

MOJAVE BASIN AREA WATERMASTER

FOR
CITY OF BARSTOW, ET AL, VS. CITY OF ADELANTO, ET AL,
CASE NO. 208568 - RIVERSIDE COUNTY SUPERIOR COURT

DOCKET

09-AFC-5

DATE DEC 17 2009

RECD. DEC 21 2009

December 17, 2009

Christopher B. Dennis, P.G.
Engineering Geologist
California Energy Commission
1516 Ninth Street, MS 40
Sacramento, CA 95814

RE: Abengoa Solar Project – Harper Lake Area

Dear Mr. Dennis:

This is to respond to your inquiry regarding the relationship between Base Annual Production, Free Production Allowance and safe yield pursuant to the Mojave Basin Area adjudication. The BAP for each party to the Judgment was determined by the court to be the highest amount of water produced in one year, during a five year period 1986-1990. FPA is based on the BAP and is the amount of water that a party can pump free of Replacement Water Assessment (a charge paid to Watermaster for water produced in excess of FPA). In the Centro Subarea the FPA for each party is currently 80% of the BAP. Abengoa's BAP was acquired from a previous agricultural producer in the Harper Lake area, which is within the Centro Subarea.

The Judgment requires that a consumptive use adjustment be made when the purpose of use of FPA changes. In Abengoa's case, solar power generation will result in a higher consumptive use than the prior agricultural use, consequently, Abengoa's FPA will be adjusted to account for the differences in consumptive use; nominally agricultural use is a 50% consumptive use, and solar generation (industrial use) is 100% consumptive use.

Safe yield under the Judgment is embodied in the concept of Production Safe Yield (PSY). The goal of the Judgment is to balance long-term supply and demand, under the assumption that supplemental water will be purchased and recharged to account for any shortages (deficit). In Abengoa's case, use of its available FPA, subject to consumptive use adjustment and subject to the long-term stability of water levels in the Harper Lake area would be acceptable under the Judgment.

Assuming that Abengoa's total water production was 2,154 acre-feet, and the remaining Harper Lake area water production was 1,731 acre-feet (3,885 acre-feet as indicated in

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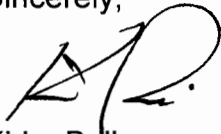
your letter) we would not expect there to be long-term depletion from storage if the net Harper Lake water supply (including return flow) was 4,144 acre-feet. We would expect that Abengoa's modeling efforts and ongoing monitoring would support a determination that long-term supply and demand in the Harper Lake area is balanced.

Harper Lake FPA is not treated the same under the Judgment as the remainder of Centro for the purpose of transfers. Specifically, use of FPA from the Harper Lake area to support a project outside of Harper Lake is not allowable. Likewise the use of FPA from outside of Harper Lake to support a Harper Lake project is not allowable.

Ultimately, we would expect Abengoa to balance supply and demand within its adjusted FPA under the Judgment with the available Harper Lake resources without causing long-term reduction in Harper Lake area water levels.

If you have any further questions, please feel free to contact me at 760-946-7008 or Valerie Wiegenstein at 760946-7026.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Brill', with a stylized flourish at the end.

Kirby Brill
Executive Officer

cc: Norman T. Caouette, Assistant Executive Officer
Valerie Wiegenstein, Watermaster Services Manager
Robert C. Wagner, Watermaster Engineer