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Subject: **PALO VERDE SOLAR I, LLC'S COMMENTS ON THE PRESIDING
MEMBER'S PROPOSED DECISION
BLYTHE SOLAR POWER PROJECT
DOCKET NO. (09-AFC-6)**

Enclosed for filing with the California Energy Commission is the original of **PALO
VERDE SOLAR I, LLC'S COMMENTS ON THE PRESIDING MEMBER'S PROPOSED
DECISION**, for the Blythe Solar Power Project (09-AFC-6).

Sincerely,



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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the
BLYTHE SOLAR POWER PROJECT

DOCKET NO: 09-AFC-6

**PALO VERDE SOLAR I, LLC'S
COMMENTS ON THE PRESIDING
MEMBER'S PROPOSED DECISION**

INTRODUCTION

Palo Verde Solar I, LLC (PVSI), a wholly owned subsidiary of Solar Millennium LLC, hereby files its comments on the Presiding Member's Proposed Decision (PMPD) for its Blythe Solar Power Project (BSPP). Our comments are provided in advance of the PMPD Conference Hearing currently scheduled for August 31, 2010 to assist the Committee in conducting the hearing and producing an errata. PVSI appreciates the Committee's commitment to expediting the AFC process for the BSPP and especially thanks the Hearing Office for producing the PMPD so quickly.

To assist the Committee in preparing errata to the PMPD, the comments are organized by PMPD Section Hearing and page number below.

PVSI does request a few global changes as follows:

- The disturbance acreage in the PMPD should be 7025 acres.
- The transmission line will be approximately 10 miles

- Now that the BLM and CEC are no longer performing a joint process, any reference to the BLM Authorized Officer in the verifications should be deleted
- The four units are independent but not identical. Any reference to “identical units” should be deleted.

INTRODUCTION

Page 2, Second Paragraph

This paragraph should be modified as follows to correctly identify the number of weather stations and their locations.

A weather station located in the power block areas provides real-time measurements of weather conditions that affect the solar field operation. ***Two to four additional weather stations may be required per unit for energy-scheduling accuracy. These additional weather stations would be located within the solar fields.*** Radiation data is used to determine the performance of the solar field.

Page 2, Third Paragraph

Remove the reference to HTF heaters as HTF heaters were removed from the BSPP as referenced in Exhibit 29.

Page 2, Fourth Paragraph

The number of wells should be changed from “one of two” to “up to 10” as reflected in Exhibit 52.

Page 2, Fifth Paragraph

The following clarification is necessary relating to mirror washing.

At each solar field, to facilitate dust and contaminant removal, water from the primary desalination process, ~~reverse osmosis (RO)~~ ***demineralized*** water, would be used to spray clean the solar collectors.

Page 4, First Paragraph

The reference to PSA and FSA (Exhibit 500) should be replaced by SA/DEIS and RSA (Exhibit 200).

Page 9, Heat Collection Elements

The HCEs should be referred to as steel pipes and not steel tubes.

Page 11. Major Project Components

The following modifications to some of the bulleted items are warranted.

- **Solar Field & Power Block #1** (northeast)
- **Solar Field & Power Block #2** (northwest)
- **Solar Field & Power Block #3** (southwest)
- **Solar Field & Power Block #4** (southeast)
- Access road from **and including upgraded portion of** Black Rock Road to onsite office;
- Warehouse/maintenance building, **assembly hall** and laydown area;
- **Telecommunications Lines**
- **Natural Gas Pipeline**

Page 12, Fuel Supply and Use

The following modifications are necessary to accurately describe the diameter of the natural gas pipeline and reference that an old abandoned pipeline will be removed as part of the BSPP.

The auxiliary boiler for each unit would be fueled by natural gas. The gas for the entire project would be supplied from a new 10-mile (two miles offsite) **up to 10** ~~four~~-inch diameter pipeline connected to an existing Southern California Gas (SGC) main pipeline south of I-10. The estimated maximum natural gas usage rater per unit is 34 MMBtu/hr. **The BSPP will also include removal of an existing abandoned gas pipeline within the BSPP ROW.**

Page 14, Last Paragraph

The following modifications are necessary to properly describe the operation of the evaporation ponds.

The plant will operate on one pond for approximately 24 months, and then switch to the second pond.

Page 16, 11. Fire Protection

The following modification is suggested to reflect that the BSPP will employ foam trucks.

The systems include a fire protection water system, foam generators, **foam trucks**, carbon dioxide fire protection systems, and portable fire extinguishers.

Page 17, 12. Telecommunications and Telemetry

The following modifications will clarify the description of the telecommunications facilities.

