

## DOCKETED

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**COLORADO RIVER BOARD OF CALIFORNIA**

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July 29, 2013

Mr. Chris Marxen  
Compliance Office Manager  
California Energy Commission  
Dockets Unit, MS-14  
Docket No. 09-AFC-7C  
1516 Ninth Street  
Sacramento, CA 95814-5512

Regarding: California Energy Commission's (CEC) Preliminary Staff Assessment for the Palen Solar Electric Generating System, Amendment to the Palen Solar Power Project (Docket Number 09-AFC-7C), Riverside County, California

Dear Mr. Marxen:

The Colorado River Board of California (CRB) has received and reviewed the Preliminary Staff Assessment (PSA) for the proposed Palen Solar Electric Generating System (PSEGS) Amendment (Docket Number 09-AFC-7C) issued on June 28, 2013 and offers these comments regarding its final approval.

On December 15, 2010, the California Energy Commission (CEC) issued a license for the Palen Solar Power Project (PSPP). The license included several Conditions of Certification. On July 11, 2012, the CEC approved a petition from Palen Solar I, LLC to transfer the ownership of the PSPP from Palen Solar I, LLC to BrightSource Energy, Inc. (BrightSource). On December 17, 2012, Palen Solar Holdings, LLC (a partnership between BrightSource and Abengoa) filed a Petition to Amend the CEC's license for the PSPP for the purpose of constructing a modified project, known as the Palen Solar Electric Generating System (PSEGS). The PSEGS proposes to utilize BrightSource's propriety solar power tower technology and to construct two solar fields with a combined total output of approximately 500 MW. The PSEGS project site is approximately 3,794 acres in size. The PSEGS's projected groundwater use is 1,130 acre-feet during construction period and 201 acre-feet per year during the 30-year operation period.

The Chuckwalla Valley Groundwater Basin (CVGB) groundwater aquifer underneath the PSEGS project site is considered by the USGS to be hydraulically connected to the Colorado River. The PSEGS is located within the "Accounting Surface" as designated by the U.S. Geological Survey's Scientific Investigations Report 2008-5113 in connection with determining which groundwater sources are hydrologically connected to the Colorado River. Groundwater withdrawn from the CVGB aquifer is water that would eventually be replaced by Colorado River water, in part or in total, and is therefore considered a use of Colorado River water.

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According to the Consolidated Decree of the U.S. Supreme Court in the case of *Arizona v. California, et al.*, 547 U.S. 150 (2006), the consumptive use of water from the Colorado River system includes water drawn from the mainstream by underground pumping. In addition, pursuant to the 1928 Boulder Canyon Project Act (BCPA) and the Consolidated Decree, no water can be used by any water user in the Lower Basin states of Arizona, California or Nevada without a valid contract between the Secretary of the Interior and the water user for such use.

The June 2013 PSA incorporates the Conditions of Certification from the original licensed project including the Condition for Soil and Water – 14. Soil and Water Condition 14 requires the development of a Water Supply Plan before the project can move forward. The CRB supports and appreciates the inclusion of Soil and Water Condition 14 as a Condition of Certification for the PSEGS. Obtaining a valid water right for the project is essential to maintaining California's compliance with the existing legal requirements that govern the operations of the Colorado River. Although the PSA suggests options for obtaining a legal and reliable supply of water for the project, the CRB suggests that the most efficient process would be for the PSEGS owners to enter into an agreement with an entity that currently holds an existing contract for the use of Colorado River water. For example, The Metropolitan Water District of Southern California is an agency that may be able to assist in obtaining a water supply for the project. The CRB is interested in continuing to track the progress of the implementation of the Conditions of Certification.

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

Sincerely,

Tanya M. Trujillo  
Executive Director

cc: Dr. Terrance J. Fulp, Regional Director, Lower Colorado Regional Office,  
U.S. Bureau of Reclamation  
Mr. Steven C. Hvinden, Director, Boulder Canyon Operations Office,  
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