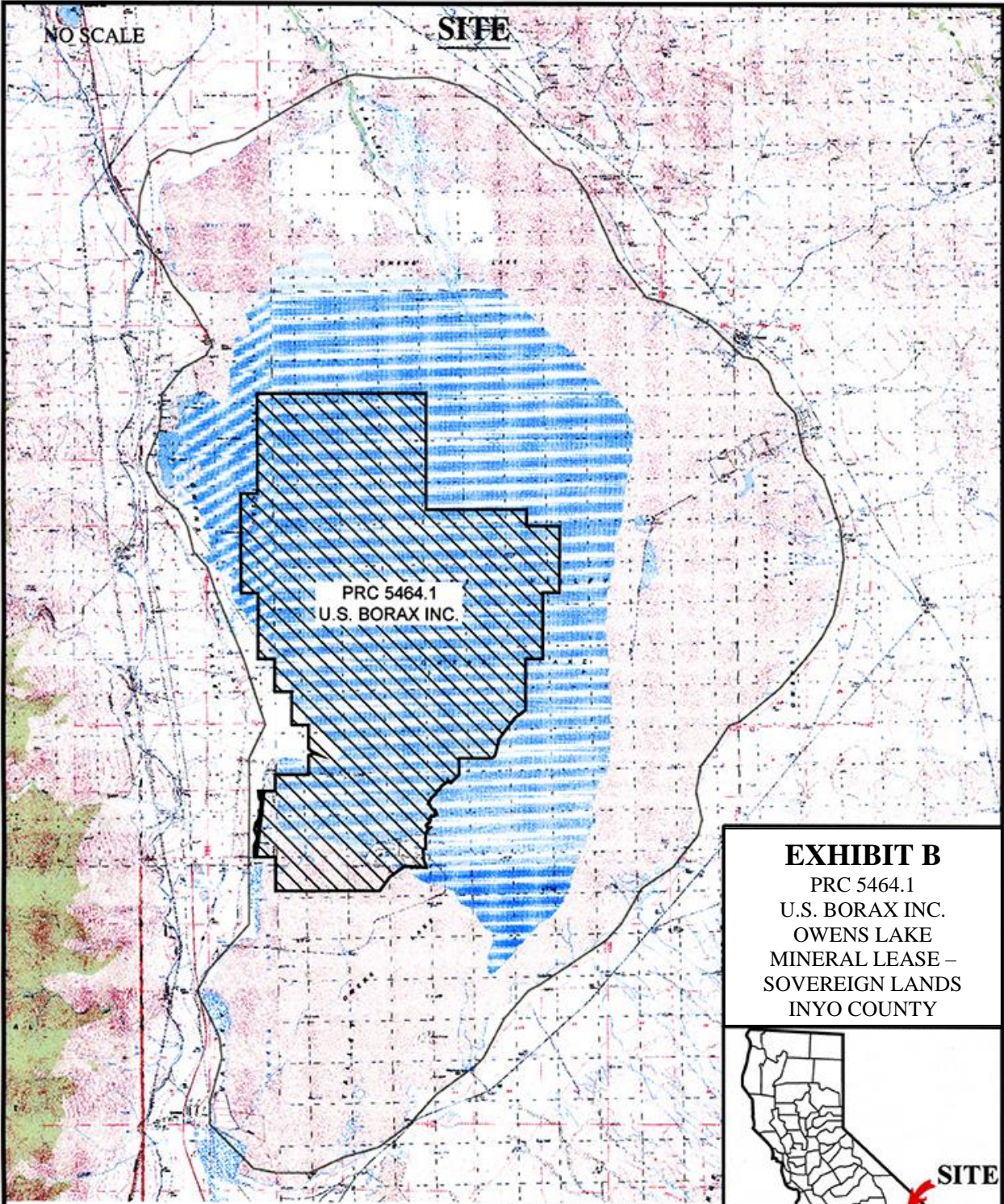


EXHIBIT B
PRC 5464.1
U.S. BORAX INC.
OWENS LAKE
MINERAL LEASE –
SOVEREIGN LANDS
INYO COUNTY



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

TS 03/13/18