State of California
AIR RESOURCES BOARD

EXECUTIVE ORDER S-11-017

ADOPTION AND SUBMITTAL OF A REVISION TO THE MANAGED VEGETATION BEST AVAILABLE CONTROL MEASURE IN THE OWENS VALLEY PM10 PLANNING AREA DEMONSTRATION OF ATTAINMENT STATE IMPLEMENTATION PLAN

WHEREAS, on July 1, 1987, the U.S. Environmental Protection Agency (U.S. EPA) promulgated national ambient air quality standards (NAAQS) for particulate matter of ten microns or less (PM10) in aerometric diameter;

WHEREAS, the Legislature, in Health and Safety Code section 39602, has designated the State Air Resources Board (ARB or Board) as the air pollution control agency for all purposes set forth in federal law;

WHEREAS, ARB is responsible for the preparation of the SIP for attaining and maintaining NAAQS as required by the federal Clean Air Act (the "Act"; 42 U.S.C. section 7401 et seq.) and to this end is directed by Health and Safety Code section 39602 to coordinate the activities of all local and regional air pollution control and air quality management districts (districts) necessary to comply with the Act;

WHEREAS, the Owens Valley Planning Area is located within the jurisdiction of the Great Basin Unified Air Pollution Control District (District);

WHEREAS, the District is authorized by Health and Safety Code sections 40001, 40702, and 41650, to adopt and enforce rules and regulations to achieve and maintain the NAAQS and to adopt attainment plans;

WHEREAS, the District is authorized by Health and Safety Code section 42316 to order the City of Los Angeles (City) to undertake reasonable PM10 control measures relating to the City's activities in Owens Valley;

WHEREAS, section 39602 of the Health and Safety Code also provides that the State Implementation Plan (SIP) shall include only those provisions necessary to meet the requirements of the Act;

WHEREAS, section 41650 of the Health and Safety Code requires ARB to approve the nonattainment plan approved by a district as part of the SIP unless the Board finds, after a public hearing, that the plan does not meet the requirements of the Act;

WHEREAS, sections 39515 and 39516 of the Health and Safety Code provide that any duty may be delegated to the Board's Executive Officer as the Board deems appropriate;

WHEREAS, on August 7, 1987, the U.S. EPA designated the Owens Valley Planning Area ("Owens Valley") nonattainment for the 24-hour PM10 NAAQS;

WHEREAS, on February 8, 1993, the U.S. EPA designated the Owens Valley as nonattainment, classification of "serious," for the 24-hour PM10 NAAQS;

WHEREAS, Clean Air Act Section 188(b)(1)(B) requires the implementation of best available control measures (BACM) in serious PM10 nonattainment areas;

WHEREAS, the application of managed vegetation to lakebed emissive areas, with a minimum horizontal coverage of 50%, is currently identified as BACM in the Owens Valley SIP;

WHEREAS, following a public hearing on February 1, 2008, the District adopted the 2008 Owens Valley PM10 Planning Area Demonstration of Attainment State Implementation Plan (2008 Plan) to amend the Owens Valley SIP to incorporate additional dust control measures;

WHEREAS, the 2008 Plan provides for the testing of alternatives to BACM as currently defined, and provides for the addition of new BACM, or modifications or adjustments to existing BACM at the discretion of the APCO, provided the BACM performance standards are continuously met during the transition period;

WHEREAS, the Revised BACM modifies the horizontal coverage requirement of managed vegetation from 50 percent average cover to 37 percent average cover, and is based on several years of PM10 monitoring and modeling of portions of the Owens Lake dry lakebed treated with managed vegetation;

WHEREAS, federal law set forth in section 110(l) of the Act and title 40, section 51.102 of the Code of Federal Regulations (CFR), requires that one or more public hearings, preceded by at least 30 days notice and opportunity for review, must be conducted prior to the adoption and submittal to the U.S. EPA of any SIP revision;

WHEREAS, the California Environmental Quality Act (CEQA) requires that no project which may have significant adverse environmental impacts may be adopted as originally proposed if feasible alternatives or mitigation measures are available to reduce or eliminate such impacts, unless specific overriding considerations are identified which outweigh the potential adverse consequences of any unmitigated impacts;

WHEREAS, the District determined that a proposed change to an existing BACM would not constitute a project under CEQA nor cause significant adverse environmental impacts and, thus, would not trigger the requirements of CEQA;

WHEREAS, the revisions to the Managed Vegetation BACM (Revised BACM) were available for public review and comment for at least 30 days, and a noticed public hearing was conducted in Independence, California prior to consideration of the Revised BACM as required by the Act and U.S. EPA regulations;

WHEREAS, on July 19, 2011, the District Governing Board adopted and approved a revision to the 2008 Plan incorporated the Revised BACM;

WHEREAS, the District submitted the Revised BACM to ARB as a proposed SIP revision on July 25, 2011, along with proof of public notice publication in accordance with State and federal law;

WHEREAS, the Executive Officer has determined that the Revised BACM does not modify the control strategy and air quality modeling contained in the 2008 PM10 SIP nor interfere with attainment of the 24-hour PM10 NAAQS in the Owens Valley by 2012 as required by the Clean Air Act;

NOW, THEREFORE, IT IS ORDERED that the Executive Officer hereby adopts the Revised BACM for the Owens Valley Planning Area as a SIP revision.

BE IT FURTHER ORDERED that ARB hereby submits to the U.S. EPA the Revised BACM for the Owens Valley Planning Area, and requests that U.S. EPA approve this plan as a revision to the California SIP.

BE IT FURTHER ORDERED that the ARB certifies pursuant to 40 C.F.R. section 51.102 that the Revised BACM being submitted as a SIP revision was adopted after notice and public hearing as required by 40 C.F.R. section 51.102.

Executed this 16th day of August, 2011, at Sacramento, California.

James N. Goldstene
Executive Officer