

DOCKETED

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Request for Comments on CEC's Staff Assessment - Part A

Additional submitted attachment is included below.

COLORADO RIVER BOARD OF CALIFORNIA

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(818) 500-1625
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October 21, 2013

California Energy Commission
Dockets Unit. MS-14 ~~4~~
Docket No. 09-AFC-~~7~~C
1516 Ninth Street
Sacramento, CA 95814-5512

Regarding: Request for Comments on the California Energy Commission's Staff Assessment - Part A for the Proposed Blythe Solar Power Project (Docket No. 09-AFC-6C) in Riverside County, California

To Whom It May Concern:

The Colorado River Board of California (Board) has reviewed the California Energy Commission's (CEC) Staff Assessment - Part A (SA-Part A) for the Amendment to the Blythe Solar Power Project (BSPP).

The CEC issued its Final Decision for the original BSPP on September 15, 2010. On April 12, 2013, the current owner of the BSPP, NextEra Blythe Solar Energy Center, LLC (NextEra Blythe Solar), filed a Revised Petition to Amend requesting to modify the approved BSPP to change the solar thermal power-generating technology from parabolic trough technology to photovoltaic (PV) technology.

The modified BSPP includes replacing the solar thermal technology with PV generating technology and reducing the physical project site from 7,043 acres to approximately 4,070 acres. The project would be located entirely on public land within BLM Right of Way Grant No. CACA-048811, that was approved on November 4, 2010. NextEra Blythe Solar proposes to utilize up to 1,200 acre-feet of water during a 48-month construction period, and up to 40 acre-feet of water per year during a 30-year operational life for the project. The water would be supplied by 3 wells on the project site.

As the Staff Assessment notes and as the Board has mentioned in its prior comment letters respectively on March 22, 2010 and September 14, 2010, which are attached, the BSPP site overlies the "Accounting Surface" area described by the U.S. Geological Survey's (USGS) Scientific Investigations Report 2008-5113 (and earlier USGS Water-Resources Investigations Report 94-4005). The USGS reports indicate that the aquifer underlying such lands is currently considered to be hydraulically connected to the Colorado River and that groundwater withdrawn from wells located on site would be eventually replaced, at least in part, by Colorado River water. If it is determined that these wells are, in fact, pumping groundwater which would be replaced by Colorado River water, the use of such water would need to be accounted for as a consumptive use of Colorado River water by the Secretary of the Interior as required by the Consolidated Decree of the Supreme Court of the United States in the case of *Arizona v.*

California, et al., 547 U.S. 150 (2006) (Consolidated Decree). Pursuant to the Boulder Canyon Project Act of 1928 (P.L. 70-462) and the Consolidated Decree, no Colorado River water shall be used by any water user without a valid contract between the Secretary of the Interior and the water user for such use.

As indicated in Page 4.9-51 of the SA-Part A, "Total groundwater expected to be extracted from the PVMGB (Palo Verde Mesa Groundwater Basin) by the project from construction through operation is approximately 2,400 acre-feet" and "the project's pumping could have an effect on the Colorado River by inducing flow into Palo Verde Mesa ...and... those effects could be significant." However, "the project applicant did not provide an analysis of the proportion of water originating from ... the Colorado River underflow."

Pursuant to Section 5 of the Boulder Canyon Project Act, contracts have been entered into between users of Colorado River mainstream water in California and the Secretary of the Interior for the use of water in amounts that exceed California's apportionment under a normal condition as set forth in the Consolidated Decree. Thus, no additional Colorado River water is currently available for use by any new water users from the Colorado River under shortage, normal, or Intentionally Created Surplus conditions, except through an agreement with an existing Section 5 Contract holder.

The Board supports the Staff Assessment's conclusion No. 3 that impacts to the Colorado River must be mitigated. Condition of Certification Soil & Water - 2, requires replacement of up to 2,400 acre-feet of water over the life of the project, and specifies that the Project owner must prepare a Water Supply Plan for review and approval by the CEC. Condition of Certification Soil & Water - 16 provides that the Project owner can choose to further evaluate the quantity of water attributed to flow from the Colorado River to determine the actual volume of water that must be mitigated. In either case, the verification for Condition of Certification Soil & Water - 2 requires the Water Supply Plan to demonstrate the Project owner's "legal right to the water or ability to conduct the activity". Such verification will be essential to determining whether the Project owner has complied with the obligations in the Boulder Canyon Project Act and the Consolidated Decree. The Board would appreciate consultation with the CEC in reviewing any proposed Water Supply Plan for the project.