The project would have telecommunications service from Frontier Communications, the telecommunications service provider for the city of Blythe. Voice and data communications would be provided by a new twisted pair telecommunications cable. The routing for this cable will follow the routing of the redundant telecommunications line from ~~end at the existing infrastructure near Mesa Drive, the project to Southern California Edison's (SCE) proposed Colorado River Substation.~~ **In addition, the project has two other telecommunications lines required by CAISO to provide operational data to the Colorado River Substation. The primary transmission-related telecommunications line will be strung overhead along the same poles as the 230 kV gen tie line to CRSS. The redundant transmission-related telecommunications cable will be buried cable similar to the project's telecommunications cable.** The routing for both of these lines ~~the buried telecommunications cables~~ will be adjacent to Black Rock Road, and the site access road **for the portion north of I-10. The redundant telecommunications line continues south of I-10 to the Colorado River Substation following the route of the gen-tie line, while the project's telecommunications cable follows Black Rock Road to Mesa Drive.** Wireless telecom equipment will be used to support communication with staff dispersed throughout the project site. The project would utilize electronic telemetry systems to control equipment and facilities operations over the site

Page 18, Item 16. Roads, Fencing and Security

The following modification is necessary to properly identify that the site access road will not be a public road.

Access to the Blythe project site would be via a new ~~public~~ road heading north from the frontage road.

Page 22, Transmission System

The following modifications are necessary to reflect that the transmission line will not be bundled and for clarity on the route.

The BSPP facility would be connected to the SCE transmission system at the new Colorado River substation planned by SCE approximately five miles southwest of the Blythe project site. The proposed generator-tie line would consist of a ~~bundled~~ double circuit 230 kV line.

The gen-tie line is expected to proceed ~~directly~~ **generally** south from the project site, eventually both crossing I-10 and turning westward to SCE's planned Colorado River substation.

Pages 22 and 23, Findings of Fact

The term "west" in Finding 1 should replace "east".

The term identical should be stricken from the Finding 3 as the Units are not identical.

GENERAL CONDITIONS OF CERTIFICATION

Page 38, Compliance Project Manager Responsibilities

This section of the PMPD outlines the responsibilities and authority of the CPM. While PVSI believes that the CPM already has implied authority to accept and approve a compliance plan for a limited construction activity that may not have all of the detail necessary for construction of the full project activities, PVSI requests this authority be expressly contained in the PMPD and Commission Decision. PVSI proposes the following language to be added to the description of the CPM's authority.

All project compliance submittals are submitted to the CPM for processing. Where a submittal required by a condition of certification requires CPM approval, the approval will involve all appropriate Energy Commission staff and management. All submittals must include searchable electronic versions (pdf or MS Word files). ***The CPM may accept and approve, on a case by case basis, compliance submittals that provide sufficient detail to allow construction activities to commence without the submittal containing detailed information on construction activities that will be commenced later in time.***

As the Committee is aware, the General Conditions require that the Project Owner and the CPM perform several preconstruction meetings to ensure that the preconstruction compliance submittals are prepared appropriately and submitted with sufficient time for review. At these meetings, the Project Owner and CPM could agree that certain plans could be prepared in a manner to facilitate the construction schedule, by allowing amendments to the plan be made prior to engaging in certain future activities. For example, a Storm Water Pollution Prevention Plan and a Drainage Erosion Control Plan could be detailed enough to allow construction to commence in certain areas (Phase I for example) while supplemental plans would be necessary as more detailed engineering is performed for areas that will be disturbed later in the construction schedule (Phase II for example).

PVSI throughout the proceedings and in its submittals to the Commission has maintained that the construction of BSPP will be conducted in phases. Drainage is discussed and described as occurring in two phases while environmental mitigation and construction constructions have been discussed as proceeding in Phases (e.g., Phase 1a, Phase 1b and Phase 2).

Giving the CPM this express authority would in no way jeopardize compliance with the conditions, and in all circumstances would be up to Compliance Staff discretion. For projects like the BSPP, this flexibility will allow for the orderly synchronization of construction schedule and compliance plan approval.

Staff has recently rejected this approach in the GSEP Proceedings but PVSI would like to discuss at the PMPD Conference Hearing.

POWER PLANT EFFICIENCY

Page 75, Third Paragraph

There are four steam turbine generators (not two) – one per power block.

TRANSMISSION SYSTEM ENGINEERING

Page 88, Fourth Paragraph

The PMPD was prepared prior to the submission of the redacted Phase II Cluster Study. Therefore we recommend the following modifications to the last sentence of this paragraph.

The CAISO has provided an analysis in its Phase I **and Phase II Studies**, ~~and will provide analysis in its Phase II Study~~, and its approval for the facilities and changes required in its system for addition of the proposed transmission modifications. (Exhibit 200, P. D.5-2, **Ex. XXX**)

Page 89, First Paragraph

Since the Phase II Cluster Study had been completed, this paragraph should be modified as follows.

The CAISO has completed its ~~On completion of the Phase II Interconnection Study, **which identified the conditions necessary for development of the Large Generator Interconnection Study.** the CAISO will provide its conclusions and recommendations, and issue a final approval/disapproval letter for the interconnection of the proposed generation project. If necessary, the CAISO will provide written and verbal testimony on its findings at the Energy Commission hearings. (Ex. 200, D.5-2 XXX)~~

Page 91, First Paragraph

The following modification is necessary to reflect that the height of the transmission towers will range from 70 to 145 feet in height.

The two generator tie-lines would be supported by ~~90~~**70**-foot to 145-foot single and double circuit towers.

TRANSMISSION LINE SAFETY AND NUISCANCE

Page 100, Third Paragraph

PVSI requests the following paragraph replace paragraph three in its entirety.

