

COLORADO RIVER BOARD OF CALIFORNIA

770 FAIRMONT AVENUE, SUITE 100
GLENDALE, CA 91203-1068
(818) 500-1625
(818) 543-4685 FAX



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

DOCKET	
09-AFC-6	
DATE	SEP 14 2010
RECD.	SEP 15 2010

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., WRI 94-4005 and WRI 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 Any amount of groundwater withdrawn from the PVMGB aquifer that will be replaced by the Colorado River, in total or in part, is considered a use of Colorado River water.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.

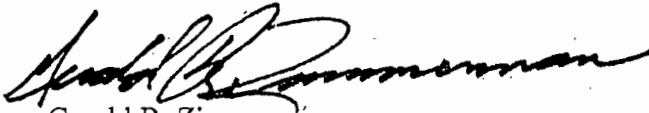
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As a result of previous discussions, the Board has identified a preferred option for obtaining a legally authorized and reliable water supply for these projects. That option involves obtaining water through an existing BCPA Section 5 contract holder, The Metropolitan Water District of Southern California. Although other options may be available, it is the Board's assessment that they could not be implemented in a timely manner and address the requirement that water consumptively used from the Colorado River must be through a BCPA Section 5 contractual entitlement.

Attached for your reference is a copy of three Lower Colorado River Basin states letter addressed to the Director of the U.S. Bureau of Land Management (BLM), Mr. Robert Abbey, regarding the siting and development of solar power/energy projects on public lands administered by the BLM and the long-term impacts to the water supplies. The letter requests that BLM include provisions in future right-of-way grants or leases that require use of best management practices and water use efficient technologies.

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

Sincerely,



Gerald R. Zimmerman
Acting Executive Director

Attachments

cc: Ms. Lorri Gray-Lee, Regional Director, U.S. Bureau of Reclamation
Ms. Holly Roberts, Associate Field Manager, Palm Springs-South Coast Field Office, BLM
Ms. Eileen Allen, California Energy Commission
Mr. William J. Hasencamp, The Metropolitan Water District of Southern California

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

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project proponents along the Colorado River, except through the contract of an existing BCPA Section 5 contract holder, either by direct service or through an exchange of non-Colorado River water for Colorado River water.

The Federal lands proposed for both the Blythe and Palen Projects are located within the "Accounting Surface" area designated by U.S. Geological Survey Water Investigation Report Nos. 94-4005 and 00-4085 (USGS Report). This USGS Report indicates that the aquifer underlying lands located within the "Accounting Surface" is considered hydraulically connected to the Colorado River and groundwater withdrawn from lands underlying the "Accounting Surface" would be replaced by Colorado River water, in total or in part. This means that if it is determined that these wells are, in fact, pumping Colorado River water, a contract with the Secretary of the Interior is required before such a use is deemed to be a legally authorized use of this groundwater.

On November 9, 2009, the Board received applications for Lower Colorado Water Supply Project water for the Blythe and the Palen Solar Power Projects from the projects' consultant/proponent, Mr. Josef Eichhammer of Solar Millennium, LLC. This project, enacted by Congress on November 14, 1986, as the Lower Colorado Water Supply Project Act of 1986 (Act) authorized construction of the Lower Colorado Water Supply Project (LCWSP) and appropriated funds for the U.S. Bureau of Reclamation (Reclamation) to construct Phase I of the Project. The LCWSP consists of well field facilities in the Sand Hills along the All-American Canal in Imperial County. The LCWSP is authorized to provide exchange water up to a total amount of 10,000 acre-feet per year for nonagricultural use to those users of Colorado River water along the Colorado River, who do not have an existing Section 5 BCPA contractual entitlement or whose entitlement to use Colorado River is insufficient to meet their needs. Under a "first come first serve" priority basis, the Board has reviewed applications that it has received and, to date, recommended to Reclamation that applicants for LCWSP water in the amount of about 7,500 acre-feet per year are eligible to receive LCWSP water. At this time, the capacity to pump the fully authorized volume of 10,000 acre-feet of water per year has not been constructed. Furthermore, when the Congress passed the Act authorizing the LCWSP, water for large scale solar power/energy projects was not envisioned. Considering these two factors it does not appear that LCWSP water is a viable option for the Blythe and Palen Projects.


Based upon the applications for LCWSP water that were received from Solar Millennium for the Blythe and the Palen Solar Power Projects, several meetings and telephone conference calls have been held among the solar power projects consultants/proponents, Reclamation, BLM, Board's staff, and others. As a result of discussions in these meetings, the Board's staff has identified a preferred option for obtaining a legally authorized and reliable water supply for both the Blythe and the Palen Solar Power Projects over the life of the project that fits into the timeframe that has been established by Solar Millennium. That option involves obtaining water through an existing Section 5 BCPA contract holder, The Metropolitan Water District of Southern California (MWD). Although other options may be available, they, in the Board's opinion, could not be implemented in a timely manner and address the requirement that water consumptively used

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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

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.

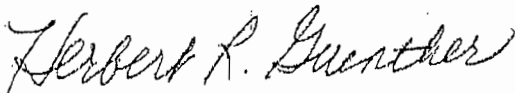
Mr. Robert Abbey
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We thank you for your time and attention in this matter. If you have any questions regarding this correspondence, please do not hesitate to contact us directly.

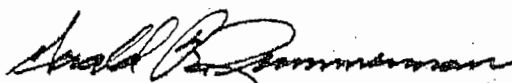
Sincerely,

Arizona Department of Water Resources

Colorado River Board of California



Herbert R. Guenther, Director
(602) 771-8426
hrguenther@azwater.gov



Gerald R. Zimmerman, Executive Director
(818) 500-1625, ext. 308
grzimmerman@crb.ca.gov

Southern Nevada Water Authority



Patricia Mulroy, General Manager
(702) 258-3100
pat.mulroy@lvvwd.com

cc: The Honorable Shelley Berkley, United States Congress
The Honorable Barbara Boxer, United States Senate
The Honorable John Ensign, United States Senate
The Honorable Dianne Feinstein, United States Senate
The Honorable Dean Heller, United States Congress
The Honorable Jon Kyl, United States Senate
The Honorable Harry Reid, United States Senate
The Honorable Dina Titus, United States Congress