

From: John Kessler
To: Docket Optical System
Date: 8/26/2009 1:38 PM
Subject: Fwd: Data Response, Set 1N: Ivanpah Beneficial Use and Dredge andFill Analyses

Dear Docket Staff

Please docket this email to Ivanpah (07-AFC-5) and include the phrase in the file name, "RWQCB's Comments re Applicants Plans to Affect State Waters".

Thank you,
John

John S. Kessler
CEC - Project Manager
Office: 916-654-4679
Cell: 530-306-5920
Fax: 916-654-4421

DOCKET	
07-AFC-5	
DATE	<u>8/26/2009</u>
RECD.	<u>8/26/2009</u>

>>> "Linda Stone" <lstone@waterboards.ca.gov> 8/26/2009 12:24 PM >>>
Hi Kathy

I have finished my review of the subject document. My comments on the document are described below.

Apparently, there was a misunderstanding regarding my comments in the July 15, 2009 meeting with Brightsource and its consultants. I did not intend to state a determination that Categories 4 and 5 ephemeral washes are not waters of the State. Instead, my intent was to state that I would take their proposal for excluding Categories 4 and 5 under consideration and that my determination regarding waters of the State would be made in consultation with Depart of Fish and Game. As I conveyed in my August 18, 2009 email to you, I've since discussed the matter with Becky Jones, Fish and Game, and Susan Sanders, CEC. They both stated that since the project inception, all the channels (category 1 through 5) have been considered waters of the State. I see no basis for excluding any of the channels and I am not aware of any justification that would cause the State to reconsider the matter at this late date in the project certification process. Please revise the Data Response Set 1N accordingly.

At this time, it appears that my agency will not be issuing "Proposed Waste Discharges" for this project. Instead staff will submit Lahontan Water Board's "requirements" to the CEC for incorporation in their certification process. Please revise the document accordingly.

The Process Geomorphology section of the PSA (under Cultural Resources) describes the project site as located in the middle portion of the bajada. The Environmental Setting of the Beneficial Use Analysis states that the project site is located in the "lower part of the bajada." The setting section should be revised for consistently with the PSA, unless this information has been superceded by subsequent documents.

The section "Beneficial Use Analysis" refers to the project Plan of Development, (POD, CH2M Hill, 2009d), which your reference section shows as the Closure, Revegetation, and Rehabilitation Plan. Is this the correct reference? Where can I find the POD?

I believe that two additional items should be added to project features involving dredge and fill: Installation of heliostats in channels (temporary and long-term) and property fencing in channels (temporary and long-term).

I agree with your determination that REC-1 won't be impacted and your quote from the Basin Plan regarding protection that do not exist need not be protected is correct. However, my interpretation of the Basin Plan paragraph that contains that sentence is that it applies to IND, PRO, GWR, FRSH, NAV, POW, WARM, COLD, SAL, MIGR, SPWN, and WQE. Therefore, I would remove that quote from the discussion of REC-1.

The discussion of vegetation loss is probably more applicable to the Wildlife Habitat BU, since the

vegetation provides cover, foraging, etc. to wildlife.

I believe the Wildlife Habitat section should contain a discussion of the loss of project washes as a Wildlife corridor since that is an important function of these channels that will be eliminated by the fencing.

If you have any questions, feel free to call me.

Linda Stone, PG, CHg
Engineering Geologist
Lahontan Regional Water Quality Control Board
2501 Lake Tahoe Blvd.
South Lake Tahoe, CA 96150
530.542.5471