The Gen-Tie proceeds in generally in a southerly direction with some line angle deviations which the Applicant made to accommodate the Blythe Airport Land Use Commission concerns regarding pole location and height. The right-of-way width is approximately 120 feet, however where larger H-frame structures were designed to accommodate the Blythe Airport Land Use Commission the right of way width is approximately 250 feet. The aluminum steel-reinforced conductors for the proposed BSPP will be supported by 70 to 145 foot tall double circuit tubular steel monopoles except for the portion of the line near Blythe Airport Runway 8-26 (oriented east-west), which will be supported by 70-foot tall H-Frame structures.

Page 105, Finding 1

The on-site switchyard will be 230 kV and not 500-kV.

AIR QUALITY

Page 128, First Paragraph

This paragraph refers to a 2-mile natural gas supply pipeline. The length of this pipeline should be modified to 10 miles.

WORKER SAFETY AND FIRE PROTECTION

Page 180, Second Paragraph

The following modification is necessary to avoid confusion that the Riverside County Development Impact Fees are applicable to development on BLM land. They are not and we believe the Committee should refer to the agreement to mitigate potential fire protection impacts and not to the Development Impact Fee that has been adopted by the Riverside County Board of Supervisors for development on private land.

To mitigate this situation, the RCFD proposed that the solar plant developers contribute to ~~“Development Impact Fee Programs” adopted by the Riverside County Board of Supervisors~~ ***funds pursuant to an agreement with RDFD to mitigate for potential fire protection impacts.***

Page 185, Verification to Condition of Certification WORKER SAFETY-6

The Verification to this condition requires submittal of plans the secondary access road to the RCFD for review and approval 60 days prior to site mobilization. Since the secondary access road is not necessary until the delivery of large amounts of hazardous materials, PVSJ requests this verification be modified by striking the words “site mobilization” and replacing them with “delivery of HTF”.

HAZARDOUS MATERIALS

Page 190, b. Therminol VP-1

This paragraph references “approximately 1,300,000 gallons of HTF”. The correct amount is approximately 8.8 million gallons as indicated in Hazardous Materials Appendix A.

BIOLOGY

Page 246, Findings of Fact Number 3

This finding references the transmission line as a 7-mile long 500 kV line. This should be changed to 10-mile long 230 kV.

Page 260, Verification to Condition of Certification BIO-8

In the second paragraph of the verification, the timing refers to 30 days “following the publication of the Energy Commission License Decision or the Record of Decision/ROW Issuance”. All of the other verifications were modified to refer to project activities instead of the Decision and it appears this verification was missed. PVSII requests the above language be replaced with “30 days prior to construction”.

Page 302, Verification to BIO-20

Staff and PVSII agreed in several biology conditions of certification to language specifying the timing and approval of the form of letter credit and the actual letter of credit would be submitted as security for performance of its mitigation obligations. PVSII missed recommending the same change to the verification of this condition as follows:

Verification: No later than 30 days prior to beginning Project grounddisturbing activities, the Project owner shall provide written verification of ***approved form of Security*** in accordance with this condition of certification. ***Actual Security shall be provided no later than 7 days prior to the beginning of Project ground-disturbing activities.*** The Project owner, or an approved third party, shall complete and provide written verification of the proposed compensation lands acquisition within 18 months of the start of project ground-disturbing activities.

Page 302, Condition of Certification BIO-21

PVSII has been working closely with Staff and the agencies to modify this condition of certification and has included what we believe to be the latest version. However, we have added some additional language that we have not had time to discuss with Staff concerning payment of a fee into the NFWF account to allow BLM to install and manage a water source if PVSII elects to mitigate in that manner. PVSII received a letter from the Acting State Director of BLM that acknowledges that if PVSII makes such payment BLM will undertake the obligation for the water. The letter is attached to these comments. In light of that commitment, PVSII requests Staff to agree and/or the Committee to modify the Condition by including the additional language specifying that PVSII's obligations are discharged after depositing the money into the NFWF Account.

In addition, PVSI requested and Staff rejected a proposed modification that would allow the compensation lands (if elected by PVSI as the form of mitigation) be phased in the same manner as allowed for the acquisition of compensation lands for other species and impacts. PVSI requests the Committee approve this modification which is also shown by shading.

BIO-21 To compensate for Project contributions to loss of spring foraging habitat for Nelson's bighorn sheep, the Project owner shall:

1. Create a New Water Source. The Project owner shall create a new water source for the Southern Mojave metapopulation of bighorn sheep in the McCoy Mountains or in other mountain ranges in the vicinity of the Project north of I-10. The proposed location of the water source shall be developed in consultation with the CPM, BLM and CDFG. ~~or shall renovate/restore an existing water source. The Project owner shall provide an assessment of which option (restoration or creation of a water source) would offer the most benefit for the Southern Mojave metapopulation of bighorn sheep. The Project owner shall consult with BLM and with the CDFG in development of that assessment. The Project owner shall monitor and manage the artificial or restored water source for the benefit of bighorn sheep for the life of the Project, or shall provide sufficient funding to support such monitoring and management by an approved third party.~~