Thank you for the opportunity to provide these comments on the SA-Part A. If you have any questions or require further information, please feel free to contact me, or Dr. Jay Chen of my staff, at (818) 500-1625.

Sincerely,



Tanya M. Trujillo
Executive Director

California Energy Commission
Docket No. 09-AFC-7C
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Attachments

cc: Terry Fulp, Bureau of Reclamation
Mr. Frank McMenimen, Project Manager,
Bureau of Land Management, Palm Springs South Coastal Field Office
Ms. Mary Dyas, Energy Commission Compliance Project Manager, CEC
Mr. William J. Hasencamp, Manager of Colorado River Resources
The Metropolitan Water District of Southern California

COLORADO RIVER BOARD OF CALIFORNIA

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September 14, 2010

Mr. Alan H. Solomon
Project Manager
Siting, Transmission and Environmental
Protection Division
California Energy Commission
1516 Ninth Street, MS 15
Sacramento, CA 95814-5512

Dear Mr. Solomon:

The Colorado River Board of California (Board), has received and reviewed a copy of the Presiding Member's Proposed Decision (PMPD) for the Blythe Solar Power Project, August 2010 CEC-800-2010-009 PMPD, DOCKET NUMBER 09-AFC-6.

The Board would like to thank you for your incorporating the Board's comments in your PMPD report as addressed in the March 22, 2010 comment letter on both the Blythe and the Palen Solar Power Projects regarding the Colorado River water use due to the groundwater pumping at this project site. A copy of the Board's comment letter is also attached here for your reference.

In this PMPD report, the estimated groundwater extraction from the Palo Verde Mesa Groundwater Basin (PVMGB) is about 21,680 acre-feet during the 68 months construction period and the proposed project life. This extraction amount is about 0.35 per cent of the total PVMGB groundwater storage. However, according to the U.S. Geological Survey Water Investigation Reports (i.e., WRJ 94-4005 and WRJ 00-4085), the Blythe Solar Power Project site is currently located within the "Accounting Surface" area, i.e. the PVMGB groundwater underneath the project site is hydraulically connected with the Colorado River. Any amount of groundwater withdrawn from the PVMGB aquifer that will be replaced by the Colorado River, in total or in part, is considered a use of Colorado River water.

According to the Consolidated Decree of the Supreme Court of the United States in the case of *Arizona v. California, et al.* entered March 27, 2006, (547 U.S. 150, 2006), the consumptive use of water means "diversion from the stream less such return flow thereto as is available for consumptive use in the United States or in satisfaction of the Mexican treaty obligation" and consumptive use "includes all consumptive uses of water of the mainstream, including water drawn from the mainstream by underground pumping." Also, pursuant to the 1928 Boulder Canyon Project Act (BCPA) and the Consolidated Decree, no water shall be delivered from storage or used by any water user without a valid contract between the Secretary of the Interior and the water user for such use, i.e., through a BCPA Section 5 contract.

ARIZONA DEPARTMENT OF WATER RESOURCES
COLORADO RIVER BOARD OF CALIFORNIA
SOUTHERN NEVADA WATER AUTHORITY

August 12, 2010

Mr. Robert Abbey, Director
Bureau of Land Management
U.S. Department of the Interior
1849 C Street NW, Room 5665
Washington, DC 20240

Re: Water Efficient Solar Power

Dear Mr. Abbey:

We are writing on behalf of the Arizona Department of Water Resources, the Colorado River Board of California, and the Southern Nevada Water Authority to communicate our joint concerns regarding current planning for concentrated solar power (CSP) projects throughout the southwestern United States, particularly in Arizona, California and Nevada.

Let us make clear at the outset that all of our agencies fully support the development of additional solar power projects in the southwestern United States and believe that solar power projects are a critical element in our nation's future sustainable electrical power portfolio. However, our concern is that in pursuing the realization of additional CSP projects that state, local and federal agencies do not overlook the energy-water nexus and the corollary adverse impacts that these projects can have on precious and finite water resources if there is not proper planning.

