

## DOCKETED

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*Comment Received From: Tanya Trujillo*

*Submitted On: 10/24/2013*

*Docket Number: 09-AFC-07C*

## **Comments of the Colorado River Board of California**

*Additional submitted attachment is included below.*

**COLORADO RIVER BOARD OF CALIFORNIA**

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October 24, 2013

California Energy Commission  
Dockets Unit, MS-14  
Docket No. 09-AFC-7C  
1516 Ninth Street  
Sacramento, CA 95814-5512

Palen Solar Electric Generating System  
U.S. Bureau of Land Management  
1201 Bird Center Drive  
Palm Springs, CA 92262

Regarding: Request for Comments on the California Energy Commission's Final Staff Assessment - Part A for the Proposed Palen Solar Electric Generating System (PSEGS) (Docket No. 09-AFC-7C) in Riverside County, California; U.S. Bureau of Land Management's PSEGS Plan Amendment/Draft Supplemental Environmental Impact Statement, CACA #048810, July 2013; and State Clearinghouse Schedule # 2011 054 002, Notice of Completion & Environmental Document Transmittal Form for PSEGS

To Whom It May Concern:

The Colorado River Board of California (Board) has reviewed the California Energy Commission's (CEC) Final Staff Assessment - Part A (FSA-Part A) for the Proposed Palen Solar Electric Generating System (PSEGS) (Docket No. 09-AFC-7C) in Riverside County, California and the U.S. Bureau of Land Management's (BLM) PSEGS Plan Amendment/Draft Supplemental Environmental Impact Statement (PA/DSEIS), CACA #048810, July 2013 and appreciates the opportunity to review and comment on those documents. A copy of the Board's prior comment letter dated July 29, 2013 on the CEC's Preliminary Staff Assessment is attached for your reference. It does not appear that the Board's prior comments have been taken into consideration in determining whether the proposed project will impact Colorado River water supplies.

On December 15, 2010, the CEC issued a license for the Palen Solar Power Project (PSPP). On December 17, 2012, the new owner of the PSPP, Palen Solar Holdings, LLC (Palen Solar Holdings), filed a Petition to Amend the license for the PSPP for the purpose of constructing a modified PSEGS to replace the solar thermal parabolic trough technology with BrightSource's proprietary solar power tower technology. BLM has prepared a PA/DSEIS in connection with a Right-of-Way Grant to allow the solar generation facility and the gen-tie line to be constructed outside of a designated corridor in the California Desert Conservation Area.

As the Board has mentioned in its prior comment letters, the PSEGS site is located within the "Accounting Surface" area described by the U.S. Geological Survey's (USGS) Scientific Investigations Report 2008-5113 (and earlier USGS Water-Resources Investigations Report 94-4005). The Chuckwalla Valley Groundwater Basin (CVGB) groundwater aquifer underneath the

PSEGS site is considered by the USGS to be hydraulically connected to the Colorado River. Groundwater withdrawn from the CVGB aquifer is water that would be eventually replaced, in part or in total, by Colorado River water and is therefore considered a use of Colorado River water. 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) (Consolidated Decree), the consumptive use of water from the Colorado River System includes water drawn from the mainstream by groundwater pumping. In addition, pursuant to the Boulder Canyon Project Act of 1928 (P.L. 70-462) and the Consolidated Decree, no Colorado River water can be used by any water user in the Lower Basin states of Arizona, California and Nevada without a valid contract between the Secretary of the Interior and the water user for such use.

Pursuant to Section 5 of the Boulder Canyon Project Act (BCPA), contracts have been entered into between users of Colorado River mainstream water in California and the Secretary of the Interior for the use of water in amounts that exceed California's apportionment under a normal condition as set forth in the Consolidated Decree. Thus, no additional Colorado River water is currently available for use by any new water users from the Colorado River under shortage, normal, or Intentionally Created Surplus conditions, except through an agreement with an existing BCPA Section 5 contract holder or through an exchange of non-Colorado River water (such as California State Water Project water, etc.) for Colorado River water. One option for obtaining a legally authorized and reliable water supply for the modified PSEGS would be for the project owner to contract with The Metropolitan Water District of Southern California.

The Board would like to review and comment on any proposed Water Offset Plan that is submitted in connection with Condition of Certification Soil & Water – 14 and/or 17. The Water Offset Plan must demonstrate the Project owner's legal right to utilize Colorado River water. Verification will be essential to determine whether the project owner has complied with the obligations in the Boulder Canyon Project Act and the Consolidated Decree.

Because the proposed project may impact Colorado River water resources, BLM should remove the sentence, "No effect on flows in the Colorado River is anticipated" as shown in Table ES-1, on Page ES-7 of the Executive Summary in the BLM's PSEGS PA/DSEIS when BLM finalizes its Plan Amendment/Supplemental EIS.

Thank you again for the opportunity to provide these comments on the CEC's FSA-Part A and BLM's PA/DSEIS. 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,

/s/

Tanya M. Trujillo  
Executive Director

California Energy Commission  
PSEGS, Docket No. 09-AFC-7C  
Bureau of Land Management, CACA #048810  
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Attachments

cc: Dr. Terry J. Fulp, Regional Director, Lower Colorado Region, Bureau of Reclamation  
Mr. Frank McMenimen, Project Manager,  
Bureau of Land Management, Palm Springs South Coast Field Office  
Ms. Christine Stora, Energy Commission Compliance Project Manager, CEC  
Mr. Scott Morgan, Director, State Clearinghouse  
Mr. William J. Hasencamp, Manager of Colorado River Resources  
The Metropolitan Water District of Southern California  
Ms. Janet Scott, PSEGS Project Manager, ESA Energy, San Francisco, CA