The Project owner may elect to fund the creation of a new water source by depositing funds into a Renewable Energy Action Team (REAT) subaccount established with the National Fish and Wildlife Foundation (NFWF). Actual costs shall be developed in consultation with the CPM, BLM and CDFG. The Project owner shall be responsible for providing adequate funding for installation of the water source and all costs associated with that installation, as well as costs of operation, monitoring and management of the water source for the life of the Project. The Project owner shall also provide sufficient funding for any administrative fees that NFWF may require to implement the measures described in this condition. The initial estimate of funding required to fulfill the measures described above is \$100,000. The total costs shall not exceed \$120,000. If less than \$100,000 is required to fulfill the terms of this condition, the excess shall be

refunded to the Project owner. **Depositing the funds into the NFWF Account will discharge PVSI's obligations under this Condition of Certification.**

The Project owner shall provide financial assurances to the CPM with copies of the document(s) to CDFG and BLM to guarantee that an adequate level of funding is available to implement the mitigation measures described in this condition. Security shall be in the amount of the initial estimate of \$100,000.

Or

2. Acquire Compensatory Habitat. As an alternative to providing a water source as described above, the Project owner may elect to secure compensatory mitigation lands that would offset the loss of spring foraging habitat (desert dry wash woodland, vegetated swales, and unvegetated washes) for Southern Mojave metapopulation Nelson's bighorn sheep. If the Project owner selects this compensatory mitigation option the Project owner shall acquire, in fee or in easement no less than ~~922929~~ acres of lands that:
- a. Provide suitable spring foraging habitat for bighorn sheep in the form of desert dry wash woodland and vegetated swales within intermixed Sonoran creosote bush scrub habitat, and
 - b. ~~Be Includes within~~ spring foraging habitat that would benefit the Southern Mojave metapopulation (i.e., north of I-10). Priority acquisition areas would be in eastern Riverside County roughly bounded by Interstate 10, Highway 62, and Highway 177.

Acquisition Terms and Conditions. The terms and conditions of this acquisition or easement shall be as described in **BIO-12 (Desert Tortoise Compensatory Mitigation)** and in **accordance with BIO-28 (phasing)**. The responsibilities for acquisition and management of the compensation lands may be delegated by written agreement to CDFG or to a third party, such as a non-governmental organization dedicated to habitat conservation, subject to approval by the CPM, in consultation with CDFG and USFWS prior to land acquisition or management activities. Additional funds shall be based on

the adjusted market value of compensation lands at the time of construction to acquire and manage habitat.

Review and Approval of Compensation Lands Prior to Acquisition.

The Project owner shall submit a formal acquisition proposal to the CPM, CDFG, ~~USFWS~~, and BLM describing the parcel(s) intended for purchase. This acquisition proposal shall discuss the suitability of the proposed parcel(s) as compensation lands for the ~~S~~southern Mojave metapopulation of bighorn in relation to the criteria listed above. Approval from the CPM, in consultation with BLM and CDFG, shall be required for acquisition of all parcels comprising the compensation lands.

Acquisition Security. If the ~~922929~~ acres of bighorn sheep mitigation land is separate from the acreage required for desert tortoise compensation lands, the Project owner or an approved third party shall complete acquisition of the proposed compensation lands within the time period specified for this acquisition (see the Verification section at the end of this condition). Alternatively, financial assurance can be provided by the Project owner to the CPM, BLM and CDFG, according to the measures outlined in **BIO-12 and BIO-28 (phasing)**. These funds shall be used solely for implementation of the measures associated with the Project. Financial assurance can be provided to the CPM in the form of an irrevocable letter of credit, a pledged savings account or another form of security ("Security") prior to initiating ground-disturbing Project activities. Prior to submittal to the CPM, the Security shall be approved by the CPM and, in consultation with BLM, CDFG and the USFWS, to ensure funding. The final amount due will be determined by an updated appraisal and PAR analysis conducted as described in **BIO-12**.

Verification: The Project owner shall provide the CPM with a form of Security for installation, management and monitoring of the water source as described in this condition of certification no later than 30 days prior to beginning Project ground-disturbing activities for approval. Actual Security shall be provided no later than 7 days prior to the beginning of Project ground-disturbing activities. Security shall be \$100,000.

If the Project owner elects to fund the creation of a new water source by depositing funds into the REAT-NFWF subaccount, no less than 30 7 days prior to beginning Project ground-disturbing activities the Project owner shall provide written verification to the CPM, BLM and CDFG that \$100,000 has been deposited to that subaccount. **Payment of the funds to the REAT-NFWF subaccount will discharge PVSII's obligations under this condition of certification.**

No later than 6 months following ~~publication of the Energy Commission Decision~~ start of ground disturbance activities, the Project owner shall submit to the CPM for review and approval a description of the proposed location of the water source that will be created. ~~or restored, including a discussion as to why the proposed site would benefit local and regional bighorn sheep populations.~~ No later than ~~24~~ 18 months following the ~~publication of the Energy Commission Decision~~ Project ground-disturbing activities, the Project owner shall provide written verification to the CPM that ~~restoration or construction of the artificial water source has been completed.~~ At the same time, the Project owner shall: (1) provide a monitoring and management plan for bighorn use of the water source; and (2) provide evidence of an agreement (Memorandum of Understanding) and a funding mechanism to provide ongoing maintenance of the water source by ~~CDFG~~ BLM or some other party approved by the CPM in consultation with BLM and CDFG.

