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# United States Department of the Interior

## BUREAU OF RECLAMATION

Lower Colorado Regional Office  
P.O. Box 61470  
Boulder City, NV 89006-1470



DEC 21 2009

### MEMORANDUM

<b>DOCKET</b>	
<b>09-AFC-7</b>	
DATE	<u>DEC 21 2009</u>
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To: Ms. Holly L. Roberts, Project Manager, Palm Springs-South Coast Field Office, Bureau of Land Management, 1201 Bird Center Drive, Palm Springs, California 92262

From: Steven C. Hvinden *Steven C. Hvinden*  
Director, Boulder Canyon Operations Office

Subject: *Federal Register* Notice Dated November 23, 2009, Entitled Notice of Intent to Prepare Two Environmental Impact Statements/Staff Assessments for the Proposed Chevron Energy Solutions/Solar Millennium Palen and Blythe Solar Power Plants, Riverside County, CA and Possible Land Use Plan Amendments

The Bureau of Reclamation submits these comments in response to the United States Department of the Interior Bureau of Land Management (BLM)'s *Federal Register* notice dated November 23, 2009, (due date December 23, 2009), published at 74 Fed. Reg. 61169, and entitled "Notice of Intent to Prepare Two Environmental Impact Statements/Staff Assessments for the Proposed Chevron Energy Solutions/Solar Millennium Palen and Blythe Solar Power Plants, Riverside County, CA and Possible Land Use Plan Amendments." The notice addresses two proposed solar power plant projects (the Palen Solar Power Project and the Blythe Solar Power Project).

BLM's notice states that the site for the proposed Palen Solar Power Project is 10 miles east of Desert Center, California. The notice further states that the Palen Solar Power Project is anticipated to require approximately 1,100 acre-feet of water during construction and approximately 300 acre-feet of water per year during operation. The source of the water is stated as new wells.

The notice states that the site for the proposed Blythe Solar Power Project is 8 miles west of Blythe, California. The notice further states that the Blythe Solar Power Project is anticipated to require approximately 3,100 acre-feet of water during construction and approximately 600 acre-feet of water per year during operation. The source of the water is stated as new wells.

The Secretary of the Interior, acting through Reclamation, manages the mainstream waters of the lower Colorado River pursuant to Federal law. See the Boulder Canyon Project Act, 45 Stat. 1057 (1928) (BCPA) and the Supreme Court Decree in *Arizona v. California* entered March 9, 1964 (376 U.S. 340), amended February 28, 1966 (383 U.S. 268), supplemented January 9, 1979

(439 U.S. 419), April 16, 1984 (466 U.S. 144), and October 10, 2000 (531 U.S. 1), and later consolidated March 27, 2006 (547 U.S. 150 (2006)) (Consolidated Decree). In Article I of the Consolidated Decree, the Supreme Court recognizes that consumptive use of the mainstream water of the lower Colorado River may occur through underground pumping:

(C) Consumptive use from the mainstream within a State shall include all consumptive uses of water of the mainstream, *including water drawn from the mainstream by underground pumping*, and including, but not limited to, consumptive uses made by persons, by agencies of that State, and by the United States for the benefit of Indian reservations and other federal establishments with the State;

Consolidated Decree, Article I.(C), emphasis added.

The United States Geological Survey (USGS) has conducted studies and developed a method to identify wells that, when pumped, result in water being drawn from the mainstream of the river. This methodology (referred to as the “accounting surface methodology”) is described in USGS Water-Resources Investigations Report (WRIR) Nos. 94-4005 and 00-4085, published in 1994 and 2000, respectively. WRIR No. 94-4005 can be downloaded at <http://pubs.er.usgs.gov/usgspubs/wri/wri944005>. WRIR No. 00-4085 can be downloaded at <http://az.water.usgs.gov/pubs/WRIR00-4085intro.html>.

The USGS updated these reports in 2009 through publication of Scientific Investigations Report No. 2008-5113 (this report, including maps of the accounting surface, can be downloaded at <http://www.usbr.gov/lc/region/programs/unlawfuluse.html>). Since July of 1994, the accounting surface methodology has been and continues to be the primary tool Reclamation utilizes to determine if the use of a well does, or does not, result in a consumptive use of mainstream water from the lower Colorado River water.

If the new wells for the Palen Solar Power Project or the new wells for the Blythe Solar Power Project will draw water from the mainstream of the lower Colorado River, an entitlement to the use of Colorado River water is required by Section 5 of the BCPA and by the Consolidated Decree. An entitlement is an authorization for an individual or entity to put Colorado River water to a beneficial use pursuant to: (1) a right decreed by the United States Supreme Court; (2) a contract with the United States under Section 5 of the BCPA; or (3) a reservation of water by the Secretary.

If an entitlement is required, it must be satisfied from Colorado River water apportioned for use within the State of California by the Secretary in accordance with the terms of the Consolidated Decree. The entitlement to be used for a proposed solar project may be an existing entitlement, made available for this purpose by an existing entitlement holder either directly or through exchange.

Reclamation appreciates the opportunity to provide comments on the Palen Solar Power Project and the Blythe Solar Power Project. Please contact me at 702-293-8414 if you have questions.

cc: Ms. Sandra Owen-Joyce  
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