

COLORADO RIVER BOARD OF CALIFORNIA

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**DOCKET****09-AFC-8**DATE JUL 02 2010RECD. JUL 06 2010

July 2, 2010

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

Dear Mr. Monasmith:

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 reviewed the Staff Assessment and Environmental Impact Statement, Application for Certification for the Genesis Solar Energy Project in Riverside County, California. The applicant for the Genesis Solar Energy Project, Genesis Solar LLC, is seeking a right-of-way grant for approximately 4,640 acres of federal lands that are administered by the Bureau of Land Management (BLM). The Genesis Solar Energy Project proposes to use a wet cooling tower for power plant cooling. The total water consumption during the operational 30-year period and power purchase agreement with a California utility for the Genesis Solar Energy Project is estimated to be 1,644 acre-feet per year. In addition, the water use during the construction phase is estimated to be 2,440 acre-feet over the construction period. The water supply for the project will be pumped from on-site groundwater wells and stored on-site.

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 project proponents along the Colorado River, except through the contract of an existing BCPA Section 5

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contract holder, either by direct service or through an exchange of non-Colorado River water for Colorado River water.

The BLM lands proposed for the Genesis Solar Energy Project are currently located within the "Accounting Surface" area designated by U.S. Geological Survey Water Investigation Reports (i.e., WRI 94-4005 and WRI 00-4085). These reports indicate that the aquifer underlying lands located within the "Accounting Surface" is considered to be hydraulically connected to the Colorado River and groundwater withdrawn from wells located within the "Accounting Surface" would be replaced by Colorado River water, in part or in total. 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 would be required before such a diversion and use is deemed to be a legally authorized use of this water supply.

As a result of discussions associated with two other solar power projects, including the Blythe and the Palen Solar Power Projects; and 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.

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

Sincerely,


for Gerald R. Zimmerman
Acting Executive Director

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



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
GENESIS SOLAR ENERGY PROJECT**

Docket No. 09-AFC-8

**PROOF OF SERVICE
(Revised 6/7/10)**

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DECLARATION OF SERVICE

I, Maria Santourdjian declare that on July 8, 2010, I served and filed copies of the attached Comment Letter from Colorado River Board of California. 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/genesis_solar].

The documents have 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;
- by delivering on this date, for mailing with the United States Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date 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-8
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, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

Originally Signed by _____
Maria Santourdjian