As part of the annual compliance report, each year following completion of construction/restoration of the water source, the Project owner shall provide a report to the CPM, BLM and CDFG that includes: a description of bighorn sheep detections at the water source and a summary of management activities for the year, and a discussion of whether management goals for the year were met; ~~and, if warranted, recommendations for management activities for the upcoming year to improve bighorn sheep use at the water source.~~

If the Project owner elects to mitigate for loss of bighorn sheep spring foraging habitat with acquisition of compensatory mitigation lands as described above.

No less than 90 days prior to acquisition of the bighorn sheep compensation lands **and in accordance with BIO-28 (phasing)**, the Project owner, or an approved third party, shall submit a formal acquisition proposal to the CPM, BLM, and CDFG, ~~and USFWS~~ describing the ~~9229 acres of~~ lands intended for purchase. At the same time the Project owner shall submit a PAR or PAR-like analysis for the parcels for review

and approval by the CPM, in consultation with BLM and CDFG. , and USFWS.

~~No later than 30 days prior to beginning Project ground-disturbing activities, the Project owner shall provide written verification of Security for acquisition of the 922 acres of land in accordance with this condition of certification.~~

No later than 18 months from initiation of construction **of the last phase** the Project owner shall provide written verification to the BLM, the CPM, and CDFG that no fewer than ~~922~~ 929 acres of compensation lands or conservation easements that meet the criteria described in this condition have been acquired and recorded in favor of the approved recipient.

Security shall be refunded to Project owner once land has been acquired and recorded in favor of the approved recipient.

Page 317, Table to Condition of Certification BIO-28

This condition includes a summary table that specifies the amount of mitigation for habitat acquisition by phase. PVSJ requests the table be modified to allow the habitat acquisition for Bighorn Sheep foraging to be phased as well. Additionally, the totals for State Waters Mitigation should be corrected.

Phase	State Waters - Direct		State Waters – Indirect		BHS	
	Impact (acres)	Mitigation (acres)	Impact (acres)	Mitigation (acres)	Impact (acres)	Mitigation (acres)
Phase 1a	67	130	0	0	27	27
Phase 1b	231	409	36	51	488	488
Phase 2	294	665	146	189	414	414
Total	593	1205	433 182	179 240	929	929

SOIL AND WATER RESOURCES

Page 321-322, 3. Groundwater Basin Balance

The PMPD relies heavily on the statements contained in the RSA regarding the relationship between the Palo Verde Mesa Groundwater Basin (PVMGB) and the Colorado River. PVSJ strongly disagrees with Staff's characterization that the PVMGD is heavily influenced by the Colorado River and that the BSPP proposed wells will be hydraulically connected to the Colorado River. However, as it has been this applicant's willingness to seek solutions to complex problems, it agreed to mitigate water use as it relates to the Palo Verde Valley recharge and not because it believes such use will have any impact on the Colorado River. Similarly, as described in great detail in Exhibits 52, Soil and Water Resource Testimony, the BSPP does not need an entitlement to Colorado River Water in order to operate its wells which will pump legally distinct California Groundwater. On cross-examination, Staff agreed:

BY MR. GALATI:

Q I just have one question, Mr. Donovan. Do you believe the Blythe Solar Power Project needs an entitlement for Colorado River water to be able to pump groundwater on the mesa?

BY MR DONOVAN

A No.¹

Based on Exhibit 52 and Staff Agreement, PVSJ requests that the Committee unequivocally state that the evidence in the record supports a definitive finding that the BSPP does not require a Colorado River entitlement in order to legally pump groundwater from the PVMGB Groundwater Basin. We have included revisions to the first paragraph of Section 3 on page 321 as follows:

~~Based on the fact~~ **Staff asserts** that a hydraulic connection exists between local groundwater and the Colorado River, ~~the~~**refore** ~~evidence~~ suggests**ing** that groundwater withdrawals from the PVMGB are largely balanced by recharge (inflow) from the river via the Palo Verde Valley Groundwater Basin. (Exhibit 200, pp. c.9-20 to C.9-31, and P. C.9-44). **Applicant, however, contends that the recharge is largely influenced by mounded groundwater in the Palo Verde Groundwater Basin, that prevents hydraulic connectivity between the PVMGB and the Colorado River. (Exhibit 52, Soil and Water Resources Testimony).**

Additionally, on page 322, the first paragraph should be modified as follows:

Based on the described connection between the PVMGB and the Colorado River, ~~however, the evidence~~ **Staff asserts** suggest that wells drawing groundwater from the PVMGB might be considered as withdrawing water from the river. (Exhibit 200; pp. C.9-44 and C.9-45). Water supplies in the Colorado River are fully appropriated, with the existing appropriations encompassing all consumptive uses (including applicable