As you are well aware, there are currently numerous and disparate processes ongoing to permit large scale solar power projects in the southwestern United States. These processes include hundreds of individual right-of-way applications from project proponents on tens of thousands of acres managed by the Bureau of Land Management (BLM); the drafting of a Programmatic Environmental Impact Statement intended to establish "solar zones" in Nevada; a BLM "fast track" process in Arizona; and two bills currently pending before Congress, the *American Solar Energy Pilot Leasing Act of 2010* and the *Wind and Solar Leasing Act of 2010*.

With these multiple processes moving forward simultaneously, we believe that it is imperative that BLM apply a uniform standard regarding the efficient use of water for solar power projects. To that end we believe that any right-of-way grant or lease issued by BLM for CSP projects in the southwestern United States should include a provision that requires that the best available water efficient technologies be utilized for solar power projects, including specifically that any CSP project utilize dry cooling technology.

COLORADO RIVER BOARD OF CALIFORNIA

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March 22, 2010

Mr. Alan H. Solomon
Project Manager
Siting, Transmission and Environmental
Protection Division
California Energy Commission
1516 Ninth Street, MS 15
Sacramento, CA 95814-5512

Dear Mr. Solomon:

The Colorado River Board of California (Board), created in 1937, is the State agency charged with safeguarding and protecting the rights and interests of the State, its agencies and citizens, in the water and power resources of the seven-state Colorado River System.

The Board has received and reviewed the California Energy Commission's (CEC) documents Nos. Docket 09-AFC-6 and 09-AFC-7: Request for Agency Participation in the Review of the Blythe and the Palen Solar Power Projects in Riverside County, California, Distribution of Application for Certification. Both the Blythe and the Palen Solar Power Projects are proposed to be located in the Southern California inland desert. The applicants for both the Blythe and the Palen Projects are seeking a right-of-way grant for approximately 9,400 acres and 5,200 acres, respectively, of Federal lands that are administered by the Bureau of Land Management (BLM). The total water consumption during the operational period for the Blythe and the Palen Projects is estimated to be 628 and 314 acre-feet per year over the 30-year license period, respectively. In addition during construction, the water use is estimated to be 3,164 and 1,560 acre-feet for the two projects, respectively. The water supply for each project will be pumped groundwater from on-site wells.

According to the Consolidated Decree of the Supreme Court of the United States in the case of *Arizona v. California, et al.* entered March 27, 2006, (547 U.S. 150 (2006)), the consumptive use of water means "diversion from the stream less such return flow thereto as is available for consumptive use in the United States or in satisfaction of the Mexican treaty obligation" and consumptive use "includes all consumptive uses of water of the mainstream, including water drawn from the mainstream by underground pumping." Also, pursuant to the 1928 Boulder Canyon Project Act (BCPA) and the Consolidated Decree, no water shall be delivered from storage or used by any water user without a valid contract between the Secretary of the Interior and the water user for such use, i.e., through a BCPA Section 5 contract. Within California, BCPA Section 5 contracts have previously been entered into between users of Colorado River mainstream water and the Secretary of the Interior for water from the Colorado River that exceeds California's basic entitlement to use Colorado River water as set forth in the Consolidated Decree. Thus, no additional Colorado River water is available for use by new

California Energy Commission

March 22, 2010

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from the Colorado River must be through a Section 5 BCPA contractual entitlement.

If you have any questions or need further information, please contact me at (818) 500-1625.

Sincerely,



Gerald R. Zimmerman
Executive Director

cc: Ms. Lorri Gray-Lee, Regional Director, Lower Colorado Region, U.S. Bureau of Reclamation

Ms. Holly Roberts, Associate Field Manager, Palm Springs-South Coast Field Office, BLM

Ms. Eileen Allen, Manager, Energy Facilities Siting and Dockets Office, CEC

Dr. Jeffrey G. Harvey, Principal & Senior Scientist, Harvey Meyerhoff Consulting Group

Mr. Gavin Berg, Project Manager, Solar Millennium LLC

Mr. William J. Hasencamp, Manager, Colorado River Resources, The Metropolitan Water District of Southern California