¹ 7/15/10 RT 61

groundwater pumping) pursuant to related Supreme Court decrees. **While the Applicant agrees that Colorado River water supplies are fully appropriated, it and Staff agree that the BSPP would not require an entitlement to pump groundwater for the BSPP. (Exhibit 52; 7/15/10 RT 61)** The Project applicant has not provided a detailed analysis of the proportion of proposed groundwater extraction that would be derived from basin recharge and **the Palo Verde Valley yet.**~~Colorado River underflow.~~ Based on this condition and the noted connection between the PVMGB and the river, ~~Project-related groundwater withdrawal could potentially result in significant impacts related to the diversion of Colorado River water.~~

Public/agency comments from the Colorado River Board of California and Defenders of Wildlife were also received on this issue. These comments identified similar concerns as described above regarding a connection between the Colorado River and PVMGB, and related impacts from Project groundwater extraction. **Rather than adjudicate the disagreements on whether the project pumping would cause a significant impact to the Colorado River, Applicant and Staff agreed to Conditions of Certification SOIL & WATER-2 and SOIL & WATER-15 as appropriate mitigation to offset its water use.**

The described potential impacts to groundwater basin balance identified in the Project technical analysis and public/agency comments would be addressed through Condition of Certification **SOIL & WATER-2** which we hereby adopt. Specifically, this condition requires the Project owner to implement a Water Supply Plan to mitigate Project impacts to **Palo Verde Mesa Groundwater Basin from recharge from the Palo Verde Valley Groundwater Basin**~~Colorado River flows~~ (potentially including efforts such as conservation programs, funding of irrigation improvements, purchasing water rights, and/or tamarisk removal). (Exhibit 200; pp. C.9-44 to C.0-46, and C.9-97 and C.9-98., Exhibit 202; pp. 1 and 2) We also adopt Condition of Certification **SOIL & WATER-16**, to help define the quantity of surface water contributing to Project groundwater extraction (i.e., to estimate the amount of water that must be replaced pursuant to Condition of Certification **SOIL & WATER-2**). It is also noted that future water use in the PVMGB may be governed by impending **future regulations which may be** ~~being~~ formulated by the U.S. Bureau of Reclamation (which oversees management and appropriation of Colorado River water). (Exhibit 200; p. C.9-45, and C.9-76.) (7/15/10 RT, 57:17 - 62:9.)

Page 325, Evaporation Ponds, First Sentence

The following modification is necessary to clarify the size of the evaporation ponds.

Each of the proposed 250 MW units will have two ~~4~~ **3.5**-acre evaporation ponds to dispose of wastewater from sources including cooling tower and boiler blowdown (for a total of ~~seven~~ **eight** acres per unit, or ~~28~~ **32** acres for the entire Project site.)

Page 335, Second Paragraph

For the reasons discussed above, PVS I recommends the following modifications.

The cumulative projects, however, will likely induce subsurface inflow from the Colorado River **Palo Verde Valley Groundwater Basin** similar to that described for the proposed Project. **As discussed in Exhibit 200, Staff believes this may impact the Colorado River.** Because the Colorado River is fully appropriated, groundwater productions in the PVMGB that increases subsurface flow from the **Palo Verde Valley Groundwater Basin** Colorado River would **could** represent a significant cumulative impact. Based on the implementation of Conditions of Certification **SOIL & WATER-2** and **SOIL & WATER-16**, we find that potential Project-specific impacts to surface water related to groundwater extraction and **recharge from the Palo Verde Valley Groundwater Basin** inflow from the Colorado River would be reduced below a level of significance. While mitigation for similar impacts from the cumulative projects cannot be determined at this time, it is considered likely that such impacts would be subject to similar measures as the proposed Project due to the legal requirements associated with Colorado River appropriations. In any case, the impacts to surface water associated with Colorado River inflow from the proposed Project would not be cumulatively considerable, based on the requirements in Conditions of Certification **SOIL & WATER-2** and **SOIL & WATER-16**.

Page 339-140, Findings 3, 4 and 5

PVS I requests the following modification consistent with the evidence.

3. Project construction and operation will require approximately 22,100 af of groundwater extraction from the PVMGB, with this basin hydraulically connected to the **Palo Verde Valley Colorado River**.
4. ~~Proposed Project groundwater withdrawals from the PVMGB could result in the sue of Colorado River water, with water supplies in the river already allocated.~~
5. Implementation of Condition of Certification **SOIL & WATER-2** and **SOIL & WATER-16** (if applicable) would reduce potential impacts related to groundwater basin balance in the PVMGB. **The uncontroverted evidence is that the Propose Project does not require an entitlement of Colorado River Water to pump**

~~*groundwater.* and associated effects to surface water from Colorado River inflow below a level of significance (although future water use in the PVMGB may be governed by impending regulations being formulated by the U.S. Bureau of Reclamation).~~

Page 356, Verification, Condition of Certification SOIL&WATER-10

PVSI requests a minor modification to the Verification to this condition to be consistent with the verification requirement of the Decommissioning Plan in Condition of Certification **BIO-23**. Both conditions required preparation of a Decommissioning Plan yet have different verification timelines and review procedures. PVSI requests the following modifications.

Verification: At least ~~sixty (60)~~ **thirty (30)** days prior to the start of site mobilization or alternate date as agreed to with BLM, the project owner shall submit decommissioning plans to the CPM **for review and to BLM's Authorized Officer for review and** approval. The project owner shall amend these documents as necessary, with approval from the CPM, should the decommissioning scenario change in the future.

Page 366, Waste Discharge Requirements

The PMPD needs to include the Waste Discharge Requirements which are included in Appendix B, C and D of Exhibit 202.

CULTURAL RESOURCES

Page 369, 1. Setting and Historical Background

The PMPD implies that the BSPP will occupy public land and three private holdings totaling 320 acres. The BSPP will not be utilizing, disturbing or constructing any facilities on the private land and therefore the reference at the end of the last sentence of this paragraph should be deleted.

Page 370, List of equipment in each power block

PVSI requests the following modifications to the equipment listed on this page.

~~A 500 kV switchyard, a heat transfer fluid (HTF) system (including a HTF freeze-protection heat exchanger)~~

The switchyard is 230 kV and should be moved into the list of items that all four units will share.

Page 378, First Paragraph

PVSI requests the last sentence referring to BSPP's potential acquisition of land that is not part of the BSPP be deleted as it is not relevant to the BSPP.

LAND USE

Page 452, First Paragraph

The last sentence of this paragraph implies that the BSPP includes the private land and we suggest the following modification to clarify that it will not.

Approximately 320 acres of private lands within the site, ***which are not part of the proposed BSPP***, are under Riverside County jurisdiction, designated as open space and rural desert.

TRAFFIC AND TRANSPORTATION

Page 467, First Paragraph

The last sentence of this paragraph describes Condition of Certification **TRANS-2** as requiring coordination of traffic plans with other project proponents to reduce cumulative impacts. During earlier workshops with Staff it was determined that mitigation of the BSPP direct and cumulative impacts could be accomplished without such coordination and Condition of Certification **TRANS-2** was modified accordingly. While the Condition was corrected in the RSA, it appears that the reference to coordination was not corrected. Since **TRANS-2** does not include coordination, PVSI requests the reference be deleted.

Page 469, b. Glint and Glare

PVSI disagrees with the characterization of glint, glare and flash blindness contained in the PMPD. The PMPD cites only the RSA and does not cite to Applicant's evidence that the BSPP will not cause glint, glare or flash blindness that would interfere with use of the Blythe Airport. While we appreciate that the Committee ultimately made a finding of override for such potential impact, we believe the PMPD should, at a minimum set forth PVSI's contentions to memorialize a complete record. As discussed at the July 16th evidentiary hearing, PVSI was ready willing and able to present the live testimony of a pilot and the results of overflight tests but in order to cooperate with Staff and save Committee time, we negotiated acceptable conditions of certification as a compromise. While we understand the Committee is not required to agree with our evidence, written evidence is included in the record and should be at least summarized in the PMPD to make it clear that PVSI does not believe, and has produced evidence that we believe

proves, that the BSPP will not cause glint, glare or flash blindness that would negatively affect pilot use of the Blythe Airport.

Page 479, Verification to Condition of Certification TRANS-8

PVSI request that the verification timeline conform to the condition by replacing the terms “start of construction” with “operation of any phase of the project”.

Page 479, Condition of Certification TRANS-9

The version of Condition of Certification **TRANS-9** included in the PMPD is from the RSA. This condition was modified by Exhibit 215. The version in the PMPD should be replaced with the following:

- TRANS-9** To reduce glint and glare from the Project, the Project Owner shall implement the following measures during operation of any Unit.
- Ensure the mirrors are (1) brought out of stowage before sunrise and are aligned to catch the first rays of the morning sun; and (2) returned to stow position after sunset.
 - Mirror function shall be continuously monitored both by operators and by system controls. The field control system shall be designed such that in all cases of a malfunctioning mirror the field control system will automatically turn a malfunctioning mirror east in a manner so that there is no reflection from the sun as the sun continues west. The Project owner shall establish and implement procedures to consistently move mirrors to the east vertical plus 1 degree if looking west and to east stow if looking east. The movement to a non glare position shall take no more than 10 minutes.
 - To the extent feasible the mirrors in the southern portion of Units 3 and 4 shall not be rotated off access during daylight hours when the azimuthal angle is east or north of east.

Verification: No less than 90 days prior to the start of operation of any Unit of the Project, the Project owner shall prepare and submit to the CPM for review and approval a plan describing the measures to be taken to reduce glint and glare. Upon approval, the Project owner shall implement the plan.

Page 480, Condition of Certification TRANS-10

The version of Condition of Certification **TRANS-9** included in the PMPD is from the RSA. This condition was modified by Exhibit 215. The version in the PMPD should be replaced with the following:

TRANS-10 Throughout the construction and operation of the project, the project owner shall document, investigate, evaluate, and attempt to resolve all project-related glare complaints. The project owner or authorized agent shall:

- Provide copies of the Glare Complaint Resolution Form (below) to the Blythe Airport operator, along with the toll-free number required pursuant to Condition of Certification **COMPLIANCE-9**.
- Use the Complaint Resolution Form, or functionally equivalent procedure acceptable to the CPM, to document and respond to each complaint.
- Attempt to contact the person or persons making the complaint within 24 hours. If not contacted within 24 hours, attempt to contact the person or persons for a reasonable time period, to be determined by the CPM.
- Conduct an investigation to determine the source of glare related to the complaint.
- If the glare is project related, take all feasible measures to reduce the glare at its source.
- As soon as the complaint has been resolved to the complainant's satisfaction, submit to the CPM a report in which the complaint as well as the actions taken to resolve the complaint are documented. The report shall include (1) a complaint summary, including the name and address of the complainant; (2) final results of glare reduction efforts; and (3) a signed statement by the complainant, if obtainable, in which complainant states that the glare problem is resolved to his or her satisfaction.

Verification: Thirty days prior to the start of mirror installation, the project owner shall provide copies of the Glare Complaint Resolution Form to the Blythe Airport operator, along with the toll-free number required pursuant to Condition of Certification **COMPLIANCE-9**. Within five business days of receiving a glare complaint, the project owner shall file with the City of Blythe Development Services Department, the Riverside County Planning

Department, the Federal Aviation Administration, the Riverside County Airport Land Use Commission, and the CPM a copy of the Glare Complaint Resolution Form, documenting the resolution of the complaint. If mitigation is required to resolve a complaint and the complaint is not resolved within three business days, the project owner shall submit an updated Glare Complaint Resolution Form when the mitigation is implemented.

Page 497, Second Paragraph

The first sentence of this paragraph should be modified as follows to appropriately describe the Riverside County Noise Ordinance. As described at page 47 of Exhibit 29, the restrictions only apply to noisy construction activity within one quarter of a mile of a residence.

Thos Noise Ordinance also limits the hours of *noisy* construction activities *within one quarter mile of a residence* to the following hours:

Page 509, Last Paragraph

This paragraph states that the project site includes portions of the McCoy Wash. It does not and the reference should be deleted.

Page 511, First Paragraph

The following modifications to some of the listed items are warranted:

1. **Up to 145**-foot steel transmission line poles
3. ~~80-foot heat transfer fluid heater~~

PVSI will be prepared to discuss these comments at the PMPD Conference and will, if requested by Committee, assist the Hearing Office in preparing an Errata to the PMPD.

Dated: August 30, 2010

Respectfully Submitted,

Original Signed
Scott A. Galati
Counsel to Palo Verde Solar I, LLC



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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AUG 26 2010

Alice L. Harron
Senior Director, Development
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(on behalf of applicant Palo Verde Solar I, LLC)
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Dear Ms. Harron:

We understand that as a settlement with the California Energy Commission (CEC) under AFC DOCKET NUMBER 09-AFC-6, Palo Verde Solar I, LLC (PVSI) has agreed to mitigate for potential impacts to the Nelson's BigHorn Sheep related to the development of the Blythe Solar Power Project. The agreement is contained in Condition of Certification BIO-21 which will give PVSI the option to select the construction, operation and monitoring of a new water source for the Southern metapopulation of Nelson's Big Horn Sheep in the McCoy Mountains or in other mountain ranges in the vicinity of the Project and north of I-10. The proposed location of the water source shall be developed in consultation with the CPM, BLM and CDFG.

IF PVSI deposits funds required by the Condition to the REAT NFWF Subaccount, BLM will ensure that the water source is constructed, operated and monitored for the 30 years. We expect that the cost will be \$100,000 but also ask for a \$20,000 contingency. The total cost to PVSI will not exceed \$120,000.

Sincerely

James Wesley Abbott
Acting State Director



BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT
COMMISSION OF THE STATE OF CALIFORNIA
1516 NINTH STREET, SACRAMENTO, CA 95814
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APPLICATION FOR CERTIFICATION
FOR THE **BLYTHE SOLAR**
POWER PLANT PROJECT

Docket No. 09-AFC-6

PROOF OF SERVICE
(Revised 8/27/10)

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DECLARATION OF SERVICE

I, Marie Mills, declare that on September 2, 2010, I served and filed copies of the attached **PALO VERDE SOLAR I, LLC'S COMMENTS ON THE PRESIDING MEMBER'S PROPOSED DECISION**, dated August 30, 2010. The original document, filed with the Docket Unit, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [\[http://www.energy.ca.gov/sitingcases/solar_millennium_blythe\]](http://www.energy.ca.gov/sitingcases/solar_millennium_blythe)

The document has been sent to both the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit, in the following manner:

(Check all that Apply)

FOR SERVICE TO ALL OTHER PARTIES:

sent electronically to all email addresses on the Proof of Service list;

by personal delivery or by depositing in the United States mail at with first-class postage thereon fully prepaid and addressed as provided on the Proof of Service list above to those addresses **NOT** marked "email preferred."

AND

FOR FILING WITH THE ENERGY COMMISSION:

sending an original paper copy and one electronic copy, mailed and emailed respectively, to the address below (**preferred method**);

OR

depositing in the mail an original and 12 paper copies, as follows:

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 09-AFC-6
1516 Ninth Street, MS-4
Sacramento, CA 95814-5512
docket@energy.state.ca.us

I declare under penalty of perjury that the foregoing is true and correct.



Marie Mills